

ZONING ORDINANCE AMENDMENT (PDC/PRM INCREASE IN FAR) (Countywide)

Decision Only During Commission Matters
(Public Hearing held on May 25, 2016)

Commissioner Sargeant: Thank you, Mr. Chairman. I have a decision only tonight for the Zoning Ordinance Amendment on the PDC/PRM District. I would like to make some comments, which will be followed by several motions and my proposal is to go through all the motions related to this Zoning Ordinance Amendment and then have – hopefully have a second and then move on for discussion, if that would be okay. And I have some motions after that. First of all – some comments before several motions. Transition is a word we hear in the lexicon of planning. We are certainly a County in transition from a suburban community to a suburban and urban community. We're in transition from a way of life that is very much dependent on the automobile to an era where the words "multi-modal transit" are part of the new vision for Fairfax County. And we are continuing the transition from planning visions that have served us well for decades to new planning visions and horizons to meet contemporary needs and expectations of our fellow citizens. And that is where this Zoning Ordinance Amendment comes in. It is needed for those areas of our County that are poised for revitalization. And it will be need for those areas in the County where citizens are working to create a new vision. The Zoning Ordinance Amendment is not a vision. It does not bypass any of the development requirements that are necessary in a good application. Whether it's stormwater management, landscape requirements, desirable and proportional residential and commercial scale for a particular site – and, most certainly, transportation and traffic. None of the usual criteria we all utilize when reviewing a development application can or should be ignored. The changes that we will consider in this Zoning Ordinance Amendment do not exempt any development from compliance with any applicable County, State or Federal regulations. Does this Zoning Ordinance Amendment override the Comprehensive Plan recommendations for floor area ratio in a given area? No. And it does not delete the requirements for traffic analysis or transportation demand management or transportation alternatives, especially when we are considering development in the revitalization areas. This Zoning Ordinance Amendment is a tool for implementation of Comprehensive Plan guidance in the revitalization areas, now and in the future. With all of that said, we have received from thoughtful input during the public review process and have worked to address concerns. For example, we heard some concerns about possible overflow parking in adjacent neighborhoods. We will address that with additional language in the Zoning Ordinance Amendment. Just this afternoon, I received additional text that does not require re-advertising and may offer more specific consideration for adjacent neighborhoods near the higher density developments. In addition, I will offer a separate motion for Board of Supervisors Action that may further address that issue. It's also important to note that the County's Parking District regulations may be appropriate for addressing overflow parking in a neighborhood, whether it is caused by nearby high-density development or citizens who don't wish to pay for parking at a Metro parking garage. Regarding the concerns we heard about allowing 50 percent of the open space requirements above grade, it should be noted that current regulations allow 100 percent open space above grade. This amendment to 50 percent should be an improvement. And finally, Mr. Chairman, I am anticipating some thoughtful discussion from my fellow Planning Commissioners as we consider whether to recommend approval of Option 1, which would allow an increase in Floor Area Ratio up to 5.0 when a development application is located in a

Selective Area, or Option 2, which would allow a maximum FAR of 5.0 in the Transit Station Areas and a maximum FAR of 4.0 in the Community Business Centers and Community Revitalization Districts. And with that, Mr. Chairman, I'm ready to make several motions related to this Amendment. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE PROPOSED ZONING ORDINANCE AMENDMENT REGARDING ARTICLES 2, 6, 9, 11, 13, 16 AND APPENDIX 7, PLANNED DEVELOPMENT COMMERCIAL, PLANNED RESIDENTIAL MIXED USE DISTRICTS AND OTHER ASSOCIATED PROVISIONS, AS SET FORTH IN THE STAFF REPORT DATED APRIL 26, 2016, SUBJECT TO THE FOLLOWING:

