

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, NOVEMBER 5, 2014**

PRESENT: Peter F. Murphy, Springfield District
Janet R. Hall, Mason District
James R. Hart, Commissioner At-Large
Ellen J. Hurley, Braddock District
John C. Ulfelder, Dranesville District
James T. Migliaccio, Lee District
Earl L. Flanagan, Mount Vernon District
John L. Litzenberger, Jr., Sully District
Janyce N. Hedetniemi, Commissioner At-Large
Timothy J. Sargeant, Commissioner At-Large

ABSENT: Frank A. de la Fe, Hunter Mill District
Kenneth A. Lawrence, Providence District

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The meeting was called to order at 8:31 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

Chairman Murphy announced that the Planning Commission's Land Use Process Review Committee would meet tomorrow night at 7:00 p.m. in the Board Conference Room at the Fairfax County Government Center to discuss zoning evaluation fees, electronic plan submissions, and Department of Public Works and Environmental Services fee increases on land development services. He added that this meeting was open to the public.

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Commissioner Hall noted that minutes for May and June 2014 had been distributed to the Commission by John W. Cooper, Clerk to the Planning Commission, and requested that her fellow Commissioners review them and submit the necessary corrections. She added that she would move to approve these sets of minutes at the Planning Commission's meeting on Thursday, November 13, 2014.

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Commissioner Flanagan stated that the applicant for SE 2014-MV-020, Kausar S. Mirza d/b/a Funland Mini Center, which had been scheduled for public hearing tonight, requested to defer the public hearing to provide additional time to address concerns raised by the Gunston at Highlands Homeowners Association; therefore, he MOVED THAT THE PLANNING

COMMISSION DEFER THE PUBLIC HEARING FOR SE 2014-MV-020 TO A DATE CERTAIN OF JANUARY 8, 2014.

Commissioner Litzenberger seconded the motion, which carried by a vote of 10-0. Commissioners de la Fe and Lawrence were absent from the meeting.

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Commissioner Hall said that at the Planning Commission meeting on Thursday, October 30, 2014, the Commission voted to defer the decision only for SE 2014-MA-015, Afghan Academy, Inc., to a date certain of November 20, 2014 to provide sufficient time for the Mason District Land Use Committee to review the application. However, she noted that the meeting schedule for the Mason District Land Use Committee had changed; therefore, she announced her intent to further defer the decision only on this application to a date certain of December 3, 2014.

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FS-S14-32 – CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS, 9526 Old Keene Mill Road

Chairman Murphy: WITHOUT OBJECTION – also, in Commission business – I MOVE THE CONSENT AGENDA ITEM.

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

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SE 2014-MV-019 – QIN H. ZHENG (Decision Only)

(The public hearing on this application was held on October 15, 2014.)

Commissioner Flanagan: Thank you, Mr. Chairman. Yes, tonight we have, for decision only, SE 2014-MV-019. On October 15, the Commission held a public hearing to receive testimony about a Special Exception Number 2014-MV-019, that would be needed to build a new home in the Mount Vernon District New Alexandria neighborhood – a flood plain adjacent to the Potomac River. The Special Exception is needed as new homes may not be built by-right in a floodplain. In reviewing the testimony I was impressed by testimony such as the following:

- First, the proposed new home would be on a vacant – on vacant land that suffers the deepest flooding in New Alexandria. The stream that drains all of a New Alexandria watershed ends up at the applicant's site. To illustrate, a photo was shown of a garage and home built in 1939 next door to the applicant and the garage was filled with 7 feet of water at one point in Hurricane Isabel – flood of 2003. The flooded adjacent stream was 11 feet deep. This is substantial. Somewhat surprisingly, when asked, this same neighbor offered to acquire the applicant's site next door as open space. This previously unknown option would appear to best satisfy the Zoning Ordinance Special Exception requirements

in 2-905 Part 7B, which requires denial of an application unless, “The proposal is the least disruptive option to the floodplain.” Quite simply, this application is not the least disruptive alternative in light of the option offered by the neighbor, as well as the option of pursuing other designs that do not require the level of fill requested in the floodplain.

- Second, just recently the Base Flood Elevation was increased to 11 feet – the maximum depth of flooding in New Alexandria. The definition of the term Base Flood Elevation in Part 906 of the Zoning Ordinance for Floodplain Regulations states, “The Federal Emergency Management Agency designated water surface elevation of a flood having a one percent chance of being equaled or exceeded – and I emphasize exceeded – in any given year shown on the flood insurance rate map. Testimony was presented and not rebutted that mean sea levels are rising already and likely to continue.
- Third, the testimony confirmed that comparable new homes in the area of the applicant listed at the bottom of the Staff Report page 2 stopped in 1997 and no Special Exceptions were listed thereafter for new homes – only to repair or replace existing flood damaged homes. One new home one block to the north and two blocks to the east built after Hurricane Isabel could have been listed on page 2 of the staff report, but it wasn’t and for good reasons. It was for a home on an island four inches above the surrounding shallow 2003 floodplain. Technically the lot is outside the floodplain. The bottom of the floor joists only had to be 14 inches above natural grade. The SE for the new home was supported by the neighborhood association, the Mount Vernon Council, and the Supervisors. The applicant’s drawing on Sheet 2 of 5, in stark contrast, proposes first floor joists that would be eight feet, five inches above the natural grade. In stark contrast – and that is five feet higher than a typical crawl space. I know that eight feet doesn’t sound like a crawl space the applicant’s SE home design is neither in harmony with the surrounding homes nor supported by the new neighborhood association, New Alexandria Homeowners Association, and the Mount Vernon Council.
- My fourth point is – the testimony – was the applicant has not rebutted a claim that swales to be dug below the existing grade along the northern fence would kill the neighbor’s trees. I find this contrary to the Zoning Ordinance requirements in Section 9-006, Part 3, that states, “The proposed use shall be such that it will be harmonious with and will not adversely affect the use of development of neighboring properties.”
- Fifth, the applicant’s lot is totally within an RPA. It will require 570 cubic feet of fill spread over 2,499 square feet of the lot’s 7,000 square feet. This will exceed the 50-foot encroachment allowed on an RPA and triggered an appeal to the Supervisors for a concurrent exception noted in the DPWES – that’s the Department of Public Works – staff report found at Appendix 5. Page 7 of the DPWES staff report and Page 14 of the Department of Planning and Zoning staff report note that the reports do, “not reflect the position of the Board of Supervisors.” And that’s right because, of course, the ultimate decision in this matter is up to the Board of Supervisors. Likewise, the previous buildable lot determination does not, of course, dictate the outcome of this application because Special Exception applications can only be decided by the Board of Supervisors, based on different and more expansive criteria.

