

RZ/FDP 2015-HM-012/DPA-HM-117 – SEKAS HOMES, LTD

Decision Only During Commission Matters
(Public Hearing held on May 5, 2016)

Commissioner de la Fe: Okay, our second – the second item that I have – I’m going to make a bit of a statement. Last month on June 16 – oh, and this refers to RZ/FDP 2015-HM-012 and DPA-HM-117, Sekas Homes, LTD. Last month, on June 16, the Planning Commission took a series of votes – all ending in ties – on a series of three motions. One, to recommend approval of RZ 2015-HM-012 and the Conceptual Development Plan, subject to the execution of proffers conditioned – consistent with those dated May 23rd, 2015. Second, to recommend approval of DPA-HM-117 and to approve Final Development Plan FDP 2015-HM-012, subject to the Board of Supervisors’ approval of RZ 2015-HM-012 and the Conceptual Development Plan. The – they all ended in tie votes and, therefore, all three motions failed. It has come to my attention, however, that under Section 19-05(7) of the Zoning Ordinance, the Planning Commission can take a valid action only if “authorized by a majority vote of those present and voting.” As a result, our tie votes on June 16th did not constitute any action by the Commission, just a failure to approve. Then, in addition to that, on July 11th, 2016, the owner executed new proffers – new proffered conditions, amending the ones dated May 23rd. Because the Commission still has an opportunity to take action on these applications, I, you know, plan to move on them again. As I’ve stated before, we understand – as I’ve stated before, we must take our recommendation to the Board – make our recommendations to the Board on the basis of the Comprehensive Plan, applicable codes, the rules and regulations as they exist now – not as to what may or may not have happened in the future. The facts that we have before them – before us are: we have a legally submitted, accepted, and analyzed application. The applicant has dealt with the issues raised through the proffers that are now dated July 11th. Staff recommends approval and I believe it’s time that, given the fact that they exist, it is time to act. Therefore, Mr. Chairman, the change to the proffers was to move the – the Workforce Units to lower – from 80 to 70, the applicable level. Mr. Chairman, I MOVE TO RECOMMEND APPROVAL OF RZ 2015-HM-012 AND THE CONCEPTUAL DEVELOPMENT PLAN, SUBJECT TO THE PROFFERED CONDITIONS DATED NOW DATED JULY 11TH, 2016.

Commissioner Migliaccio: Second.

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

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Thank you. I’m not going to support the motion. I appreciate the difficulties that we’ve all had dealing with this application. I’d like to put my reasons on the record. I agree very much with Commissioner de la Fe that we have to go by the adopted Comprehensive Plan and not what the Plan could say, or should say, or might say. I think for this site, the adopted Comprehensive Plan calls for two options. There is a – an existing baseline recommendation, which includes office or residential up to 30 units to the acre. There is an optional redevelopment

option, which I think calls for something substantially more intense mixed-use. Both of those options, under the adopted Comprehensive Plan today, contemplate, in my view, a multi-family or predominantly multi-family development that is more vertical and – rather than horizontal – more oriented to the Metro or the proximity of the Metro. In this particular site, we have instead a different type of housing product – townhouses, which is more horizontally oriented. That’s created some problems with respect to the site design which are aggravated to some extent by the gas pipeline easement bisecting the site, which not only places the units closer to the pipeline than we would usually do, but creates some other deficiencies. One of those is in parking. I think I had articulated from day one the concerns that I had about the parking. We have townhouse lots that are going to yield interior clearance for the garages of 19 feet, which is less than the AIA template that we’ve been given of 20 feet. There are no driveways and so the parking has got to be done – this parking has got to be accommodated in some other way, either in the garages or the spaces that we have. We are counting the garages – the 19-foot garages as two full parking spaces, which may be somewhat unrealistic. I think, also, there are 46 or 47 parking spaces depicted on the site. Those are going to have to service the multi-family units, the visitor spaces, any deliveries for the townhouses, and any overflow parking. In my view, with the configuration of the parking on this site and the number of parking spaces, we have not resolved those concerns. Secondly, the way the townhouses are laid out – there is no privacy yard provided. The Board has established a minimum standard of 200 square feet, minimum, for a privacy yard for an attached single-family unit. The justification for the waiver that’s been requested, I think, is that open space has been provided somewhere else. On this site, however, the open space that’s provided in lieu of this minimum privacy yard appears to be across the gas pipeline easement, across the parking lot, and down in the EQC. It is not an equivalent space. It’s not something where you can let the dog out or you can sip your coffee there or watch the children play there in a more secure area. And I don’t believe that’s an equivalent and we’re reducing that to nothing. They’re also asking for a waiver of the loading space for the multi-family building. It’s a small multi-family building, that’s true, but I don’t believe – and I could be wrong – I don’t believe we have typically reduced the loading spaces to zero on a multi-family building. And what that does on this particular site, the way it is configured with the fire lanes, means that every time there is going to be a deliver – the pizza guy, the UPS guy, the florist, a piece of furniture being delivered – somebody’s going to block the fire lane. And they’re going to say, “Well, it’s just for a minute. I’m just going to run in and do that.” But that creates a safety problem. It creates a functional problem. It may preclude access for emergency vehicles or to the last few townhouses on that – that strip to the left. I think this – this application, which is for townhouses at 9-point something instead of multi-family at 30-plus, is well-below the low end of the Plan range. There’s nothing that I see in the Plan text contemplating a townhouse option or an option in the 9 to 10 range rather than 30 or something else. I think we are conflating, sometimes, what might be reasonable or what could be rationalized with a Plan Amendment. We did, in fact, a Plan Amendment on something very similar in Annandale just a few weeks ago to add the townhouses in the back of the shopping center where mixed use had been contemplated, but the developer came in with a different type of product. We don’t have that type of Plan Amendment here. We have an application to do something that’s an attractive product that might work better on a different site. This, however, under the process we’ve just gone through in Reston, should be more vertical. It should be more emphasis on the multi-family. And I can’t conclude that we’re there yet. So I won’t, unfortunately, not be able to support the motion. Thank you, Mr. Chairman.

