

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, OCTOBER 21, 2015**

PRESENT: Peter F. Murphy, Springfield District
Frank A. de la Fe, Hunter Mill District
Ellen J. Hurley, Braddock District
John C. Ulfelder, Dranesville District
James T. Migliaccio, Lee District
Julie Strandlie, Mason District
John L. Litzenberger, Jr., Sully District
James R. Hart, Commissioner At-Large
Janyce N. Hedetniemi, Commissioner At-Large
Timothy J. Sargeant, Commissioner At-Large

ABSENT: Earl L. Flanagan, Mount Vernon District
Kenneth A. Lawrence, Providence District

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The meeting was called to order at 8:21 p.m., by Chairman Peter F. Murphy, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Hart announced that John W. Cooper, Clerk to the Planning Commission, would distribute the minutes for September 2015 to the Commission within the next week.

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Commissioner Hart announced that the Planning Commission's Environment Committee had met earlier this evening to discuss electric vehicle charging stations. He then stated that the Committee voted to submit a recommendation to the Commission regarding the White Paper for this issue, which had been distributed to the Commissioners. He added that the Commission would vote to submit this item to the Board of Supervisors at its meeting on Wednesday, November 18, 2015. Commissioner Hart noted that questions and comments should be submitted to staff prior to this date.

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Commissioner Hart announced that the Planning Commission's Environment Committee would meet on Wednesday, December 2, 2015, at 7:00 p.m. in the Board Conference Room at the Fairfax County Government Center to continue discussion on Building Energy policies and the

MITRE II report. However, he noted that there was a possibility that this meeting could be canceled.

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Chairman Murphy pointed out that the Planning Commission's meeting on Thursday, October 15, 2015, had been the final meeting for which recommendations on land use applications could be submitted to the Board of Supervisors prior to the election in November. He then commended the Planning Commission staff for their work in completing the associated documentation for these cases. Commissioner de la Fe concurred with Chairman Murphy's commendation of the Commission staff.

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MINUTES APPROVAL FOR MAY 2015 THROUGH JULY 2015

(Start Verbatim Transcript)

Commissioner Hart: Thank you, Mr. Chairman. First, I MOVE APPROVAL OF THE MINUTES FOR ALL OF THE MEETINGS IN MAY, JUNE, AND JULY OF 2015.

Commissioners de la Fe and Ulfelder: Second.

Chairman Murphy: Second by Mr. Ulfelder and Mr. de la Fe. Is there a discussion of the motion? All those in favor of the motion to approve the minutes, as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Sargeant: Abstain – not present for some of those meetings.

Chairman Murphy: Mr. Sargeant abstains. Ms. Strandlie?

Commissioner Strandlie: Yes. I'm going to have to abstain as well.

Chairman Murphy: Ms. Strandlie abstains as well.

(The motion carried by a vote of 8-0-2. Commissioners Sargeant and Strandlie abstained. Commissioners Flanagan and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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FS-H15-6 – VERIZON WIRELESS, 2401 Centreville Road

(Begin Verbatim Transcript)

Commissioner de la Fe: Mr. Chairman, I have a “feature shown” and it’s for a small cell antenna on a roof of a commercial building. Mr. Chairman, I move that in the matter of FS-H15-6 – in the name of Verizon Wireless – for a small antenna on a commercial building located at 2401 Centreville Road, Herndon, Virginia – I MOVE THAT THE PLANNING COMMISSION CONCUR WITH THE DEPARTMENT OF PLANNING AND ZONING’S RECOMMENDATION THAT THIS IS IN SUBSTANTIAL ACCORD WITH THE COMPREHENSIVE PLAN AND SHOULD BE CONSIDERED A “FEATURE SHOWN,” PURSUANT TO *VIRGINIA CODE* SECTION 15.2-2232, AS AMENDED.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion? All those in favor of the motion to concur with the “feature shown” determination in FS-H15-6, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

(The motion carried by a vote of 10-0. Commissioners Flanagan and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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ORDER OF THE AGENDA

Secretary Hart established the following order of the agenda:

1. RZ/FDP 2015-SP-004 – CHRISTOPHER LAND, LLC
2. CSPA-B-846-02 – KBSIII RESTON SQUARE, LLC (Hunter Mill District)
3. SE 2015-HM-013 – SINGH PROPERTIES II, LLC
4. ZONING ORDINANCE AMENDMENT (ALTERNATIVE LENDING INSTITUTIONS) (Countywide)

This order was accepted without objection.

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The first public hearing was in the Springfield District; therefore, Chairman Murphy relinquished the Chair to Vice Chairman de la Fe.

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RZ/FDP 2015-SP-004 – CHRISTOPHER LAND, LLC – Appls. to rezone from R-1, WS to PDH-2, WS to permit residential development with an overall density of 2 dwelling units per acre (du/ac) and approval of the conceptual and final development plan. Located at the terminus of Crouch Dr., on approx. 6.53 ac. of land. Comp. Plan Rec: 1-2 du/ac. Tax Map 55-4 ((1)) 29 and 29A. SPRINGFIELD DISTRICT. JOINT PUBLIC HEARING.

John Regan Jr., Applicant's Agent, Christopher Land, LLC, reaffirmed the affidavit dated June 6, 2015.

There were no disclosures by Commission members.

Commissioner Murphy pointed out that the staff report for these applications had not been distributed to the Commission until the end of the previous week. In addition, he indicated that there was one outstanding issue that had not been resolved. He then announced his intent to defer the decision only for these applications to a date certain of November 4, 2015, at the conclusion of the public hearing.

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 applications RZ/FDP 2015-SP-004.

When Commissioner Hurley asked staff to provide additional information regarding the temporary turnaround at the terminus of Couch Drive, Mr. Rogers explained that the proposal did not include an interparcel access to the property north of the site, but indicated that the neighboring property could be redeveloped at a future date. He then stated that staff suggested that the applicant provide this turnaround to allow Couch Drive to be extended farther north to accommodate such a redevelopment. Mr. Rogers added that a possible design for this redevelopment had been included in the applicant's Conceptual Development Plan. A discussion ensued between Commissioner Hurley and Mr. Rogers regarding the extent to which Couch Drive would be extended in conjunction with the redevelopment of the property located north of the site.