- Sixth item that I was impressed with was – I mention the RPA in the fifth in part because several Commissioners thought the slope of the fill in the side yards was too steep to permit walking from the front yard to the rear yard. I agree. The slope on Sheet 2 of 5, Cross Section B, is shown to be 2 to 1. That’s what the slope of the side yard is. This is an extreme slope of 50 percent. To demonstrate how steep a 50 percent slope is, I refer you to the applicant’s email sent to us on October 31. A photo in the email was sent as justification for the 16.33 slope of the applicant’s driveway. The driveway in the email photo is the steepest and only such driveway in New Alexandria community. It’s 18.5 percent. In addition, the garage in the emailed photo was built in 2000, before Hurricane Isabel. The owner promptly converted the original garage that the driveway led to into habitable – into a habitable room in the photo after receiving his Residential Use Permit. That driveway ramp is now referred to by locals as, “The Driveway to Nowhere.”
- Seventh, the staff report Wood Haven Road profile on sheet 2 of 5 clearly shows the middle of the road in front of the driveway to be 6.25 feet above flood stage – above sea level – and 6 feet at the road edge. Even the site plan on sheet 1 of 5 shows the nearest street manhole in the center of Wood Haven Road to be near the south – and that’s to be near the south lot line – at an elevation of 6.16 above sea level. The applicants own drawings demonstrate that the proposed driveway slope for the curb – from the curb to the garage door is from 6 feet to 12.5 feet. It climbs from 6 feet to 12.5 in a distance of 39.8 feet. And that equals a 16.33 percent slope. If any part of that 39.8 distance is flatter, as stated in the email, the 16.33 slope will be even greater than 16.33. The applicant’s – they might even approach the 18 of the steepest slope that leads to nowhere. The applicant’s driveway serves as a pedestrian as well as a vehicle access to the proposed building. The maximum slope of inside ramps for occupants is 12 percent in the uniform – in the Virginia Uniform Building Code. Most outdoor ramps in New Alexandria are that or less. Although Fairfax County does not have an explicit standard for outside residential ramps such as the Driveway to Nowhere, that should nonetheless be rejected under the General Special Exception Criteria as incompatible with surrounding uses, failing to be – to provide adequate parking and pedestrian access for the proposed use and for the degree of disruption to the floodplain.

In my opinion, the seven concerns listed above justify Environmental Policy 7A in the Comprehensive Plan, adopted by the Board of Supervisors to “Prohibit new-” and I emphasize new “-residential structures within flood impact hazard areas.” Therefore Mr. Chairman I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS DENY SE 2014-MV-019, RPA ENCROACHMENT EXCEPTION NUMBER 1391-WRPA-001-1, AND WATER QUALITY IMPACT ASSESSMENT WQIA NUMBER 1391-WQ-001-1.

Commissioners Litzenberger and Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant and Mr. Litzenberger. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it deny SE 2014-MV-019, RPA Encroachment Exception 1391-WRPA-001-1, and Water Quality Impact Assessment WQIA 1391-WQ-001-1.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. The Chair abstains, not present for the public hearing. Thank you very much.

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

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ORDER OF THE AGENDA

Secretary Hall established the following order of the agenda:

1. SEA 94-M-047-02 – HOME DEPOT USA, INC.
2. RZ 2014-PR-013/SE 2014-PR-040 – TYSONS WEST ASSEMBLAGE, LLC
3. RZ 2012-MV-015 – MCSHAY COMMUNITIES, INC.
4. PA 2014-I-B2 – COMPREHENSIVE PLAN AMENDMENT (BAILEYS CROSSROADS COMMUNITY BUSINESS CENTER) (Mason District)

This order was accepted without objection.

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SEA 94-M-047-02 – HOME DEPOT USA, INC. – Appl. under Sects. 7-607, 9-501, 9-620, and 9-622 of the Zoning Ordinance to amend SE 94-M-047 previously approved for fast food restaurant; fast food restaurant with drive-through window; drive-in financial institution in a highway corridor overlay district; reduction in land area; waiver of certain sign regulations; modification and waivers in a CRD to permit an expansion of an existing retail sales establishment – large and site modifications. Located at 6210 Seven Corners Center, Falls Church, 22044, on approx. 30.69 ac. of land zoned C-7, CRD, H-C, and SC. Tax Map 51-3 ((16)) (B) 1 A and 51-3 ((1)) 29 A. MASON DISTRICT. PUBLIC HEARING.

Andrew Painter, Applicant's Agent, Walsh, Colucci, Lubeley, Emrich & Walsh, PC, reaffirmed the affidavit for each application dated September 2, 2014.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had two cases where attorneys from Mr. Painter's firm were representing adverse parties, but noted that those matters and those parties were unrelated to this application and there was no business or financial relationship; therefore, it would not affect his ability to participate in this public hearing.

Kristen Abrahamson, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of application SEA 94-M-047-02.

