Planning Commission Meeting
April 30, 2009
Verbatim Excerpt

RZ 2008-LE-014/SE 2008-LE-028 – OPUS EAST, LLC

Decision Only During Commission Matters
(Public Hearing held on April 30, 2009)

Commissioner Lusk: The Commission will recall that we deferred the decision only for RZ 2008-LE-014 and SE 2008-LE-028 in the name of Opus East to this evening. By way of background, I'll do this quickly. This project pertains to a property that is referred to as Patriot Ridge. It is a specific outgrowth of the base relocation and closure related development occurring on the Engineering Proving Grounds, or EPG. This Commission approved a Plan Amendment for the subject property in June of 2008. This Plan language that was approved permits a development of office and hotel uses up to a 1.6 FAR with consolidation for parcels and the provision of vehicular access to Fullerton Road. I'm happy to report the project we are voting on this evening is consistent with this Plan language. The proposed development of a secure office park, support retail, an optional hotel, totaling 978,000 square feet development comprised an overall FAR of 1.5. At the public hearing on April 30th there were four issues that remained outstanding and resulted in this case, these cases being deferred. Issue one was focused around both Fort Belvoir and NGA, the National Geospatial Intelligence Agency, having the opportunity to review and comment on the transportation analysis that was provided and prepared by Gorove/ Slade Associates, Inc. for these rezoning applications. So since the deferral, both the Army and NGA provided copies of this transportation analysis and each forwarded comments on this report. These comments were then reviewed by both Gorove/Slade and Chuck Almquist with the Department – County Department of Transportation. After this review, a joint response to these comments was provided to the Army and NGA. A conference call was provided – excuse me, a conference call with all parties was held on Wednesday afternoon to discuss any remaining issues or concerns. Following this teleconference, both the Army and NGA stated that they were comfortable with the transportation findings and were satisfied with the responses to their questions. I feel that this issue has now been addressed in light of that point. Issue two, before I go to issue two, I'll make a note: Colonel Moffett is, I think, in the audience this evening. He's with Fort Belvoir. He placed a marker on the table during our discussion relative to the cumulative impacts of this project and some of the others that will be coming down the pike and will be reviewed as part of our BRAC study. When I was on the conference call yesterday I assured him that each of these projects would be subject to a 527 review. And within that review I will be evaluating and keeping a pretty keen eye on the cumulative impacts. I also welcome hearing his comments and having his involvement as we move through the public process for each of those items coming forth. Issue two was relative to security related mitigation measures. Fort Belvoir has expressed, legitimately, a concern about ensuring that appropriate security measures are implemented on the Pallone site to ensure that there are no adverse impacts to the NGA property. The proffers have been revised to note a couple of things. The first is: balconies and/or operable windows should not be used on any hotel or office building that faces towards government buildings under construction on the EPG. Additionally, the applicant will coordinate quarterly meetings with representatives of Fort Belvoir to discuss topics of mutual interest. These

will not be limited to, but include, line of sight, security issues, and installation of rooftop equipment. At this telephone conference on Wednesday both the Army and the NGA stated that this issue sufficiently addressed those concerns and that these proffers helped in doing that. Issue number 3: TDM penalty. There was a request by a member of this Commission that a TDM penalty be created for this project. After reviewing this request the applicant is now proffering a contribution of $3,000, up from $1,500, to a remedy fund that shall be utilized to create additional transportation incentive as coordinated with both VDOT and Fairfax County DOT. I am comfortable with this remedy fund option for two reasons. One, the applicant has not *(inaudible)* a TDM reduction, a transportation analysis. You will recall in the proffers the applicant has agreed to a 15 percent reduction of peak hour trips. And then second, the $3,000 that's been earmarked in this remedy fund will be provided – will provide transportation incentives at the site and will definitely help in reaching that goal. Issue four, building heights. The Army has expressed also a concern about the proposed heights of the buildings being requested with these applications. Potentially, there could be a flight path issue for both the – I'm going to use this term, I hope it's right – fixed wing and helicopters, as they fly into the Davidson Airfield. With this in mind, the applicant has agreed to work with the Army to submit a filing to FAA to obtain a ruling whether the proposed building heights might need to be altered to ensure safety of aircraft flying both into and out of Davidson Airfield. This filing typically takes about 30 days to review and the submission was made, I believe, today. If, and this is an important point, if the FAA makes a determination that the buildings need to be reduced in height, we have a development condition, Development Condition Number 8, that reads, "FAA approval, the height of buildings shown on the GDP/SE, shall be obtained prior to sight plan approval. If FAA approval is not received, then the building heights shall be lowered to the approved amount by FAA." So in essence we're going to have FAA give us the opinion on the appropriateness of the building heights, and their decision will then in turn determine the height of those buildings. In talking with the Army and NGA, they are supportive of using this approach to address this issue of building height. These applications enjoy the support of the Lee District Land Use Committee, the Planning Staff, and this Planning Commissioner. This project will provide a proximate home for contractors serving Fort Belvoir and specifically NGA. Additionally, this project serves the County's goal of expanding the commercial tax base and helps move the commercial spotlight – I've made this point before, but I actually like making it again – move that spotlight from the northern and western portions of Fairfax County to, now, the southeastern portion of Fairfax County. So with that, Mr. Chairman, I would now like to make a series of motions. My first motion. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2008-LE-014, SUBJECT TO THE PROFFERS CONSISTENT WITH THOSE DATED MAY 8TH, 2009.

Commissioner de la Fe: Second.

Chairman Murphy: Seconded by Mr. de la Fe. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it –

Commissioner Lawrence: Mr. Chairman? Mr. Chairman?

Chairman Murphy: Oh, I'm sorry. I didn't hear you. Mr. Lawrence.

Commissioner Lawrence: Thank you, Mr. Chairman. It was I who raised the question about the penalty fund in the TDM proffer. I think that the increase in the penalty fund is commendable. I continue to believe that as the impact of BRAC is felt, putting real teeth in the TDM proffers in the form of a penalty fund is going to get more and more important. I will not oppose this motion. Thank you, Mr. Chairman.

Chairman Murphy: Further discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2008-LE-014, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioners Harsel, Lawrence, and Litzenberger: Abstain.

Chairman Murphy: Ms. Harsel abstains, Mr. Litzenberger abstains, and Mr. Lawrence abstains. Mr. Lusk.

Commissioner Lusk: Thank you, Mr. Chairman. Second and final motion. I MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2008-LE-028, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED APRIL 28TH, 2009.

Commissioner de la Fe: Second.

Chairman Murphy: Seconded by Mr. de la Fe. Discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2008-LE-028, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners Harsel, Lawrence, and Litzenberger: Abstain.

Chairman Murphy: Motion carries. Same division.

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(The motions carried by a vote of 8-0-3 with Commissioners Harsel, Lawrence, and Litzenberger abstaining; Commissioner Hall absent from the meeting.)

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