Clark Massie, Applicant's Agent, Tetra Corporation, indicated that the subject property had been reviewed through the Fairfax Forward process and the Springfield Task Force had conducted multiple meetings with the community to discuss potential developments to the north and south of Route 29. He then explained that as a result of these meetings, it had been determined that the existing recommendations of the Comprehensive Plan, to develop the area around the subject property at a density of 1 to 2 dwelling units per acre, would be retained. Mr. Massie said that the proposal was consistent with these recommendations, stating that the subject property would be developed at a density of 1 to 2 dwelling units per acre. He added that the subject applications

had been reviewed and subsequently modified by the appropriate staff, including the Virginia Department of Transportation, the Fairfax County Department of Transportation, the Office of the Fire Marshal, and the Fairfax County Urban Forester. Mr. Massie also noted that the applicant had met with surrounding property owners to address their concerns, noting that multiple community meetings had been conducted and the majority of the community expressed support for the proposal. In addition, he said that the applicant had met with the Springfield District Land Use Committee and had received a unanimous recommendation for approval. In conclusion, Mr. Massie stated that the applicant proposes to develop the site in a manner consistent with the character of the surrounding community and this development would include sufficient screening and buffering for neighboring properties.

Commissioner Murphy requested additional information regarding the applicant's proffered contributions to the Fairfax County Park Authority (FCPA). Mr. Massie explained that since the subject property would be rezoned as a P-District, the applicant was required to make a contribution towards on-site recreation features at a minimum rate of \$1,800 per unit. Referring to the memorandum from Sandy Stallman, Park Planning Branch, FCPA, in Appendix 8 of the Staff Report, he pointed out that the FCPA recommended that the applicant make a contribution of \$32,148 towards off-site recreation facilities. Mr. Massie then said that the applicant had proffered \$15,000 to the FCPA for off-site recreation, as articulated in Proffer Number 6, Recreation Facilities, Off-Site Recreation, in Appendix 1 of the Staff Report. He explained that it was determined that this contribution, which was less than what the FCPA had recommended, was warranted because the applicant would implement significant on-site improvements under the proposal. He added that the applicant would contribute a total of \$140,000 to park facilities.

Commissioner Ulfelder commended the applicant for providing on-site park facilities, but noted that these facilities would exclusively serve the residents of the proposed development. He then noted the importance of contributions to off-site facilities and recommended that the applicant's proffered contribution to off-site facilities be revised to reflect the FCPA's requested amount of \$32,148.

Referring to Proffer Number 10, Energy Conservation, Commissioner Sargeant asked why two different energy standards had been included in the language. Mr. Massie stated that these standards had been included to provide sufficient flexibility to the developer in adopting an appropriate standard.

Referring to Proffer Number 24, Tree Preservation, Monitoring, which indicated that the applicant would provide an on-site representative during clearing or demolition operations, Commissioner Sargeant asked whether the existing condition of the property had been sufficiently assessed to determine an appropriate measurement of the proposal's impact. Mr. Massie indicated that the applicant would conduct a pre-construction walkthrough with the appropriate representatives of the County, including the Urban Forester, where the existing tree canopy would be appropriately documented and the overall impact on the site would be assessed.

Commissioner Hedetniemi aligned herself with Commissioner Ulfelder's remarks regarding the applicant's proffered contributions to off-site park facilities, saying she supported revising the applicant's contributions to match the FCPA's requested amount. She also echoed Commissioner

Ulfelder's remarks regarding the on-site park facilities, which would exclusively serve the residents of the proposed development.

When Commissioner Hedetniemi asked whether the proposed development would be governed by a homeowners association or a citizens' association, Mr. Massie indicated that the applicant had proffered the formation of a homeowners association for the development. He added that the applicant would attempt to incorporate the development into an existing homeowners association in the neighboring community, but noted that the applicant could not commit to this because the inclusion of new residents in a homeowners association was subject to the approval of the association.

There being no listed speakers, Vice Chairman de la Fe called for speakers from the audience.

Sharron Warren, 5359 Summit Drive, Fairfax, said her residence was located on a lot to the south and west of the subject property. She then expressed concern about the applicant's tree preservation commitments for the portion of the site identified as Parcel A on page 6 of the Staff Report. Ms. Warren requested that she be allowed to participate in the pre-construction walkthrough that the applicant would conduct, as articulated in Proffer Number 24, so she can adequately assess the impact on her property. She added that she favored preserving the tree canopy near her property, stating that it had a positive effect on the character and visual impact of her residence.

Commissioner Murphy encouraged Ms. Warren to meet with representatives of the applicant to coordinate on the pre-construction walkthrough. In addition, he indicated that portions of the site would be subject to clearing and tree removal. Ms. Warren acknowledged this impact.

There being no more speakers, Vice Chairman de la Fe asked for a rebuttal statement from Mr. Massie, who pointed out the location of Ms. Warren's property and the location of Parcel A on the subject property. He then indicated that the existing tree canopy on Parcel A would be retained to ensure sufficient screening between the proposed development and Ms. Warren's residence. In addition, Mr. Massie said that neighboring property owners, including Ms. Warren, would be able to participate in the pre-construction walkthrough. He also stated that the applicant would coordinate with the appropriate County staff to ensure that the concerns of the surrounding community were addressed. Mr. Massie addressed concerns from Commissioner Ulfelder regarding the applicant's off-site park contributions, as articulated in Proffer Number 6, explaining that the applicant had studied this issue and concluded that the overall park contributions articulated in this proffer were sufficient. In addition, he pointed out that the applicant had proffered funds for an archeological study of the site, as articulated in Proffer Number 30, Archeological Study, Archeological Review. He added that the applicant had also proffered a contribution towards affordable housing, as articulated in Proffer Number 31, Affordable Housing, Housing Trust Fund.

In response to questions from Commissioner Ulfelder, Mr. Massie said that the applicant had proffered a total of approximately \$141,000 towards park facilities, but noted that this figure did not include the cost of the pavilion and other on-site features. He then indicated that the cost of the applicant's total proffered commitments towards park facilities would amount to approximately \$182,000.

When Commissioner Ulfelder asked staff to clarify how much FCPA had requested for off-site park contributions from the applicant, Mr. Rogers stated that \$32,148 had been requested. Commissioner Ulfelder then reiterated his concerns regarding the applicant's contributions to off-site park facilities and the importance of including such contributions, adding that he favored revising Proffer Number 6 to reflect the FCPA's requested contribution amount.

Commissioner Hurley aligned herself with Commissioner Ulfelder's remarks regarding the applicant's contributions to off-site park facilities. In addition, she pointed out that the proposed development would impact the student population of the existing school system, but noted that the contributions the applicant was expected to make to alleviate this impact would not be as significant due to the limited increase in density on the site. She then said that if the applicant's contributions to the schools would be less, then increasing the amount proffered for off-site park contribution was warranted. Mr. Massie noted that the applicant would meet the necessary requirements for school contributions. He added that the applicant favored dedicating more funds to on-site park facilities to improve the economic viability of the development. He also noted that there were existing dwelling units on the subject property that would be retained.

Commissioner Strandlie aligned herself with Commissioners Ulfelder, Hurley, and Hedetniemi regarding the applicant's proffered contributions to off-site park facilities, indicating that she favored modifying Proffer Number 6 to reflect FCPA's requested contribution. She also expressed concern that the proposed development's impact on the school would be greater than the applicant's proffered contribution to alleviate this impact.