Mr. Painter explained that the applicant had been operating a Home Depot on the subject property since 1996, stating that this store consisted of a 106,000 square foot home improvement store and a 19,000 square foot outdoor garden center. He noted the growth of the areas served by this store and indicated that its existing size and features were not sufficient to meet consumer demand. Mr. Painter said that the applicant was issued a zoning violation in 2013 for unpermitted outdoor storage underneath the parking deck, located along the frontage and side drive-aisle of the facility, and a subsequent court order required the applicant to move the items stored in these areas inside the facility. He reviewed the options that the applicant explored to address this issue and stated that the subject application provided a viable solution by permitting an expansion of the store into an adjacent 56,000 square foot retail space, which had been vacated by another tenant. Mr. Painter indicated that the proposed use for this vacant retail space would be consistent with the existing retail use at the subject property, adding that a Special Exception Amendment was required for this use because of the different criteria for standard and large retail establishments. He also said that the additional space would ensure sufficient storage area for items that needed to be stored inside the facility. In addition, he stated that the proposal would address other issues at the site such as trash removal, graffiti removal, pedestrian safety, and parking provisions. Mr. Painter pointed out that the subject application was consistent with the Comprehensive Plan and that the applicant had coordinated with neighboring homeowners associations and civic associations to address their concerns, adding that the proposal had the support of the Bailey's Crossroads Revitalization Corporation and the Mason District Land Use Committee. He also noted that the subject application was scheduled for public hearing before the Board of Supervisors on Tuesday, November 18, 2014, but said that the applicant did not object to deferring the decision only for the proposal to provide sufficient time to make any necessary modifications to the development conditions.

Commissioner Hall said that she had met with the applicant's representatives regarding the subject application and had expressed concern about the existing parking accommodations at the site. She added that she concurred with the applicant's conclusion that the proposed expansion of the existing Home Depot would address this concern, but noted that there were still issues pertaining to parking accommodations at the site that needed to be resolved. She then announced her intent to defer the decision only at the conclusion of the public hearing to provide the applicant additional time to address these concerns.

Chairman Murphy called for speakers, but received no response; therefore, noted that a rebuttal statement was not necessary. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Hall for action on this case.

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Chairman Murphy: Public hearing is closed. Ms. Hall.

Commissioner Hall: Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION DEFER DECISION ONLY FOR SEA 94-M-047-02 TO A DATE CERTAIN OF NOVEMBER 13, 2014, WITH THE RECORD TO REMAIN OPEN FOR WRITTEN COMMENT.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of the motion? All those in favor of the motion to defer decision only on SEA 94-M-047-02 to a date certain of November 13th, with the record remaining open for written comments, say aye.

Commissioners: Aye.

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

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

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RZ 2014-PR-013 – TYSONS WEST ASSEMBLAGE, LLC –
Appl. to rezone from I-4 and HC to I-4, C-8 and HC to permit industrial and commercial uses with an overall Floor Area Ratio (FAR) of 0.48 and a waiver of open space requirements. Located on the N. side of Tyco Rd., E. of its intersection with Leesburg Pike, 22182, on approx. 7.08 ac. of land. Comp. Plan Rec: Residential Mixed Use, park/ open space, office. Tax Map 29-1 ((25)) 1 and 2. (Concurrent with SE 2014-PR-040.)
PROVIDENCE DISTRICT. PUBLIC HEARING.

SE 2014-PR-040 – TYSONS WEST ASSEMBLAGE, LLC –
Appl. under Sect(s). 4-804 and 9-501 of the Zoning Ordinance to permit vehicle sales, rental and ancillary service establishment. Located at 8500 Tyco Rd., Vienna, 22182, on approx. 2.59 ac. of land zoned C-8 and HC. Tax Map 29-1 ((25)) 1pt. (Concurrent with RZ 2014-PR-013.)
PROVIDENCE DISTRICT. JOINT PUBLIC HEARING.

Sara Mariska, Applicants Agent, Walsh, Colucci, Lubeley, Emrich & Walsh, PC, reaffirmed the affidavit for each application dated October 10, 2014.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had two cases where attorneys from Ms. Mariska's firm were representing adverse parties, but noted that those matters and those parties were unrelated to this application and there was no business or financial relationship; therefore, it would not affect his ability to participate in this joint public hearing.

Chairman Murphy announced that in the absence of Commissioner Lawrence, Commissioner Hedetniemi would be handling these cases.

Bob Katai, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of applications RZ 2014-PR-013 and SE 2014-PR-040.

Ms. Mariska said that the proposal would allow the subject property to accommodate an electric vehicle manufacturer in the Tysons area. She also pointed out that that the proposal would enhance the landscape, streetscape, and outer façade of the existing building on the site. In addition, she noted that the electric vehicle manufacturer expected to occupy the site would be the first of its kind in the State of Virginia.

Responding to questions from Commissioner Ulfelder, Ms. Mariska explained that the proposed use would act as an interim use prior to a larger redevelopment of the surrounding area, but noted that a timeframe for such a redevelopment had not been determined. She also said that the proposed use was required to be in operation by March 2015, as articulated in a letter from the Commonwealth Attorney General.

Commissioner Sargeant pointed out that certain interim uses that were excluded from future development might become more viable and expressed concern about precluding such uses. Ms. Mariska acknowledged this possibility and stated that the applicant had coordinated with staff to ensure sufficient flexibility in determining appropriate interim uses for the site, adding that a Proffered Condition Amendment could be submitted if an excluded use was pursued.

Chairman Murphy called for speakers, but received no response; therefore, noted that a rebuttal statement was not necessary. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Hedetniemi for action on these cases.

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Chairman Murphy: Public hearing is closed. Ms. Hedetniemi.

