

Planning Commission Meeting
February 28, 2013
Verbatim Excerpt

RZ/FDP 2012-SU-010 – NORTHERN VIRGINIA HEALTH INVESTORS, LLC

Decisions Only During Commission Matters
(Public Hearing held on December 5, 2012)

Commissioner Litzenberger: This decision only involves a proposed elder care facility in the Sully District.

Commissioner Hall: Who's ringing?

Chairman Murphy: Please put all your devices that make all kinds of noises on stun. Thank you.

Commissioner Litzenberger: And this was deferred four times and finally the staff and the applicant and - two of our staff - have come together. I'd like Mr. Krasner and the applicant to please go over the points of contention and how the agreement was reached.

Brent Krasner, Department of Planning and Zoning: Sure. Thank you, Commissioner Litzenberger. Just to summarize where we've come from where we were since this case was last before you. As you're aware, on February 14th, staff published a staff report addendum where we have reversed our previous recommendation for denial to a recommendation for approval. And this change of position was the result both of revisions to the development plan and because of significant changes to the proffer commitments. The applicant's revised Final Development Plan now includes numerous changes, the most significant of which includes shifting the skilled nursing facility five feet closer to the independent living facility. Several parking spaces were relocated from surface parking to parking in the sub-surface garage. An entrance feature along Centreville Road has been added. The design of the landscaped berm along Centreville Road has been revised to provide additional trees, shrubs, and ground cover, arranged in a more naturalistic manner. The height of the retaining wall along the western and southern edges of the site has been reduced. Additional shrub planting has also been added. Finally, the design of the outdoor courtyards was also revised to add significant additional plantings that will better provide adequate shade as well as areas to dine, to walk, and to participate in passive recreation activities. Equally as important as these plan changes, the applicant submitted a revised proffer package that eliminated uncertainties about the final design of certain site elements. It also provided assurances that the proposal would be constructed as depicted on the plans. Proffer 16, which is related to the Health Care Advisory Board's concerns, was revised to extend the time that it would be in effect to five years. The Health Care Advisory Board reviewed this change and they provided an updated review memorandum that was distributed to the Commission last week stating that they are satisfied with this commitment. And then finally, I'll paraphrase a little bit from our staff report, and just say that from the very outset staff was of the opinion that these uses were appropriate for this site because we recognize they fill a need for this type of use in western Fairfax County and because they generate very low levels of traffic. The challenges, from staff's point of view, have always revolved around adapting the applicant's facilities to fit

the particular characteristics of this site. After numerous revisions, we feel the applicant's plan has arrived at a point where sufficient high-quality outdoor space has been provided. Moreover, the revised details for these outdoor areas, along with the proffer commitments, address our previous concerns about the functionality of these spaces. It's obviously been a very long process, but we believe that the improvements in the plan from when it was first submitted are tangible. So in consideration of those revisions that I've just described, staff now finds that the proposal is consistent with the Zoning Ordinance and the Comprehensive Plan and we are now recommending approval as proffered and conditioned. Thank you, Commissioner Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Krasner. Supervisor Frey's office contacted me late yesterday and this morning I worked out three more changes to the proffers. They're all minor, but I'd like to go over them with the applicant and the staff at this time. Proffer 3C - the very last sentence, it states that a trail - an "asphalt trail, 245 feet in length and five feet wide, with Fairfax County for future installation across the Rachel Carson Middle School property by others." I'd like to strike the "Fairfax County..." to the end of the sentence and replace it with "the Sully District Trail Fund"; the reason being is that the Schools staff was late in turning in their homework and they decided they did not want the trail on the Carson Middle School property. By moving it to the Sully District Trail Fund, Supervisor Frey's going to try and relocate the trail to a common area owned by the homeowners association immediately to the north. Does the applicant agree to that?

Chairman Murphy: Please come up and identify yourself for the record and we want all your valuable words on tape.

Jonathan Puvak, Esquire, Walsh, Colucci, Lubeley, Emrich & Walsh, PC: Jon Puvak, on behalf of the applicant, and we concur with that change.

Commissioner Litzenberger: Might as well stay up there. Does staff concur with that change?

Mr. Krasner: We concur with that change. Yes.

Commissioner Litzenberger: The next one involves Proffer 15A. There it states, "Retain a professional consultant to perform a pre-blast survey of each structure or residential building." We want to strike "residential" and just have it say "building"; the reason being is the building next door is a gas station; it's not a residential building. Does the applicant concur with that change?