- WITH REGARD TO PARAGRAPH 5 OF SECTION 6-206 REGARDING SECONDARY USES IN THE PDC DISTRICT, I MOVE THE PLANNING COMMISSION RECOMMEND OPTION 1, WHICH DOES NOT INCREASE THE CURRENT PROVISION REGARDING THE 25 PERCENT MAXIMUM LIMIT OF SECONDARY USES THAT CAN BE PERMITTED IN A PDC DISTRICT;
- WITH REGARD TO PARAGRAPH 10 OF SECTION 6-206 REGARDING FAST FOOD RESTAURANTS IN THE PDC DISTRICT, I MOVE THE PLANNING COMMISSION RECOMMEND STAFF'S ALTERNATIVE LANGUAGE THAT WAS PROVIDED AS A HANDOUT AT THE MAY 25TH PUBLIC HEARING. THE RECOMMENDED LANGUAGE FOR PARAGRAPH 10A2 OF SECTION 6-206 WOULD BE REVISED TO STATE, "SUCH USE OR USES SHALL COMPRISE NOT MORE THAN 15 PERCENT OF THE APPROVED GROSS FLOOR AREA OF THE PLANNED DEVELOPMENT;"
- IN TERMS OF A CLARIFYING CHANGE TO THE PROVISIONS ABOUT PARKING REDUCTION REQUESTS, I MOVE THAT THE PLANNING COMMISSION MODIFY PARAGRAPH 5 OF SECTION 11-102 ON PAGE 26, LINE 24 TO ADD THE WORDS, "INCLUDING POTENTIAL IMPACTS ON EXISTING OVERFLOW PARKING IN NEARBY NEIGHBORHOODS," AND ADD THAT TO THE END SENTENCE AFTER, "OR THE ADJACENT AREA;"
- WITH REGARD TO SECTIONS 6-208 AND 6-408 REGARDING THE MAXIMUM FLOOR AREA RATIO IN THE PDC AND PRM DISTRICTS, I MOVE THAT THE PLANNING COMMISSION RECOMMEND OPTION 1, WHICH WOULD ESTABLISH A MAXIMUM FAR OF 5.0 FOR DEVELOPMENTS LOCATED IN A SELECTIVE AREA. A SELECTIVE AREA IS USED TO IDENTIFY THOSE GEOGRAPHIC AREAS THAT ARE EITHER A TRANSIT STATION AREA, Commercial Revitalization Area – COMMERCIAL REVITALIZATION DISTRICT, AND/OR COMMUNITY BUSINESS DISTRICT;
- AND LASTLY, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD ADOPT THIS AMENDMENT, WITH THE CHANGES AND OPTIONS OUTLINED IN THIS MOTION, WITH EFFECTIVE DATE OF 12:01 A.M., ON THE DAY FOLLOWING ADOPTION.

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, as articulate by-

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes, Mr. Hart.

Commissioner Hart: Yeah, I think there – there was going to be discussion. Let me – let me OFFER AN AMENDMENT. Let's just see what happens. I MOVE THAT WE AMEND MR. SARGEANT'S MOTION, SUCH THAT INSTEAD OF OPTION 1 FOR 6-208 AND 6-408 – I move that THE PLANNING COMMISSION RECOMMEND OPTION 2, WHICH WOULD ESTABLISH A MAXIMUM FAR OF 5.0 FOR DEVELOPMENTS LOCATED IN A TRANSIT STATION AREA AND A MAXIMUM FAR OF 4.0 FOR DEVELOPMENTS LOCATED IN A COMMERCIAL REVITALIZATION DISTRICT OR COMMUNITY BUSINESS CENTER, IN BOTH DISTRICTS ONLY WHEN THE DEVELOPMENT WILL IMPLEMENT THE SITE SPECIFIC DENSITY/INTENSITY AND OTHER RECOMMENDATIONS OF THE ADOPTED COMPREHENSIVE PLAN. Other than that change, Mr. Sargeant's motion would be left alone.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of the alternate motion?

Commissioner Migliaccio: Mr. Chairman, I'm supporting the alternate – the Option 2 because I believe that the 5.0 that staff has recommended, outside of the TSA areas, is just too much right now. And that – coupled with an open space requirement that – granted, is 50 percent rather than the 100 percent that was in – doesn't mean that the 100 percent was a good policy at 3.0. And I would rather have that a different number, perhaps 35 percent, but that's outside of the realm of the advertising so we can't debate that this evening. But I believe Option 2 is a better way forward on this and that's why I'm supporting Mr. Hart's motion.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Yes.