Commissioner Hedetniemi: Thank you, Mr. Chairman. I'm channeling Commissioner Lawrence tonight. I will do my best to do as good a job as he would've done. This is a really unusual opportunity for Virginia and for Tysons to have the only Tesla dealership established. And I think it is a credit to the applicant and to the staff that they have worked diligently and helped make this happen. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2014-PR-013, SUBJECT TO THE PROFFERS DATED NOVEMBER 3RD, 2014.

Commissioner Hall: Second.

Chairman Murphy: Seconded by Ms. Hall. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2014-PR-013, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hedetniemi: Mr. Chairman, I move that the Planning-

Chairman Murphy: Before you move on the SE, you might want to ask the applicant if they agree with the development conditions.

Commissioner Hedetniemi: That's coming.

Chairman Murphy: Okay. All right.

Commissioner Hall: Don't rush her.

Chairman Murphy: I'm not rushing.

Commissioner Hedetniemi: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE MODIFICATIONS AND WAIVERS, AS LISTED IN THE HANDOUT DATED NOVEMBER 5, 2014, THAT WAS PROVIDED TO YOU TODAY AND SHALL BE MADE A PART OF THE RECORD OF THIS CASE.

Commissioner Hall: Second.

Chairman Murphy: Seconded by Ms. Hall. Is there a discussion? All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hedetniemi: Mr. Chairman, I request that the applicant confirm for the record his agreement to the proposed Development Conditions dated November 5, 2014.

Sara Mariska, Agents Applicant, Walsh, Colucci, Lubeley, Emrich & Walsh, PC: The applicant's in agreement with those development conditions.

Commissioner Hedetniemi: Thank you. Mr. Chairman, finally, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SE 2014-PR-040, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED NOVEMBER 5, 2014.

Commissioner Hall: Second.

Chairman Murphy: Seconded by Ms. Hall. Discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2014-PR-040, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much. Thank you, Mr. Katai. Thank you, Ms. Mariska.

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(Each motion carried by a vote of 10-0. Commissioners de la Fe and Lawrence were absent from the meeting.)

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RZ 2012-MV-015 – MCSHAY COMMUNITIES, INC. – Appl. to rezone from R-1 to R-12 to permit residential development at a density of 8.16 dwelling units per acre (du/ac) and waiver of the minimum district size requirement. Located on the N side of Richmond Hwy. approx. 600 ft. S. of Dutchman Dr. on approx. 4.90 ac. of land. Comp. Plan Rec: 8-12 du/ac. Tax Map 107-4 ((1)) 40A. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Keith Martin, Applicants Agent, Tramonte, Yeonas, Roberts & Martin, PLLC, reaffirmed the affidavit for each application dated October 27, 2014. There were no disclosures by Commission members.

There were no disclosures by the Commissioners.

Commissioner Flanagan announced his intent to defer the decision only at the conclusion of the public hearing.

Nicholas Rogers, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of application RZ 2012-MV-015.

Commissioner Flanagan commended staff for coordinating with the applicant and the surrounding community through numerous deferrals to address the various issues associated with the subject property. He then stated that a concern had arisen regarding Proffer Number 7f, Transportation, in Appendix 1 of the staff report and asked staff to clarify what this proffer proposed.

Mr. Rogers explained that Proffer Number 7f established greater flexibility for providing the required left-turn lane from Richmond Highway onto Hagel Circle, stating that this improvement

would require numerous transportation improvements around this intersection and the applicant expressed concern regarding its design and cost. He also indicated that this issue had been studied by staff and the Virginia Department of Transportation (VDOT) and pointed out that Proffer Number 7f detailed the process that would be followed to implement this improvement, which included the following options:

- Provide the left-turn lane from Richmond Highway onto Hagel Circle in a manner consistent with VDOT's specifications;
- Pursue the left-turn lane in conjunction with VDOT prior to approval of the final site plan; or
- Commit to submit a Proffered Condition Amendment to accommodate the necessary improvements for the left-turn lane.

In addition, Mr. Rogers noted that the last sentence of Proffer Number 7f stated that the applicant reserved the right to request that the left-turn lane requirement be eliminated in favor of having VDOT incur the cost of implementing this improvement. However, he indicated that the applicant had pursued this request from VDOT in the summer of 2014, and it had been denied. He added that due to this denial, staff determined that a scenario where the applicant would not be required to provide this left-turn lane was unlikely.

A discussion ensued between Commissioner Flanagan and Mr. Rogers regarding the possible timeframe for the planned widening of Richmond Highway and the likelihood that VDOT would implement the left-turn lane from Richmond Highway onto Hagel Circle instead of the applicant, wherein Mr. Rogers confirmed that VDOT was unlikely to implement the turn lane.

Commissioner Flanagan noted the design of the dwelling units for the proposed development and their close proximity to Richmond Highway. When he asked about the possibility of installing a sound wall, Mr. Rogers indicated that the Route 1 Location Study included a sound wall along the frontage of the proposed development.

Referring to Figure 4 on page 6 of the staff report, which depicted the existing tree canopy that would be preserved under the proposal, Commissioner Flanagan asked whether the proposed fence that would run along Richmond Highway prior to the construction of a sound wall would screen the proposed stormwater detention pond. Mr. Rogers confirmed that this fence would screen the view of this pond. A discussion ensued between Commissioner Flanagan and Mr. Rogers regarding the extent to which the sound wall would screen the stormwater detention pond, the design of this sound wall, and the design of fence that would be constructed prior to the sound wall wherein Mr. Rogers indicated that the fence would be approximately eight feet high.

Commissioner Flanagan pointed out that the existing dwelling units to the east of the subject property had trees that screened them from Richmond Highway and noted that the front façades of these homes consisted of stone. He then indicated that the rear façades of the dwelling units for the proposed development would face Richmond Highway, but the fence would not

effectively screen these units because the grade of the land was too high and he encouraged the applicant to address this issue during the deferral period.