Responding to questions from Commissioner Hart, Mr. Massie explained the following:

- The proposed development would not impact the existing tree canopy on the portion of the site identified as Parcel A;
- The eastern portion of the subject property included an undeveloped parcel of land that was owned by the neighboring property and this land contained a strip of vegetation that ran along the boundary;
- The applicant did not have any contract rights to this strip of vegetation;
- The strip of vegetation on the eastern portion of the subject property had limited development potential; and
- The applicant attempted to acquire the strip of vegetation on the eastern portion of the subject property, but such efforts were unsuccessful.

A discussion ensued between Commissioner Hart and Mr. Rogers, with input from Mr. Massie, regarding the ownership of the strip of vegetation on the eastern portion of the subject property and the possibility that a road could be constructed on this strip wherein Mr. Massie indicated that this strip had been previously used as an access by a former property owner, but it currently had no development purposes and did not contribute to the density of the site.

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 Murphy for action on these items.

(Begin Verbatim Transcript)

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Vice Chairman de la Fe: Okay, the public hearing is closed – Mr. Murphy.

Commissioner Murphy: Thank you very much, Mr. Chairman. Mr. Massie summed up the genesis of the application and the status of the community quite well. This area was part of Fairfax Forward Part I. This land was evaluated and there was a recommendation from staff. Even the Land Use Committee – or the task force, whatever we call them these days – to consider going to R-3. And I didn't – we had a meeting down the hall in the conference center that was a standing room only – and got the message loud and clear that the citizens in that area wanted to maintain the R-2. And when I made the motion to keep R-2, I told the citizens who were present from that area that sooner or later, an application would be filed and it would come in at R-2, be in conformance with the Comprehensive Plan, and that's what you're going to get. And low and behold, who would've known it would've been here that soon, but it was. And I want to thank Claudette Ward and all the citizens from this area who first objected to the R-3, came to our citizens' meeting in the Springfield District several weeks ago – was presented with this application and voted unanimously with the Land Use Committee to approve it at R-2. And I appreciate that. That was a great land use experience for me. And Claudette used to be a member of our Land Use Committee out here in Fairfax Center so – she has since retired, but I just can't seem to get rid of her. She keeps showing up at all these rezoning meetings. Okay, thank you very much. But because of – and I would urge the applicant in the couple weeks between now and the decision only to take a look at the proffer on the Park Authority contribution. Having said that, I WOULD MOVE THE PLANNING COMMISSION DEFER DECISION ONLY ON RZ/FDP 2015-SP-004 TO A DATE CERTAIN OF NOVEMBER 4TH, WITH THE RECORD REMAINING OPEN FOR COMMENT. And I would also like to thank our staff man, Mr. Rogers, for his wonderful work on this.

Commissioners Hart and Litzenberger: Second.

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

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries. Thank you very much.

(The motion carried by a vote of 10-0. Commissioners Flanagan and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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At the conclusion of the case, Chairman Murphy resumed the Chair.

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CSPA-B-846-02 – KBSIII RESTON SQUARE, LLC – Appl.
Appl. under Sect. 12-210 of the Zoning Ordinance to amend the
previously approved Comprehensive Sign Plan associated with RZ
B-846 to permit sign modifications. Located at 11790 Sunrise
Valley Dr., Reston, 20191, on approx. 1.95 ac. of land zoned PRC.
Tax Map 17-4 ((31)) O1. HUNTER MILL DISTRICT. PUBLIC
HEARING.

Commissioner de la Fe asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived, and the public hearing closed. No objections were expressed; therefore, Chairman Murphy closed the public hearing and recognized Commissioner de la Fe for action on this case.

(Begin Verbatim Transcript)

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Chairman Murphy: Without objection, the public hearing is closed. Recognize the articulate Mr. de la Fe.

Commissioner de la Fe: Yes. Could I ask the applicant's representative to step forward for two things? The first one is do you agree with the conditions that were distributed – I believe last – well, we received them at least a week ago and – with a new Condition 7, which I am told by the grammarians – there is no such word as “irregardless.” So it should be regardless. Do you agree with – with those conditions?

Inda Stagg, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, PC: For the record, my name is Inda Stagg with Walsh Colucci. Yes, we do agree to these conditions. And we do understand that if this is approved, it will require any new signage approved with this to go back to the Reston DRB for approval.

Commissioner de la Fe: Okay, I just wanted to make – I'm glad you put that into the record because I was going to ask you if you understand that you are subject to private covenants.

Ms. Stagg: Yes. Yes.

Commissioner de la Fe: That you would – regardless of what we do –

Ms. Stagg: I'm a resident of Reston myself and I can't even change my door color without that so I'm –

Commissioner de la Fe: Okay. You do understand that. Thank you. Mr. Chairman – Mr. Chairman –

Chairman Murphy: Mr. de la Fe.

Commissioner de la Fe: I MOVE THAT THE PLANNING COMMISSION APPROVE CSPA B-846-02, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS NOW DATED SEPTEMBER 29TH, as grammatically corrected tonight.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of the motion – irregardless of all that? It seems like irregardless – irrespective of that – okay. All those in favor of the motion to approve CSPA B-846-02, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

Commissioner de la Fe: Thank you very much.

(The motion carried by a vote of 10-0. Commissioners Flanagan and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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SE 2015-HM-013 – SINGH PROPERTIES II, LLC – Appl. under Sects. 3-104 and 9-308 of the Zoning Ordinance to permit a medical care facility. Located at 10819 Leesburg Pike, Reston, 20194, on approx. 23.81 ac. of land zoned R-1. Tax Map 12-3 ((1))
4. HUNTER MILL DISTRICT. PUBLIC HEARING.

David Houston, Applicant’s Agent, Reed Smith, LLP, reaffirmed the affidavit dated October 5, 2015.

Commissioner Ulfelder disclosed that he had been represented on a legal matter within the past 12 months in a personal capacity by Grayson P. Hanes of Reed Smith, LLP, who was listed on the affidavit. However, he said that this matter was unrelated to the subject application and had been concluded to the mutual satisfaction of the parties involved. He then stated that there were no issues related to this matter that would affect his ability to participate in this public hearing.

Cameron Bishop, 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 SE 2015-HM-013.

Replying to questions from Commissioner Hedetniemi, Ms. Bishop said that the proposed assisted living facility would provide 6 affordable dwelling units (ADU), which amounted to 4 percent of the total units that would be provided. She then indicated that the County had no existing regulations that required an assisted living facility to provide ADU, but providing such units at the request of Health Care Advisory Board (HCAB) was a standard practice. She noted that the four percent being provided by the applicant had been requested by HCAB and this amount was consistent with similar facilities throughout the County. In addition, Ms. Bishop noted that the proposal included a provision that ensured that a resident residing in an ADU would be able to maintain this unit if they were moved from assisted care to memory care.