Mr. Puvak: Yes, we concur with that change.

Commissioner Litzenberger: Staff?

Mr. Krasner: Staff concurs.

Commissioner Litzenberger: Lastly on 15C, it reads, "Require the blasting consultant to request access to any houses, wells, buildings..." Insert the term "businesses" before "or swimming pools." Does the applicant concur with that change?

Mr. Puvak: Yes, the applicant concurs with that change.

Commissioner Litzenberger: Staff?

Mr. Krasner: Staff concurs.

Commissioner Litzenberger: Okay. Thank you, Mr. Krasner. And Mr. Chairman, I think I'm ready to move now.

Chairman Murphy: All right. Mr. Litzenberger, please.

Commissioner Litzenberger: Mr. Chairman, I would like to thank the staff, Brent Krasner and Kris Abrahamson, and the applicant, and their legal counsel headed by Lynne Strobel and Jon Puvak for their work, working so diligently on this difficult case. After four deferrals we have finally come to an agreement and can move forward on this elder care facility so desperately needed in the western end of Fairfax County. Both the Sully District Council and the Western Fairfax County Citizens Association support this application. I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF RZ 2012-SU-010, SUBJECT TO THE EXECUTION OF THE PROFFERS, CONSISTENT WITH THOSE DATED FEBRUARY 27TH, 2013, WITH THE FOLLOWING THREE MINOR CHANGES which I just covered. Should I cover them a second time?

Chairman Murphy: Were you on the record before? Go ahead.

Commissioner Litzenberger: Okay, the three minor changes involve:

- First, PARAGRAPH [*sic*] 3C, STRIKE THE LAST SENTENCE OF THE PARAGRAPH WHERE IT BEGINS WITH "FAIRFAX COUNTY FOR FUTURE...", AND REPLACE IT WITH "THE SULLY DISTRICT TRAIL FUND";
- The second change is PROFFER 15A, IN THE SECOND SENTENCE, STRIKE THE WORD "RESIDENTIAL"; AND
- PROFFER 15C, AFTER "BUILDINGS", INSERT THE TERM "BUSINESSES".

Commissioner Litzenberger: Second?

Commissioners de la Fe and Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Mr. de la Fe. Is there a discussion of the motion? All those - - all those in favor of the - - yes, Ms. - - Go ahead.

Commissioner Hurley: This is the time I should make my -

Chairman Murphy: Sure.

Commissioner Hurley: I support the motion but I would like to, for the record, note my concern for another possible slippery slope in the - Proffer 15 - that we're not getting - - the Planning Commission doing land use; it's not getting too much into the business of operating and inspections and other totally non-land use matters five years from now. We're not talking about transportation or stormwater or anything else; we're talking about something that happens inside the building. But I support the motion. Thank you.

Chairman Murphy: Further discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2012-SU-010, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Litzenberger.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2012-SU-010, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED FEBRUARY 26TH, 2013.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of that motion? All those in favor of the motion to approve FDP 2012-SU-010, subject to the Board's approval of the Rezoning, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND A WAIVER OF PARAGRAPH 6 OF SECTION 6-406 OF THE ZONING ORDINANCE TO ALLOW A SECONDARY PERMITTED USE TO COMPRISE 50.305 PERCENT OF THE TOTAL GROSS FLOOR AREA OF A PROPOSED PRM DISTRICT WHERE THE MAXIMUM ALLOWED IS 50 PERCENT.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Discussion? All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND A WAIVER OF SECTION 6-0303.8 OF THE PUBLIC FACILITIES MANUAL TO LOCATE UNDERGROUND STORMWATER MANAGEMENT FACILITIES IN A RESIDENTIAL AREA, SUBJECT TO WAIVER NUMBER 009329-WPFM-001-1, AND CONDITIONS DATED NOVEMBER 20TH, 2012.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Discussion? All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: Lastly, I MOVE THAT THE PLANNING COMMISSION RECOMMEND A MODIFICATION OF SECTION 12-0508 OF THE PUBLIC FACILITIES MANUAL TO PERMIT A TREE PRESERVATION TARGET AREA OF 25,125 SQUARE FEET IN LIEU OF THE 27,824 SQUARE FEET REQUIRED.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Discussion? All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(The motions carried unanimously.)

JN