Commissioner Hart pointed out the location of Parcel 40 on the Generalized Development Plan (GDP). A discussion ensued between Commissioner Hart and Mr. Rogers regarding whether any modifications would be made to this parcel under the subject application wherein Commissioner Hart pointed out that Parcel 40 had not been part of the advertisement text for this case and encouraged staff to determine ensure there were no inconsistencies with this text.

A discussion ensued between Commissioner Hart and Mr. Rogers regarding the location of Parcel 41A wherein Commissioner Hart expressed a similar concern regarding its absence from the advertisement text and the possible conflicts this could incur.

Referring to Figure 4 on page 6 of the staff report, which depicted the tree canopy that would be preserved under the proposal, Commissioner Sargeant asked for more information on the height of these trees and the extent to which they would screen the proposed development from Richmond Highway. Mr. Rogers pointed out the location of the trees that would be preserved on the site and confirmed that the height of these trees would be sufficient to help screen the site.

When Commissioner Sargeant asked for additional information on the requirements associated with the left-turn lane from Richmond Highway onto Hagel Circle, Elizabeth Iannetta, Transportation Planning Division, Fairfax County Department of Transportation, explained that the applicant's preferred method of implementing this improvement involved re-striping the existing lanes on Richmond Highway. She also described the existing lanes at this portion of Richmond Highway, adding that this method did not require the applicant to re-pave the road. A discussion ensued between Commissioner Sargeant and Ms. Iannetta regarding the extent to which VDOT supported this method wherein Ms. Iannetta indicated that VDOT was satisfied with this method, noting that final approval would be granted at the time of site plan review.

Referring to Proffer Number 17, Noise Attenuation, Commissioner Sargeant asked how the proposed noise attenuation measures would be measured to ensure they would be sufficient. Mr. Rogers explained that the applicant had conducted a noise study to anticipate future development in the surrounding area and project the future noise impact on the proposed development, stating that the necessary measures to address this impact had been incorporated into the GDP. In addition, he said that the applicant had coordinated with staff on the language of Proffer Number 17 and staff had concluded that this language was sufficient to address concerns regarding future noise attenuation.

Commissioner Sargeant stated that during the civic review process for the subject application, there was consideration given towards pursuing a rezoning of the adjacent property owned by the Loyal Order of Moose to incorporate additional parcels into the proposed development. He then asked why this measure was not determined to be viable. Mr. Rogers pointed out that staff's review was restricted to the parcels under consideration in the subject application, but indicated that additional consolidation of other parcels had been considered and the applicant had committed to provide interparcel access to these parcels if the property owned was redeveloped. He added that this commitment was consistent with the consolidation objectives in staff's residential development criteria. Mr. Rogers deferred to the applicant for more information on

the potential consolidation of neighboring parcels. A discussion ensued between Commissioner Sargeant and Mr. Rogers regarding the concerns of the Loyal Order of Moose in pursuing a rezoning application for their property wherein Mr. Rogers indicated that the Loyal Order of Moose had expressed concern about how a rezoning would affect their tax-exempt status.

Commissioner Migliaccio said that a letter of support for this application had been submitted by the Highlands at Dunston Community. A discussion ensued between Commissioner Migliaccio and Mr. Rogers regarding the location of this community wherein Mr. Rogers confirmed that this community would share an access point on Hagel Circle with the proposed development. (A copy of this letter is in the date file.)

Mr. Martin stated that the applicant had acquired the parcels necessary to provide a point of ingress from Richmond Highway into Hagel Circle. He then addressed Commissioner Hart's concern regarding Parcel 41A, saying that this parcel was subject to an easement provided by the Gunston at Highlands Homeowners Association and this agreement would ensure sufficient access for the proposed development. In addition, he said that this easement would also accommodate a future private street to further improve Hagel Circle. Mr. Martin explained that the applicant had coordinated with VDOT on the left-turn lane from Richmond Highway onto Hagel Circle and the applicant remained committed to providing this improvement. He also pointed out that the proposed development would consist of 40 luxury townhomes at a density of 8.1 units per acre. In addition, he said that the applicant had coordinated with staff to address concerns regarding stormwater management, noise attenuation, right-of-way dedication, road improvements, architecture, park contributions, schools contributions, and trust funds for affordable dwelling units. Mr. Martin indicated that the applicant had committed to utilizing energy-efficient construction methods. He also stated that the applicant had met with the South County Federation and the homeowners associations of the surrounding neighborhoods, adding that the homeowners associations had not voiced any objections to the proposal. In addition, he said that the subject application was consistent with the Comprehensive Plan and with VDOT's criteria.

Commissioner Litzenberger noted that the applicant had requested a waiver of the 10-foot trail requirement along Richmond Highway. He then asked whether there were any existing trails that would remain to accommodate pedestrians traversing the subject property. Mr. Martin said that there was no existing trail, but indicated that VDOT supported this waiver. Michael McGhan, President, McShay Communities, Inc., also stated that while there was no existing trail along this portion of Richmond Highway, VDOT would provide this trail when the road was widened. He added that the applicant would install a 6-foot concrete sidewalk across the portion of the site bordering Richmond Highway in lieu of a 10-foot trail.

Commissioner Flanagan asked whether the applicant would be willing to remove the last sentence of the paragraph in Proffer Number 7f, which reserved the right of the applicant to request the elimination of the requirement to provide the left-turn lane from Richmond Highway onto Hagel Circle. Glenn Silver, Agents Applicant, Silver and Brown, explained that this sentence had been included in Proffer Number 7f because the applicant had been informed that the funds necessary to widen this portion of Richmond Highway would be approved and if VDOT ended up providing this left-turn lane as part of the widening, then the applicant sought the ability to remove this requirement from the proposed transportation improvements. He

indicated that this left-turn lane would be implemented, saying that there had been uncertainty whether the applicant or VDOT would be responsible for providing it.