Mr. Huston stated that the subject application would permit the construction of an assisted living facility with memory care on the site. He then pointed out that this facility would contain a total of 136 units with 110 of these units being reserved for assisted living, 25 of these units being reserved for memory care, and 1 unit being reserved for staff or guests. Mr. Huston explained that the applicant had been operating senior living facilities for approximately 25 years and noted the vertically integrated management style with which these facilities were maintained. He said that the applicant currently operated nine facilities similar to the one being proposed in various parts of the country, adding that an additional four facilities were under development, two of which were located in Northern Virginia. Mr. Huston gave a brief description of the proposed facility and highlighted the following details:

- The proposed development would be constructed on a 23.8 acre site and 78 percent of the site would be undisturbed;
- The subject property would retain 56 percent of its existing tree cover after the proposed development was completed;
- The proposed assisted care facility would accommodate couples as well as individuals and the applicant estimated that approximately 15 percent of the residents would be couples;
- The total number of residents at the facility would be 155;
- The amenities at the proposed assisted care facility included a day spa, a café, a movie theater, a billiard parlor, an indoor courtyard, and a fitness center with specialized equipment for seniors; and
- The building materials of the proposed assisted care facility would consist of brick and stone masonry.

Mr. Huston said that the proposal was consistent with the Comprehensive Plan, which permitted institutional-type uses in suburban residential neighborhoods. In addition, he indicated that the proposal was consistent with the County's recently-adopted policies to address the growing need for senior housing. Mr. Huston stated that the applicant had presented the subject application to HCAB on September 9, 2015, and HCAB subsequently voted unanimously to support this

application. He also addressed Commissioner Hedetniemi's questions regarding the amount of ADU that would be provided under the proposal, echoing remarks from Ms. Bishop that residents would retain these units if they transferred from assisted care to memory care. In addition, Mr. Huston said that the applicant had met with the Hunter Mill Land Use Committee, which subsequently voted in support of the proposal, but noted that some residents had expressed opposition. He also said that the applicant had met with residents of the surrounding community, but noted that some residents had expressed opposition. He then explained that the applicant had been coordinating with the community to address their concerns and said the following provisions that had been made as a result of these efforts:

- The applicant would install additional landscaping improvements, including evergreen trees at a height of 14 to 16 feet;
- The proposed stormwater management facilities would be upgraded;
- The dumpster on the site would be relocated;
- The shifts of the employees at the facility would be modified so that shifts began at 6:00 a.m. to mitigate the impact on peak-hour traffic; and
- The proposed assisted living facility would not include an access for Markell Court.

Mr. Huston stated that the applicant was in agreement with the revised development conditions dated October 9, 2015. In addition, he indicated that the applicant's proposed stormwater management provisions were consistent with the revised standards adopted by the County in 2015. He then pointed out that the applicant intended to exceed these standards in terms of stormwater retention, drainage, and treatment. (A copy of the revised development conditions are in the date file.)

A discussion ensued between Commissioner Hurley and Mr. Huston regarding the type of fitness equipment that would be provided at the fitness center within the proposed assisted living care facility wherein Mr. Huston indicated that the equipment would be appropriate for use by seniors.

Commissioner de la Fe pointed out that the County had ongoing plans to widen Route 7. He then asked whether the proposal included provisions that would be affected by this widening, adding that portions of the trail that the applicant had proposed might have to be removed to accommodate this improvement. Mr. Huston acknowledged that the Virginia Department of Transportation (VDOT) had outstanding plans to widen and improve Route 7, but he explained that these plans were preliminary and the applicant had concluded that such plans would not significantly affect the proposed development. He added that the applicant intended to coordinate with VDOT on this widening, stating that the necessary right-of-way would be dedicated. Mr. Huston stated that VDOT's plans to widen Route 7 included a 10-foot trail and indicated that while the applicant would not construct this trail, the applicant had agreed to construct a 5-foot trail in the interim and escrow additional funds towards the trail in VDOT's plans. He then said that this 5-foot trail was intended to aid employees at the proposed assisted living facility that

utilized mass transit. A discussion ensued between Commissioner de la Fe and Mr. Huston, with input from Ms. Bishop, regarding the extent of the applicant's proposed 5-foot trail compared to VDOT's planned 10-foot trail wherein Mr. Huston indicated that the applicant's trail would not extend beyond the boundaries of the subject property and Ms. Bishop pointed out that the applicant's trail would connect to another trail near Markell Court, but noted that the applicant's trail provisions could be re-evaluated at a later date.

A discussion ensued between Commissioner Strandlie and Mr. Huston regarding the brand under which the proposed assisted living care facility would operate.

In reply to questions from Commissioner Strandlie, Mr. Huston said that of the proposed assisted living facility's 155 residents, 110 would be designated for assisted living and 25 would be designated for memory care. He then reiterated that four percent of the units at the facility would be reserved as affordable units and the applicant had concluded that this amount was appropriate, adding such a policy was consistent with similar facilities. A discussion ensued between Commissioner Strandlie and Mr. Huston regarding the possibility of reserving additional units at the facility as ADU wherein Mr. Huston noted that the proposal included provisions that ensured that residents in ADU would be able to retain these units as their need for care changed.

Addressing Commissioner Strandlie's comments regarding the amount of units at the proposed assisted living facility that the applicant reserved as ADU, Commissioner de la Fe pointed out that this provision had been included at the request of HCAB. He then pointed out that the County did not require the applicant to reserve any units at the facility as affordable units, stating that such commitments were voluntary. Commissioner Strandlie reiterated her support for increasing the amount of affordable units at the facility.

When Commissioner Ulfelder expressed concern that the applicant's provisions for trail improvements on the site were not sufficient, Mr. Huston pointed out that Development Condition Number 8 articulated the requirements for the escrow towards the 5-foot trail that would be constructed in lieu of constructing the trail improvements prescribed by the Countywide Trails Plan Map. A discussion ensued between Commissioner Ulfelder and Mr. Huston regarding the application of this development condition in conjunction with other recreation improvements and the path of the trail that would be constructed on the site under this condition wherein Mr. Huston explained that the Countywide Trails Plan Map depicted a minor trail on the site, but since this trail did not sufficiently connect with other portions of the trail network, the applicant provided flexibility to the Fairfax County Park Authority to utilize the funds escrowed for this trail on other improvements.

A discussion ensued between Commissioner Ulfelder and Ms. Bishop regarding the trail network in and around the subject property, as depicted by the Countywide Trails Plan Map, and the manner in which the funds escrowed by the applicant for trails would be utilized wherein Ms. Bishop pointed out the path of the proposed trail that would be constructed on the site.