Chairman Murphy: And then Mr. de la Fe.

Commissioner Hart: I made the motion because I wanted in an orderly fashion to discuss – I think there's some disagreement as to 4.0/5.0 and where we were going to go. I can see it both ways and I think it's a – I think it's a close call. I have never bought into the assumption that by adopting Option 1, we were somehow raising the FAR to 5.0 across the board in these vast areas throughout the County, which never-the-less is the – the drumbeat that we've been hearing in all of the letters – or many letters and emails that – never-the-less, I would be more comfortable

with Option 2 and I would have suggested – I don't have it – but a follow-on motion – something to the effect that we revisit this in two years and see where we care and if it needs to be tweaked further. Nothing is permanent, but I was more comfortable with the – Option 2 and the 4.0, at least outside of the Transit Station Areas.

Commissioner de la Fe: Mr. Chairman?

Chairman Murphy: Mr. de la Fe.

Commissioner de la Fe: Yes, I seconded the original motion and I support the original motion because I think nothing in that motion of setting the – setting it at 5.0 means that you have to have 5.0 in all of these places. And I just think that the flexibility should be there. There may be a situation where that would be appropriate. I don't know, but as Mr. Hart said, everything changes. But I would much rather have the flexibility, as recommended by staff, rather than making a distinction between the two areas.

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Mr. Flanagan. Then Ms. Strandlie.

Commissioner Flanagan: Yes, I would – I am in favor of the original motion, as proposed. In Richmond Highway, we have quite a few Community Business Centers that – to be effected by this. And we have a special advisory group at the present considering changes to the Comprehensive Plan, specifically with regard to density. And at one of those – at one of our early meetings, I indicated that my principle concern is that we would have a development limited to 4.0, only to have the Yellow Line built in where each of those Community Business Centers will become TSAs – Transit Station Areas. And that means that the redevelopment of those areas at a later date would be greatly difficult because once the buildings are built – you know, three or four stories high – and they have life of 20 or 25 years – and so, consequently, I think that I had encouraged the advisory group on – the Embark Advisory Group to start planning now for the higher density – and so that we will eventually have some very nice open space around taller buildings and have much more walkable community – one that's more attractive. And so consequently, I'm inclined to go with the 5.0 now so that we can start planning some of those Community Business Centers for the higher density that they will eventually enjoy when they become stations on the Yellow Line.

Chairman Murphy: Thank you. Ms. Strandlie.

Commissioner Strandlie: Thank you, Mr. Chairman. I too would support Option 1. This has been a very difficult process and decision. We've heard from many members of our community, some who support the – Option 1 in its entirety – some who support Option 2 – some who don't want any changes whatsoever. Because the *Virginia Code* requires that planned developments shall not exceed the density or intensity permitted in the adopted Plan, I think that Option 1 is appropriate – and that there is not that concern that has been generated – that it may result in increased density beyond that. We also have a very vigorous community involvement process where we have full community involvement. We have multiple meetings of our Land Use Committee and, of course, we have the required public hearings. And further, there could be – and this is hard to

visualize and conceptualize in some cases – there could be a time when a 4.0 FAR could prevent Seven Corners and Annandale from achieving the vision that is in the current plans that are already adopted. And because of that, I would support Option 1.

Chairman Murphy: Further discussion?

Commissioner Migliaccio: Mr. Chairman, just on Mr. Flanagan's point regarding the Embark Richmond Highway planning process that you're talking about – I understand the CBC – that we have the CBCs in there, but we also – by the end of it – we will be designating two of them for the TSA areas. So they will be 5.0 anyway because of the extension of two stops. Thank you.

Chairman Murphy: Further discussion? All right, we'll vote on the alternate motion first. All those in favor of the alternate motion, as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: The alternate – wait a minute now – alternate motion is-

Commissioner de la Fe: Option 2.

Commissioner Sargeant: Option 2

Chairman Murphy: Option 2.

Commissioner Migliaccio: An amendment.

Commissioner Sargeant: Amended motion.

Commissioner Hart: My motion is to amend his motion.