Referring to Figure 5 on page 7 of the staff report, which depicted the front and rear façade of the proposed dwelling unit, Commissioner Flanagan asked for more information on the building materials that would be utilized. Mr. McGhan said that the applicant would utilize brick for the front façade of the dwelling units and for the rear façade of the units adjacent to Richmond Highway. A discussion ensued between Commissioner Flanagan and Mr. McGhan regarding the depictions of the building materials on Sheet A-12 of the GDP, which indicated that stone would be utilized as a building material, wherein Mr. McGhan reiterated that the applicant intended to utilize brick as the primary construction materials for the dwelling units.

Commissioner Flanagan pointed out the dwelling units that would have rear façades facing Richmond Highway and suggested that the applicant clearly articulate that brick would be utilized for these façades on the first story of these units. Mr. McGhan indicated that the proposed fence would screen the dwelling units facing Richmond Highway. A discussion ensued between Commissioner Flanagan and Mr. McGhan regarding other possible modifications to the dwelling units to further improve the screening along Richmond Highway wherein Mr. McGhan noted that such features would affect the cost of the units.

Replying to questions from Commissioner Flanagan, Mr. McGhan confirmed that the applicant would implement the re-striping of Richmond Highway after a Residential Use Permit had been issued and the applicant intended to meet with the South County Federation to seek their support of the proposal.

A discussion ensued between Commissioner Migliaccio and Mr. McGhan regarding the prevalence of brick façades in other dwelling units located along Richmond Highway wherein Mr. McGhan noted that most of these dwelling units utilized siding while older units utilized masonry.

A discussion ensued between Commissioner Hart and Mr. Rogers, with input from Mr. McGhan, regarding Figure 5 on page 7 of the staff report wherein Mr. Rogers clarified that caption depicting the figure was inaccurate and Mr. McGhan indicated that the dwelling units located along Richmond Highway would utilize brick on the front and side façade.

Commissioner Flanagan noted that most of the proposed dwelling units located along Richmond Highway would be screened by trees.

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

Ron Kowalski, 8916 Kiger Street, Lorton, spoke in support of the subject application because it would contribute to the revitalization of the Route 1 corridor, noting that there had been few such improvements in the Lorton area. He also said that the proposed development was consistent with the zoning and density of the surrounding community, which consisted primarily of residential neighborhoods. In addition, Mr. Kowalski stated that the proposed development would improve the housing market by providing mid-range priced housing, which was in short

supply in the Lorton area. He also indicated that providing mid-ranged price housing would help improve the overall land values of the area. He added that the design and size of the proposed dwelling units would be consistent with the units in surrounding communities. In addition, Mr. Kowalski submitted for the record a letter from the Lorton Community Action Center expressing support for the proposal. (A copy of the letter is in the date file.)

Chairman Murphy called for speakers from the audience.

Kenneth Head, 8301 Keeler Street, Alexandria, spoke in support of the proposal. He stated that he was the administrator at the Moose Lodge located adjacent to the subject property. He described the history of the Moose Lodge, the development around it, and the Moose Lodge's charitable activities in the surrounding community. He said that the proposed development would improve the charitable efforts of the Moose Lodge by attracting new members.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Mr. Martin, who declined. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Flanagan for action on this case.

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Chairman Murphy: Public hearing is closed. Mr. Flanagan.

Commissioner Flanagan: Yes. Thank you, Mr. Chairman. As I indicated previously, I'm going to defer this in order to give the community an opportunity to give me their final recommendation, which they haven't done as yet. I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENT ON RZ 2012-MV-015 TO A DATE CERTAIN OF NOVEMBER 20, 2014.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to defer decision only on RZ 2012-MV-015 to a date certain of November 20th, with the record remaining open for comments, say aye.

Commissioners: Aye.

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

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

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PA 2014-I-B2 – COMPREHENSIVE PLAN AMENDMENT
(BAILEYS CROSSROADS COMMUNITY BUSINESS
CENTER)

– To consider proposed revisions to the Comprehensive Plan for Fairfax County, VA, in accordance with the Code of Virginia, Title 15.2, Chapter 22. This Amendment concerns approx. 7.40 ac. within the Bailey’s Crossroads Community Business Center generally located along the east side of Moncure Avenue and Columbia Pike from Moncure Avenue to a point about 500 feet west of the interchange with Leesburg Pike (Tax Map 61-2((1))112A [formerly 61-2((1))112 and ((45))B], 113, 113A, 113C, 114; 61-2((19))5A, 11A; and 61-4((30))15 and 17) in the Mason Supervisor District. The area is planned for retail, office, residential, and institutional uses. The amendment will consider allowing a mix of uses including multi-family and single-family attached residential and a public elementary school with interim park facility. Recommendations relating to the transportation network in the study area may also be modified including road connections to Moncure Avenue, Seminary Road, Williams Lane and Columbia Pike. MASON DISTRICT. PUBLIC HEARING.

Brent Krasner, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended adoption of PA 2014-I-B2.

In reply to questions from Commissioner Hall, Mr. Krasner said that the widening of Columbia Pike was a transportation improvement listed in the Comprehensive Plan and developments along this road were required to reserve sufficient right-of-way. However, he stated that there were no current plans or time table to pursue this widening, adding that the proposed Amendment would not require any development to implement this improvement. Mr. Krasner also clarified that the proposed Amendment would not guarantee that a school be built on the subject property, but it would add language that would list it as an option among other potential developments for the site. In addition, he indicated that the proposed Amendment would not preclude the development of another site with a school, such as the nearby Woodrow Wilson Community Library site.

Commissioner Hall addressed concerns raised by citizens regarding the construction of schools along heavily trafficked roads like Columbia Pike, pointing out that such schools operated successfully in other jurisdictions.