Chairman Murphy called the first listed speaker and recited the rules for public testimony.

Eric Lyon, 1219 Bishopsgate Way, Reston, representing Ascot Homeowners Association, spoke in opposition to the proposed development because it was not consistent with the residential

character of the surrounding community, pointing out that the majority of assisted living facilities were located near commercial properties. He also expressed the following concerns:

- The surrounding community would be adversely affected by the excess light generated by vehicles accessing the site, which was poorly screened from neighboring properties during the winter;
- The elevation of the subject property was higher compared to the elevation of the neighboring residential properties, which would increase the impact of the light generated by the site;
- The additional evergreens the applicant had proposed to install to screen the neighboring properties from the site was insufficient due to the presence of the Resource Protection Area (RPA) on the site and the location of the loading area for trucks;
- The applicant was requesting a waiver for the transitional barrier requirement for the proposed development, which would preclude additional features that would mitigate the light and noise impact on surrounding properties;
- The surrounding community would also be negatively impacted by the noise generated by the subject property due to vehicles and trucks accessing the site;
- The area surrounding the subject property was subject to flooding and the applicant's stormwater management provisions were insufficient and did not account for the impact of VDOT's planned widening of Route 7; and
- The proposed development would incur a negative traffic impact on the surrounding community because there was no left turn into the site for vehicles traveling westbound on Route 7, which would increase the amount of U-turns along this road.

Stacey and Jeff Circle, 11006 Burywood Lane, Reston, spoke in opposition to the subject application because of concerns regarding excessive tree removal, negative environmental impacts, insufficient stormwater management provisions, and negative impacts on property values. Ms. Circle noted that her residence was located near the subject property and described the existing vegetation around her property and the RPA. She then stated that the proposal would remove a significant number of trees, which would reduce the buffer along the boundary between the site and her property. Ms. Circle also indicated that the removal of these trees would incur a negative environmental impact on the surrounding wildlife, streams, and water table. In addition, she said that this environmental impact would negatively impact the property values of nearby residential properties. Ms. Circle echoed remarks from Mr. Lyon regarding the character of the proposed assisted living facility being inconsistent with that of the surrounding community. She also expressed safety concerns regarding the facility's proximity to Route 7. In addition, she aligned herself with Mr. Lyon's concerns regarding the traffic impact of the proposal.

A discussion ensued between Commissioner Ulfelder and Ms. Circle, with input from Mr. Circle, regarding the location of her property and the proposal's impact on stormwater drainage in the

surrounding area wherein Mr. Circle cited an instance in 2011 where flooding had significantly impacted the area.

When Commissioner Litzenberger asked about the method by which water was supplied to the surrounding residential community, Mr. Circle indicated that his residence utilized the county system, but Ms. Circle noted that some residents utilized wells.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Mr. Huston, who addressed Mr. Lyon's concerns regarding the proposed assisted living facility's impact on nearby residential properties, pointing out that there was significant distance between the proposed facility and the nearest dwelling units. Referring to Sheet 3 of the Special Exception Plat in the staff report, he indicated that there was approximately 600 feet of space between the facility and Mr. Lyon's property, adding that this space contained vegetation and topographic features that effectively screened the site. In addition, he stated that the gap was similar for other residential properties located near the site. Mr. Huston said that the proposal would not remove any existing trees from the RPA, reiterating that the majority of the property would remain undisturbed. He also addressed Mr. Lyon's concern regarding the transitional screening and barrier waiver, stating that this waiver would ensure that fewer trees were removed because without this waiver, additional tree removal would be necessary to construct a barrier. He added that the County's Urban Forester supported this waiver because it would retain the existing tree coverage. Mr. Huston addressed Mr. Lyon's concern regarding the noise impact of the subject application on the surrounding properties, noting that the significant distance between the proposed assisted living facility and the surrounding residential properties was sufficient to mitigate the impact. In addition, he indicated that the operation of assisted living facilities did not generate significant noise. Mr. Huston addressed concerns from speakers regarding stormwater management on the site, explaining that the applicant's provisions would improve the stormwater management capacity of the site to a degree exceeding that of undeveloped land, which was consistent with the standards prescribed by the County. He also reiterated that the applicant's stormwater management provisions exceeded these standards. Mr. Huston acknowledged the existing flooding issues in the surrounding area, but noted that the proposal would not exacerbate this issue. In addition, he said that the proposed assisted living facility would generate few trips and addressing issues regarding the traffic patterns on Route 7 was under VDOT's purview.

Chairman Murphy asked about the safety provisions that the proposed assisted living facility would utilize for residents who were in memory care. Mr. Huston indicated that the facility would include sufficient measures, such as locks and tracking, to ensure that these residents were safe.

Commissioner Migliaccio suggested that the applicant implement policies restricting the times when trucks could make deliveries on the site to address Mr. Lyon's concerns regarding the proposal's noise impact on surrounding properties.

When Commissioner Litzenberger asked whether the proposed assisted living facility would utilize a basement or cellar, Mr. Huston said that the facility would not utilize such a feature because it would be constructed on a slab.

Answering questions from Commissioner Ulfelder, Mr. Huston confirmed that vehicles traveling westbound on Route 7 could not access the site because there was no left-turn lane. He then explained that vehicles traveling in this direction seeking to access the site would be required to utilize the intersection between Route 7 and Markell Court to make a U-turn. A discussion ensued between Commissioner Ulfelder and Mr. Huston regarding the traffic patterns along Route 7, the impact of VDOT's planned widening of Route 7 on the proposed development, and the ability for vehicles to safely access the site wherein Mr. Huston reiterated that an assisted living facility did not generate a significant amount of trips and indicated that the lanes that would be used to enter and exit the site would be consistent with VDOT's requests.

Commissioner Hedetniemi pointed out that the proposal would install a significant amount of impervious surface on the site to accommodate a parking lot and a courtyard for the residents. She then asked for more information on these surfaces. Mr. Huston said that these surfaces would be partially impervious. Commissioner Hedetniemi suggested that the applicant continue coordinating with staff and the surrounding community to address concerns regarding stormwater management and flooding.

A discussion ensued between Commissioner de la Fe and Mr. Huston regarding the proposed assisted living facility's location in relation to the watershed of the surrounding area.

A discussion ensued between Commissioner Strandlie and Mr. Huston regarding the brand name under which the proposed assisted living facility would operate and the applicant's commitment to providing ADU at the facility wherein Commissioner Strandlie reiterated her support for providing more affordable units.

Chairman Murphy called for closing remarks from staff.

William Mayland, ZED, DPZ, pointed out that the applicant's commitment to reserving four percent of the units at the proposed assisted living facility as ADU was consistent with similar facilities in the county and echoed remarks from Ms. Bishop regarding this commitment, saying that this amount had been requested by HCAB.