Chairman Murphy: All those in favor of-

Commissioner Migliaccio: Mr. Hart's amendment?

Commissioner Ulfelder: It's a – it's a single amendment so that we either that up or down and then go back to the original motion.

Chairman Murphy: Right. Yes, that's what we're going to do.

Commissioner Ulfelder: Okay. That's – I just want to be clear. We're just voting on whether Option 1 or Option 2 will be part of the broader amendment that Mr. Sargeant-

Chairman Murphy: Right. So – okay, all those in favor of Mr. Hart's motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners de la Fe, Flanagan, Hedetniemi, and Sargeant: Aye.

Chairman Murphy: I believe-

Commissioner de la Fe: Or nay.

Chairman Murphy: -nay.

Commissioner Sargeant: Nay. We haven't done too many nays. That's a-

Chairman Murphy: I believe the nays – all right. Ms. Keys-Gamarra, yes or no on Mr. Hart's motion?

Commissioner Keys-Gamarra: Yes.

Chairman Murphy: Ms. Strandlie?

Commissioner Strandlie: No.

Chairman Murphy: Ms. Hedetniemi?

Commissioner Hedetniemi: Nay.

Chairman Murphy: Mr. Flanagan?

Commissioner Flanagan: Nay.

Chairman Murphy: Mr. de la Fe?

Commissioner de la Fe: No.

Chairman Murphy: Mr. Hart?

Commissioner Hart: Aye.

Chairman Murphy: Mr. Migliaccio?

Commissioner Migliaccio: Aye.

Chairman Murphy: Mr. Sargeant?

Commissioner Sargeant: No.

Chairman Murphy: Just so that I can keep the record straight. Ms. Hurley?

Commissioner Hurley: No.

Chairman Murphy: Mr. Ulfelder?

Commissioner Ulfelder: Aye.

Chairman Murphy: Okay, the motion is defeated – two, four, six to five – the Chair votes no.

Commissioner Hart: Four to seven.

Chairman Murphy: Four to seven. I'm sorry, yes. Thank you very much. Returning to the main motion, which would be Option 1 and 2. All those in-

Commissioner Hart: Mr. Chairman?

Chairman Murphy: yes.

Commissioner Hart: I did want to say something on the main motion as well. I'm going to support the main motion, notwithstanding the-

Chairman Murphy: Option 2.

Commissioner Hart: -Option 2 issue. I think that the – the most important circumstance here is that every case is going to have a case-by-case review with two public hearings. And if there some ridiculous proposal or inappropriate density or intensity or whatever it is, I think we're capable of making that determination – hearing the citizens – listening to that. And that case-by-case review is going to, I think, be the firewall. So I think we're all right.

Chairman Murphy: Alright, all those in favor of the motion say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Thank you, Mr. Chairman.

Chairman Murphy: Thank you, Mr. Sargeant.

Commissioner Sargeant: I have two additional motions and then some final comments, if I may.

Chairman Murphy: Please.

Commissioner Sargeant: Stemming from the process and public input here – Mr. Chairman, I'd like to be able to address some of the concerns we heard further about overflow parking in adjacent neighborhoods. And as such, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS EXPEDITE THE REVIEW AND CONSIDERATION OF ITEM NUMBER 17 ON THE PRIORITY 1 LIST OF THE DRAFT 2016 WORK PROGRAM REGARDING PARKING REDUCTIONS.

Commissioner de la Fe: Second.

Chairman Murphy: Seconded by Mr. de la Fe. Is there a discussion? All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Thank you, Mr. Chairman. Two more motions and I'm finished here.

Chairman Murphy: You're pressing your luck, but that's okay.