Commissioner Migliaccio asked how the existing homeless shelter on the site would be utilized once the subject property was developed. Mr. Krasner said that this shelter would have to be relocated to implement the development option that included the school on the site. He added that there were no current plans to move the homeless shelter, but noted that its presence did not

preclude other development options, such as the residential development, that were articulated in the proposed Amendment.

Referring to the text in the first paragraph on page 7 of the staff report, Commissioner Sargeant pointed out that one of the development options for the subject property, which consisted of a mixed-use development at a floor area ratio of 2.25, was determined to be unviable. He added that the text stated that removing this option was justified because there had not been significant progress in pursuing this option after eight years. He then asked why this timeframe had been specifically mentioned in the text. Mr. Krasner explained that this information had been included because the existing owner of the subject property was selling it, which made this option less feasible.

Commissioner Sargeant asked about the design of the proposed school for the site and the kinds of recreational opportunities that would exist for the school. Mr. Krasner said that while there were currently no designs for the proposed school, it would follow a multi-story urban model and would utilize designs being pursued in other urban areas of the County like Tysons. He also indicated that the proposed school could utilize the top level of a parking structure for recreational space.

When Commissioner Sargeant suggested adding language to the proposed Amendment that permitted shared space for recreation area, such as those utilized with parkland in Tysons, Mr. Krasner stated that he did not object to adding such language.

Replying to questions from Commissioner Litzenberger, Mr. Krasner said that the proposed school would require approximately 3.5 acres out of the 7.4 acres available on the site.

Answering questions from Commissioner Hart, Mr. Krasner stated that the proposed Amendment was an Out-of-Turn Plan Amendment that had been authorized by Mason District Supervisor Penny Gross. He also said that there had been no task force organized to review the proposed Amendment, but noted that Supervisor Gross had met with residents of the surrounding neighborhood to solicit input on this item, which included meetings at the Mason District Office.

Commissioner Hart suggested utilizing a task force with future Plan Amendments to address the concerns of the public prior to the public hearing.

Chairman Murphy called the first listed speaker.

Mark Looney, 11951 Freedom Drive, Suite 1500, Reston, representing Cooley, LLP, stated that he was speaking on behalf of Avalon Bay Communities (ABC), which had purchased most of the parcels on the subject property. He described the previous development options for the site that had been pursued by the former owner, stating that the original development plan involved a high-intensity mixed-use development on five acres of land as part of a public/private partnership. However, he noted that this option could not accommodate the planned transportation improvements in the Bailey's Crossroads area that had been adopted in 2010. In addition, Mr. Looney stated that changes in the market made this previous option less feasible.

He then indicated that in addition to acquiring the site, ABC had been coordinating with neighboring properties to consolidate additional parcels into the proposed development to ensure that the planned transportation improvements for the area could be implemented. Mr. Looney said that ABC had submitted a rezoning application for the subject property, which had not yet been approved by the County. He added that this application proposed a development consisting of approximately 250 residential dwelling units in a mid-rise structure that would also accommodate the transportation improvements articulated in the Comprehensive Plan. Mr. Looney stated that ABC would coordinate with the surrounding community on the proposed development. He then expressed support for the proposed Amendment.

In response to questions from Commissioner Flanagan, Mr. Looney confirmed that portions of the site would be improved to accommodate the option to develop a school. He then described the process for determining the improvements necessary to accommodate the school, saying that ABC would pursue a Conceptual Development Plan/Final Development Plan that would leave the portion of the site with the school undeveloped so the County could pursue a Final Development Plan Amendment, should this option be pursued.

Clyde Miller, 3436 Skyview Terrace, Falls Church, representing the Holmes Run Valley Citizens' Association, spoke in opposition of the proposed Amendment because the proposed option to develop a school on the site had not been sufficiently discussed with the surrounding community. He added that this option was restrictive because it only accommodated a school. Mr. Miller stated that the staff report for the proposed Amendment was published on October 23, 2014, and staff had presented it to the Bailey's Crossroads Revitalization Corporation on October 21, 2014. He then indicated that there had not been sufficient time for the public to review the staff report.

When Commissioner Hall asked Mr. Miller whether he had been present at the Mason District Land Use Committee meeting regarding the proposed Amendment, Mr. Miller said that he had attended this meeting, but noted that it occurred three days after the publication of the staff report.

Continuing his testimony, Mr. Miller said that the subject property was not a suitable location for a school. He then reiterated that the proposed Amendment had not been sufficiently vetted by the surrounding community. He gave a presentation that explained the following:

- The setback distance between the proposed school and the curb would be too short after Columbia Pike was widened;
- The limited available space on the subject property would restrict the availability of recreation areas, which did not satisfy the County's criteria for accessible opens pace;
- The limited off-street space behind the proposed school would be inadequate for a school with an enrollment of approximately 950 students;

- The location of the windows on surrounding buildings would create a safety risk for the students and staff at the proposed school;
- The size and space limitations of the proposed school would create a fire hazard by limiting the number of emergency escape routes from the building; and
- The presence of trees along the fire road on the eastern portion of the school would hinder emergency vehicles accessing this road.

Mr. Miller said that he favored developing a school at the Woodrow Wilson Community Library site, noting that it had been previously utilized as a school. However, he noted that this site was also being considered for another development that included a public facility building. (A copy of Mr. Miller's presentation and statement is in the date file.)

Chairman Murphy pointed out to Mr. Miller that the depictions listed in his presentation were conceptual and the plans for the proposed school had not been finalized.