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

(Begin Verbatim Transcript)

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Chairman Murphy: If not, public hearing is closed – Mr. de la Fe.

Commissioner de la Fe: Thank you very much, Mr. Chairman. I thank our speakers tonight and we have – we've had a number of meetings with the Land Use Committee and representatives with the community there. And there – at least one more community meeting that Supervisor Hudgins has scheduled. And I think we – to address some of these – not only the – some of the same issues that we've raised here – stormwater, traffic, and noise and lights. And that meeting occurs just before Thanksgiving so in order to take that into account and – other comments we

have heard here tonight, I WOULD MOVE TO DEFER THE DECISION ONLY FOR SE 2015-HM-013 TO A DATE CERTAIN OF DECEMBER 10TH, 2015, WITH THE RECORD REMAINING OPEN FOR WRITTEN TESTIMONIES.

Commissioners Hart and Hedetniemi: Second.

Chairman Murphy: Seconded by Mr. Hart and Ms. Hedetniemi. Is there a discussion of the motion? All those in favor of the motion to defer decision on SE 2015-HM-013 to a date certain of December 10th, with the record remaining open for comment, say aye.

Commissioners: Aye

Chairman Murphy: Opposed? Motion carries.

Commissioner de la Fe: Thank you very much.

Chairman Murphy: Thank you very much.

(The motion carried by a vote of 10-0. Commissioner Flanagan and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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ZONING ORDINANCE AMENDMENT (ALTERNATIVE LENDING INSTITUTIONS) – To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: to establish and define a new principal land use of Alternative Lending Institution to include payday and motor vehicle title lenders, as regulated by the Code of Virginia; to include such new use as a permitted use in the C-7 & C-8 Zoning Districts; and to establish appropriate use limitations to include, among others, their prohibition in Commercial Revitalization Districts, location requirements limiting the use to a shopping center, minimum separation distances from sensitive uses, permitted hours of operation, and a prohibition against onsite storage or sale of automobiles. COUNTYWIDE. PUBLIC HEARING.

Chairman Murphy announced his intent to abstain from voting on this item because he had not been present during the workshop for the proposed Amendment.

Andrew Hushour, Zoning Administration Division (ZAD), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended adoption of the Zoning Ordinance Amendment, as articulated in pages 9 and 10 of the Staff Report.

In response to questions from Commissioner Sargeant, Mr. Hushour said the following:

- The Virginia General Assembly had not prohibited the operation of alternative lending institutions in the State of Virginia;
- The use of zoning limitations to regulate alternative lending institutions within the county was determined to be appropriate by staff because of the characteristics of this use was comparable to those of other financial institutions;
- The regulation of alternative lending institutions through zoning varied by jurisdiction in the State of Virginia;
- The proposed Amendment prohibited the operation of alternative lending institutions in Commercial Revitalization Districts (CRD), Commercial Revitalization Areas (CRA), commercial districts zoned C-1 to C-6, commercial districts zoned C-9, and industrial districts zoned I-2 to I-6;
- The existing alternative lending institutions located outside C-7 and C-8 zones, as articulated in the proposed amendment, would continue operation as a non-conforming use; and
- The removal of an existing alternative lending institution in a CRD or CRA, as part of a revitalization effort, would effectively preclude such a use on the site from that point forward.

Responding to questions from Commissioner Sargeant, Leslie Johnson, ZAD, DPZ, echoed remarks from Mr. Hushour regarding the effect of removing alternative lending institutions from a CRD or CRA, stating that such a use could not be resumed once removed. She added that an applicant seeking to rezone a property as C-7 or C-8 could submit proffers that precluded the installation of alternative lending institutions on the site. In addition, Ms. Johnson explained that the use limitations in the proposed Amendment would restrict the operation of alternative lending institutions to C-7 or C-8 Districts and require that such a use was not located in close proximity to a residential or public use. She then stated that the transitional screening provided by shopping centers typical of a C-7 or C-8 District and the limitation of hours of operations of alternative lending institutions prescribed by the proposed Amendment would provide additional protection for nearby residential properties.

In reply to questions from Commissioner Hedetniemi, Mr. Hushour reiterated that existing alternative lending institutions whose operations were not consistent with the use limitations prescribed by the proposed Amendment would be permitted to continue as a legal non-conforming use. He also said that of the 32 alternative lending institutions operating in the County, 20 would operate within a CRD or CRA and 16 of these institutions would operate as a legal non-conforming use if the proposed Amendment were adopted. In addition, he indicated that the proposed Amendment did not prohibit alternative lending institutions from operating on weekends and staff had concluded that the hours of operation restrictions prescribed by the

Amendment were sufficient to accommodate customers who resided in an area that was significantly distant from such an institution.

Commissioner Litzenberger stated that the Chairman of the West Fairfax Land Use Committee had reviewed the proposed Amendment and suggested that the use limitation on the hours of operation be extended from 8:00 a.m. through 6:00 p.m. to 8:00 a.m. to 8:00 p.m. He added that extending these hours would help accommodate residents of the western portions of the County that did not reside near such an institution. A discussion ensued between Commissioner Litzenberger and Mr. Hushour regarding the practices and legality of alternative lending institutions.

Referring to the quote on page 3 of the Staff Report, which listed the various institutions that could potentially be defined as an alternative lending institution, Commissioner Litzenberger asked whether this list included credit unions as well as savings and loans at both the state and federal level. Mr. Hushour confirmed that this text was intended to include these institutions.

Addressing Commissioner Litzenberger's remark regarding the hours of operation of alternative lending institutions, Commissioner Migliaccio pointed out that the existing institutions in the Sully District that were operating beyond the limitations prescribed by the proposed Amendment operated with hours of operation of 10:00 a.m. to 6:00 p.m. He then indicated that he did not support expanding the prescribed hours of operation articulated in the proposed Amendment.

A discussion ensued between Commissioner Migliaccio and Mr. Hushour, with input from Ms. Johnson, regarding whether the proposed Amendment would hinder the expansion of CRDs or CRAs throughout the County wherein Ms. Johnson described the procedures for expanding CRDs and CRAs, which included amendments to both the Comprehensive Plan and the Comprehensive Plan Map.

Commissioner Migliaccio asked whether agreeing to extend the hours of operation prescribed by the proposed Amendment would require the revision of other use limitations, noting that certain areas of the County had residential uses located in close proximity to C-7 and C-8 Districts. Mr. Hushour explained that such revisions were not necessary because the proposed Amendment articulated that alternative lending institutions were restricted to operating in shopping centers, which provided sufficient screening from residential areas. A discussion ensued between Commissioner Migliaccio and Ms. Johnson regarding the limited screening provided by older shopping centers located in certain parts of the County wherein Ms. Johnson acknowledged that the screening in some shopping centers was not consistent with existing standards, but indicated that such screening would still be sufficient to mitigate the impact of alternative lending institutions on nearby residential areas, adding that the County was required to provide reasonable opportunities for such institutions to operate within the County.