Commissioner Sargeant: I know, well – it has been suggested that in the past, public outreach regarding these associated comprehensive plan amendments or rezoning proposals have been insufficient to foster a broad community assessment of the proposal. In order to highlight any circumstance where a rezoning application is associated with a concurrent comprehensive plan amendment, I MOVE THAT THE DEPARTMENT OF PLANNING AND ZONING INCLUDE A STATEMENT ABOUT ANY CONCURRENT REZONING APPLICATION THAT IS CURRENTLY UNDER REVIEW WITH ANY NOTIFICATION OF A PROPOSED PLAN AMENDMENT AND ON THE PROJECT-SPECIFIC PLAN AMENDMENT WEBSITE AND SIMILARLY, THAT ANY NOTIFICATION OF THE REZONING APPLICATION INCLUDE A NOTICE THAT THERE IS A CURRENT PROPOSED COMPREHENSIVE PLAN AMENDMENT.

Commissioner Strandlie: Second.

Chairman Murphy: Seconded by Ms. Strandlie. Is there a discussion of that motion? All those in favor of the motion, as articulated by Mr. Sargeant, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Thank you, Mr. Chairman. And finally, the proposed changes to the floor area ratio maximum in the PDC and PRM Districts are specifically tied to those areas of the comprehensive plan that include land use guidelines that may accommodate higher-intensity developments in selective areas. In those areas, the impact of traffic is typically of paramount concern to the occupants of nearby developments. As such, I FURTHER MOVE THAT STAFF CONTINUE TO ENSURE THAT THE TRAFFIC IMPACTS ASSOCIATED WITH APPLICATIONS FOR A REZONING TO THE PDC AND PRM DISTRICTS IN SELECTIVE AREAS BE THOROUGHLY EVALUATED. SUCH ANALYSIS SHOULD INCLUDE, FOR EXAMPLE:

- VEHICLE TRIP REDUCTIONS GAINED THROUGH DESIGN, MIX OF USES, AND AMENITIES PROVIDED ON SITE AND WITHIN WALKING DISTANCE;

- TRIP REDUCTIONS DURING AND AT THE COMPLETION OF THE DEVELOPMENT ACHIEVED THROUGH TRANSPORTATION DEMAND MANAGEMENT PROGRAMS; AND
- THE CAPACITY OF THE TRANSPORTATION NETWORK SERVING THE SITE AND SURROUNDINGS, AS IT RELATES TO CURRENT CONDITIONS, OTHER PROPOSED DEVELOPMENTS IN THE AREA, AND UPON DEVELOPMENT OF THE APPLICATION PROPERTY.

Commissioner Hedetniemi: Second.

Chairman Murphy: Seconded by Ms. Hedetniemi. Is there a discussion of that motion?

Commissioner Migliaccio: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Migliaccio: Just for clarification, this is what staff is currently doing. You just want to reinforce that so that the citizens know that we're not just getting to this now?

Commissioner Sargeant: Absolutely.

Commissioner Migliaccio: Thank you.

Chairman Murphy: All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Mr. Chairman, thank you very much. And finally, let me just add my thanks to Leslie Johnson and Donna Pesto, who have worked so hard for so many months in support of this and the outreach and the very difficult, sometimes very controversial case. I'd also like to thank my fellow Planning Commissioners for their thoughtful input and consideration of this Zoning Ordinance Amendment – not only tonight, but during Work Programs, committee meetings, public hearings – it's been very helpful and very informative. And finally, let me thank the citizens who have participated in this process, whether for or against this particular Zoning Ordinance Amendment and who continue to particulate through their local planning processes and civic groups and Comprehensive Plan input. Your input was essential and will continue to be essential because, as I think Commissioner Hart indicated, nothing is specific and permanent and lasts forever. And always, we need your guidance and vigilance. So thank you very much.

Chairman Murphy: Thank you. And just to keep the record straight, I'm going to call for an omnibus motion. I would recommend to the Board of Supervisors that we adopt Articles 2, 6, 9, 11, 13, 16, and Appendix 7, as modified and articulated by Mr. Sargeant this evening.

Commissioner Ulfelder: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much. Thank you all who participated in the process.

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(Commissioner Hart's amendment to the first motion failed by a vote of 4-7. Commissioners de la Fe, Flanagan, Hedetniemi, Hurley, Murphy, Sargeant, and Strandlie voted in opposition. Commissioner Lawrence was absent from the meeting.

(The original first motion and each subsequent motion carried by a vote of 11-0. Commissioner Lawrence was absent from the meeting.)

JLC