Suzie Wells, 3058 Shadeland Drive, Falls Church, spoke in opposition to the proposed Amendment. She echoed remarks from Mr. Miller, saying that the community had not had sufficient time to review the proposed Amendment. She also pointed out that ABC was requesting numerous waivers for the planned residential development for the site, including the following:

- A waiver for the requirement to construct a service drive;
- A waiver to permit underground stormwater detention facilities;
- A waiver for an 8-foot wide trail along Columbia Pike;
- A waiver for the requirement to provide transitional screening and barriers; and
- A waiver for the required open space.

Ms. Wells said that she did not support ABC's conclusion that a service drive was not appropriate for the urban context of the proposed development, stating that the planned widening of Columbia Pike would make such improvements necessary for an auto-oriented environment. She pointed out other redevelopment efforts in the Seven Corners area and noted the common criteria for this development, which included the following:

- Encouraging revitalized commerce areas while preserving stable residential areas;
- Encouraging pedestrian access to and from retail establishments;
- Encourage the creation of additional parks and open space.

Ms. Wells encouraged the Commission to exercise caution in permitting waivers to ABC to preserve the character of the surrounding area. She acknowledged the need for an additional school in this area of the County and indicated that she did not object to developing a school on the subject property. (A copy of Ms. Wells' statement is in the date file.)

When Commissioner Hall asked Ms. Wells where she had received the information regarding the requested waivers by ABC for the proposed development on the site, Ms. Wells said she obtained this information from the unapproved rezoning application. Commissioner Hall then asked staff about the status of this rezoning application and Mr. Krasner stated that staff had not accepted this application, but noted that a request had been submitted for a copy of this application and was granted because the information on the application was public information. A discussion ensued between Commissioner Hall, Mr. Krasner, and Ms. Wells regarding the scope of the proposed Amendment.

A discussion ensued between Commissioner Hall and Ms. Wells regarding the existing school districts for the area around the subject property, the other possible locations for a school in this area, the ability of a school on the subject property to meet the requirements of a previously-approved school bond, and the concerns regarding the design of a school on this site wherein Ms. Wells encouraged the County to develop a more comprehensive criteria for schools located in urban areas.

Chairman Murphy called for speakers from the audience.

Debbie Smith, 3127 Jumper Lane, Falls Church, voiced opposition to the proposed Amendment because she did not support constructing a school on the subject property. She noted that the Fairfax County School Board (FCSB) had indicated that Fairfax County Public Schools had not committed to operating a school on the site.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Mr. Krasner, who said that the proposed Amendment had been presented to the Bailey's Crossroads Seven Corners Revitalization Corporation and the Mason District Land Use District Council, noting that the Mason District Land Use District Council recommended approval of the proposed Amendment.

Commissioner Hurley described her previous experience with schools located in urban areas, noting how these schools accommodated gymnasium and recreation areas. She cited a school in Tysons that would accommodate a gymnasium on the third floor and a recreation area on top of a parking garage.

Commissioner Hall pointed out that the existing school at Bailey's Crossroads was a magnet school for various subjects and noted the limited capacity for this school, adding that FCSB supported increasing capacity. She cited another school in the Seven Corners area that had operated successfully in an urban environment. Commissioner Hall then clarified that the scope of the proposed Amendment was limited to permitting the option to develop a school on the

subject property. She stated that she did not object to permitting a school on the site, but indicated that the school would require a different design compared to other schools in the area due to the urban character of the area. She said she supported approval of the proposed Amendment to consider such an option.

Commissioner Flanagan stated that he did not object to the proposed Amendment, but he expressed concern about constructing a school along Columbia Pike, noting that multiple schools had been constructed along Richmond Highway had been shut down by the FCSB due to safety concerns. A discussion ensued between Commissioners Flanagan and Hall regarding the extent of the school district around the subject property wherein Commissioner Hall noted the proximity of residential development near the subject property.

Commissioner Migliaccio pointed out that Garfield Elementary School was located along Old Keane Mill Road and noted that it successfully operated despite its close proximity to a highway.

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

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Chairman Murphy: If not, public hearing is closed. Recognize Ms. Hall.

Commissioner Hall: Thank you, Mr. Chairman. I wish we had all the land we needed to build beautiful schools, but I know that's not the case. I don't know if this is going to be the answer, but it certainly is an option. So I – Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE STAFF RECOMMENDATION FOR PLAN AMENDMENT 2014-I-B2, AS SHOWN ON PAGES 12 THROUGH 15 OF THE STAFF REPORT, DATE OCTOBER 22ND, 2014. As staff described, the Amendment would update recommendations for sub-unit B2 of the Town Center District of the Bailey's Crossroads CBC to provide redevelopment option – that reflects changes in ownership and public facility needs. The Amendment creates the opportunity for a public/private redevelopment partnership that would include residential uses and a public elementary school on those portions of the sub-unit along Moncure Avenue and Columbia Pike. Such a redevelopment could yield multiple community and County benefits for the Bailey's Crossroad's area and is consistent with the district area-wide objective – objectives for the Bailey's Crossroad Community Business Center. Thank you, Mr. Chairman.

Commissioners Hart, Hedetniemi, and Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio, Mr. Hart – Ms. Hedetniemi. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt Plan Amendment PA 2014-I-B2, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hall: Thank you, Mr. Chairman.

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

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The meeting was adjourned at 10:47 p.m.

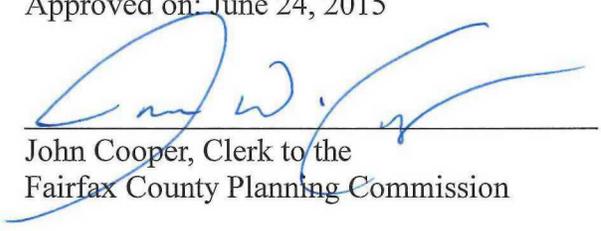
Peter F. Murphy, Chairman

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: Jacob Caporaletti

Approved on: June 24, 2015



John Cooper, Clerk to the
Fairfax County Planning Commission