A discussion ensued between Commissioner Migliaccio and Mr. Hushour, with input from Ms. Johnson, regarding whether the approval of the proposed Amendment would prohibit existing alternative lending institutions operating within the County from extending their hours of operation wherein Ms. Johnson pointed out that the County currently had no restrictions on the hours of operation for alternative lending institutions, but noted that staff would be required to

review requests from an institution to extend their hours to determine whether this constituted an expansion.

Answering questions from Commissioner Hurley, Ms. Hushour indicated that the majority of the 32 existing alternative lending institutions operating in the County were operating lawfully. He also stated that staff would review the County map to determine the locations in which new alternative lending institutions could operate prior to the Board of Supervisors' public hearing for the proposed Amendment. In addition, Mr. Hushour said that the majority of the developed C-7 and C-8 properties throughout the County were accessible by bus services to accommodate customers who did not own a vehicle.

Commissioner Hurley expressed concern regarding the prescribed hours of operation for alternative lending institutions in the proposed Amendment, stating that she supported extending the hours of operation.

Commissioner Hurley recommended that certain independent tax preparation services be included under the purview of alternative lending institutions within the proposed Amendment.

Commissioner Strandlie pointed out that in 2011, the Virginia General Assembly passed SB-1367, which permitted car title lenders to extend credit to out-of-state drivers. She indicated that the Board of Supervisors had opposed this legislation because it would negatively impact the County's revitalization districts. She then explained that since the passage of this legislation, the Northern Virginia area had been subject to significant traffic from neighboring states and the District of Columbia seeking to utilize alternative lending institutions because these neighboring states had statutes prohibiting such use. Due to the impacts of such legislation, Commissioner Strandlie aligned herself with Commissioner Migliaccio, stating that she did not support extending the hours of operation for alternative lending institutions beyond the hours articulated in the proposed Amendment.

Commissioner Ulfelder noted that despite the restrictions prescribed by the proposed Amendment on alternative lending institutions, these institutions utilized numerous methods to interact with their customers. He then said that it was the prerogative of the Virginia General Assembly to grant authority to localities to regulate alternative lending institutions.

Commissioner Hart stated that the impacts associated with an alternative lending institution were analogous to the impacts of a Pawn Shop. A discussion ensued between Commissioner Hart and Ms. Johnson regarding the appropriate land use approval processes for alternative lending institutions wherein Ms. Johnson explained the following:

- The use of a pawn shop on a commercial property was subject to a Special Exception (SE) and the hours of operation for such a use were determined on a case-by-case basis;
- The Virginia General Assembly had granted localities the authority to regulate Pawn Shops;

- The impact of alternative lending institutions was not determined to be significant to an extent where the approval process for an SE was appropriate; and
- The other by-right uses permitted within a C-7 and C-8 shopping centers, to which alternative lending institutions would be restricted under the proposed Amendment, were not subject to limited hours of operation by the Zoning Ordinance.

Commissioner Hart expressed concerns regarding the possible consequences of restricting the location and hours of operation of alternative lending institutions. A discussion ensued between Commissioner Hart and Ms. Johnson regarding the impact of the State of Virginia's existing policies associated with alternative lending institutions wherein Ms. Johnson pointed out that such institutions were frequently located in certain areas, but noted that the regulation of the policies of these institutions was under the purview of the State of Virginia.

Commissioner Migliaccio addressed remarks from Commissioner Strandlie regarding the State of Virginia's policies on alternative lending institutions, pointing out that the State had determined in 2010 that these institutions, such as car title loans, were an appropriate use. He then said that the proposed Amendment would create appropriate regulations on such institutions, including limited hours of operation, which had not been prescribed by the State. In addition, Commissioner Migliaccio indicated that he supported adopting the proposed Amendment.

Answering questions from Commissioner Sargeant, Mr. Hushour stated the following:

- The adoption of the proposed Amendment would not require existing alternative lending institutions to modify their hours of operation, even if those hours were not consistent with the hours prescribed by the Amendment;
- The existing classification of alternative lending institutions allowed these institutions to operate in various zoning districts and staff did not support permitting such institutions in low-density commercial or industrial districts;
- The proposed Amendment would not require existing alternative lending institutions to relocate or modify their hours of operation; and
- The existing alternative lending institutions whose policies were not consistent with those prescribed in the proposed amendment would continue operating as legal non-conforming uses.

Chairman Murphy called for speakers from the audience.

Dana Wiggins, 919 East Main Street, Suite 610, Richmond, representing the Virginia Poverty Law Center (VPLC), spoke in favor of the proposed Amendment because she supported localities prescribing appropriate regulations to alternative lending institutions. She addressed concerns raised from Commissioners regarding the hours of operation of alternative lending

institutions, stating that the majority of these institutions closed by 6:00 p.m. Ms. Wiggins then described the operations of various alternative lending institutions and noted the issues associated with such operations. In addition, she indicated that there was popular support among the customers of these institutions for additional regulations. Ms. Wiggins commended the staff for their work on this issue. She also described the various types of alternative lending institutions and the issues associated with these institutions, which included storefront payday lenders, car title lenders, and line of credit loan lenders. Ms. Wiggins then recommended that the regulations articulated in the proposed Amendment be made to apply to these various types of institutions.

When Chairman Murphy expressed concern as to whether the regulation of the various types of alternative lending institutions described by Ms. Wiggins was within the scope of the proposed Amendment, Ms. Johnson indicated that the language was sufficiently flexible to ensure that these institutions would be subject to the provisions of this Amendment. She added that the determination of whether an institution was categorized as an alternative lending institution would be made by the Zoning Administrator. A discussion ensued between Chairman Murphy and Ms. Johnson, with input from Ms. Wiggins, regarding the enforcement of the provisions within the proposed Amendment and the challenges associated with such an effort wherein Ms. Wiggins indicated that the VPLC was willing to coordinate with the County to aid in enforcement efforts of these provisions.

A discussion ensued between Commissioner Ulfelder and Ms. Wiggins regarding the manner in which alternative lending institutions collect funds from customers wherein Ms. Wiggins indicated that these institutions were prohibited from collecting funds online by the State of Virginia.

A discussion ensued between Commissioner Hart and Ms. Wiggins regarding the impact of the operations of alternative lending institutions in terms of the institutions' policies for collecting funds from customers and whether the prescribed hours of operation articulated in the proposed Amendment would adversely affect customers wherein Ms. Wiggins indicated that most institutions utilized methods that allowed customers to submit their payments off-hours and revising the prescribed hours of operation was not necessary.

When Chairman Murphy reiterated his concerns regarding the scope of the proposed Amendment, Ms. Johnson explained that the scope of this Amendment was appropriate because it articulated what constituted an alternative lending institution in the Zoning Ordinance, but noted that this Amendment would not affect the policies of operation for such institutions.

Commissioner Litzenberger asked whether extending the hours of operation prescribed by the proposed Amendment would significantly impact the operation of alternative lending institutions. Ms. Wiggins stated that since the majority of these institutions operated with hours consistent with those prescribed in the proposed Amendment, such an extension would not incur a significant impact, but noted that there were instances in other areas of the State of Virginia where policies limiting the hours of operation of alternative lending institutions had negatively impacted customers.

Commissioner Migliaccio noted that concerns regarding the hours of operation prescribed by the proposed Amendment were due primarily to safety. He then reiterated that he did not support extending the hours of operation prescribed in the Amendment.

When Commissioner Sargeant asked about the impact of alternative lending institutions on the character of surrounding developments, Mr. Hushour said that the character of alternative lending institutions was not consistent with the character intended for developments in a CRD or CRA. Commissioner Sargeant then stated that he supported the proposed Amendment, adding that the scope of this Amendment was appropriate. A discussion ensued between Commissioner Sargeant and Ms. Wiggins regarding the impact of prohibiting alternative lending institutions.

Commissioner Sargeant asked whether the language in the proposed Amendment was sufficient to encompass the various forms of alternative lending institutions. Mr. Hushour explained that the practices of alternative lending institutions were constantly changing, but the language in the proposed Amendment was sufficiently broad to cover the various forms of these institutions. He also indicated that the language in the proposed Amendment was worded in a manner to ensure that businesses that utilized lending as a minor component of their services would not be affected.

When Commissioner Sargeant asked whether restricting the hours of operation on by-right uses in a property through a Zoning Ordinance Amendment was permitted, Ms. Johnson stated that utilizing a Zoning Ordinance Amendment for such a purpose was permitted.

Commissioner Strandlie commended Ms. Wiggins for her testimony, adding that she had coordinated with Ms. Wiggins on proffers regarding alternative lending institutions within developments in the Mason District.

Commissioner Strandlie expressed concern regarding extending the hours of operation prescribed by the proposed Amendment because it would incur additional out-of-state traffic from individuals seeking to utilize the services of alternative lending institutions. Ms. Wiggins said that studies had been conducted on this issue and these studies established a correlation between the operation of alternative lending institutions and an increase in criminal activity. In addition, she indicated that Northern Virginia was subject to significant out-of-state traffic from residents of neighboring jurisdiction seeking the services of alternative lending institutions.

Commissioner Strandlie asked whether the phrase “short term,” as articulated in the proposed Amendment, was sufficient to encompass the various lending practices utilized by alternative lending institutions. Ms. Wiggins stated that this language was sufficient to cover the necessary lending practices, but noted that the phrase was still subject to interpretation as these practices evolved.

A discussion ensued between Commissioner Sargeant and Ms. Johnson, with input from Mr. Hushour, regarding the types of developments that alternative lending institutions would be required to locate within under the proposed Amendment and the use of proffers in precluding such institutions in a development wherein Ms. Johnson said that the proposed Amendment

would restrict these institutions to shopping centers and Mr. Hushour stated that proffers could be utilized to further restrict such a use.

Erin Witte, 4010 University Drive, Fairfax, aligned herself with Ms. Wiggins' remarks, stating that she supported the proposed Amendment. She added that she supported additional efforts to regulate the operation of alternative lending institutions and mitigate their impact. In addition, Ms. Witte echoed remarks from Ms. Johnson regarding the scope of the proposed Amendment, stating that regulating the areas in which an alternative lending institution could be located was appropriate because such use was not consistent with the character of CRDs or CRAs.

There being no more speakers, Chairman Murphy called for concluding remarks from Mr. Hushour, who declined.

There were no further comments or questions from the Commission; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Sargeant for action on this item.

(Begin Verbatim Transcript)

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Chairman Murphy: Public hearing is closed – Mr. Sargeant.

Commissioner Sargeant: Mr. Chairman, I am prepared to move on this Zoning Ordinance Amendment this evening. I think this has been a very, very candid – very helpful and useful discussion. I want to thank both witnesses who attended, who contributed tremendously to this discussion. I think I still continue to support the hours of operation we are proposing within this Zoning Ordinance Amendment, simply because it does not prevent current – the 32 current car title lender operations from operating beyond those hours for the foreseeable future. So I'm going to go ahead and – but if you want to propose that as a separate amendment or not, so be it – but thank you. Let me begin by thanking Drew Hushour and Leslie Johnson for their very meticulous research and preparation for this Zoning Ordinance Amendment. And many thanks as well to Beth Teare in the County Attorney's office for contributing to a very thorough review of the legal and regulatory issues surrounding this proposed Amendment. Let me also thank those citizens and organizations who have participated in this process through letters and public comment. As Planning Commissioners, we do not have the authority to determine whether a particular use should be outlawed or banned. That authority rests, at least, with the General Assembly. What we can do is define and establish alternative lending institutions as a distinct land use in certain commercial zoning districts with recommended use limitations. That is what this proposed Zoning Ordinance Amendment does and, I believe, does well. The proposed Amendment distinguishes alternative lending establishments from more common financial institutions for the purposes of zoning and charts a regulatory course that reflects the experience of other jurisdictions. As highlighted in the staff report and presentation, there has been a proliferation of alternative lending institutions in Fairfax County. And as academic studies referenced in the staff report suggest, these types of use can be a financial drain on the local economies in which they operate. That is certainly contrary to the vision that the County for its Commercial Revitalization Districts and Commercial Revitalization Areas. As such, I support

this Zoning Ordinance Amendment to prohibit these uses in CRDs and CRAs. I believe this is a positive step forward as we plan for the future of Fairfax County. And with that, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE PROPOSED ZONING ORDINANCE AMENDMENT ENTITLED "ALTERNATIVE LENDING INSTITUTIONS," AS ADVERTISED.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by –

Commissioner Strandlie: Second. I'd like to second –
Chairman Murphy: Pardon?

Commissioner Strandlie: Second.

Commissioner Hedetniemi: She wants to second it.

Chairman Murphy: Seconded by Mr. Migliaccio and Ms. Strandlie. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt the proposed Zoning Ordinance Amendment Articles 4 and 20, Alternative Lending Institutions, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Chair abstains, as I said before. I said I didn't know enough about it. Now I know too much about it and I'm still going to abstain.

(The motion carried by a vote of 9-0-1. Commissioner Murphy abstained. Commissioners Flanagan and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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The meeting was adjourned at 11:25 p.m.
Peter F. Murphy, Chairman
James R. Hart, 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: Jacob Caporaletti

Approved on: May 18, 2016



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