Chairman Murphy: Further discussion of the motion?

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Yes. Mr. Flanagan, please.

Commissioner Flanagan: A question. At the last meeting where we – the motion failed on a tie vote, I moved to approve the application on the basis that there was a follow-on motion. Is that follow-on motion still valid and going to the Board with this motion?

Commissioner Hart: It's a question for me?

Chairman Murphy: Was it? I don't...what was the follow-on motion?

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Hart: I made a – after all the motions failed, I made a follow-on motion to the effect that we request the Board to direct staff to do the inventory of significant – architecturally significant, historically and culturally significant sites, and to make that a priority. My understanding is that that motion passed – it was 10 to nothing – that that is still alive, but it hasn't gone to the Board yet and there's no – there's no specific time for the Board to act on that. I think that's alive, but independent of what we're doing tonight, if I understand, procedurally, where we are.

Chairman Murphy: Okay.

Commissioner Flanagan: I think you've answered my question. Thank you.

Chairman Murphy: Okay.

Commissioner de la Fe: Mr. Chairman?

Chairman Murphy: We're on verbatim. Yes, Mr. de la Fe.

Commissioner de la Fe: Yes, and I will make it very short. I commend Commissioner Hart for his various objections to this plan. However, we have approved similar plans elsewhere and I just don't – I honestly don't understand the rationale for denying it on this one. Thank you.

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 2015-HM-012, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners: Nay.

Commissioner Hart: Division.

Chairman Murphy: All right. We'll have division. Ms. Keys-Gamarra?

Commissioner Keys-Gamarra: Nay.

Chairman Murphy: Nay. Ms. Strandlie?

Commissioner Strandlie: Nay.

Chairman Murphy: Nay. Ms. Hedetniemi?

Commissioner Hedetniemi: Nay.

Chairman Murphy: Nay. Mr. Flanagan?

Commissioner Flanagan: Yay.

Chairman Murphy: Aye. Mr. Hart?

Commissioner Hart: Nay.

Chairman Murphy: Mr. de la Fe? I'm sorry.

Commissioner de la Fe: Aye.

Chairman Murphy: Aye. Mr. Hart?

Commissioner Hart: Nay. Now you got me off one of – but one, two, three – it's three to two. I'm voting no. Thank you.

Chairman Murphy: Okay. Mr. Sargeant?

Commissioner Sargeant: Nay.

Chairman Murphy: Mr. Migliaccio?

Commissioner Migliaccio: Aye.

Chairman Murphy: Ms. Hurley?

Commissioner Hurley: No.

Chairman Murphy: Mr. Ulfelder?

Commissioner Ulfelder: No.

Chairman Murphy: And the Chair votes aye.

Commissioner Hart: 4 to 7. It fails 4 to 7.

Chairman Murphy: Motion fails 4 to 7. Is there another motion that would be considered? Mr. Hart, do you want to...

Commissioner Hart: Mr. Chairman, you may want a second.

Chairman Murphy: Here.

Commissioner Hart: Mr. Chairman, I MOVE TO RECOMMEND DENIAL OF RZ 2015-HM-012 AND THE CONCEPTUAL DEVELOPMENT PLAN.

Commissioner Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that the Board of Supervisors deny RZ 2015-HM-012 and the accompanying Conceptual Development Plan, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners de la Fe, Flanagan, Migliaccio, and Murphy: Nay.

Chairman Murphy: Nay. Same division? No one changed. Okay, the motion carries. Mr. Sargeant – or Mr. Hart?

Commissioner Hart: Yes. Thank you, Mr. Chairman. I MOVE TO RECOMMEND DENIAL OF DPA HM-117 THAT WOULD PERMIT THE DELETION OF 22,834 SQUARE FEET OF LAND AREA FROM THE PRC DISTRICT.

Chairman Murphy: Is there a second?

Commissioner Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder. Is there a discussion? All those in favor of the motion to recommend to the Board of Supervisors that it deny DPA HM-117, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners de la Fe, Flanagan, Migliaccio, and Murphy: Nay.

Chairman Murphy: Motion carries if the division is the same. Anyone change? Okay.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes, Mr. Hart.

Commissioner Hart: I MOVE TO DENY THE FINAL DEVELOPMENT PLAN, FDP 2015-HM-012.

Commissioner Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder. Is there a discussion of that motion? All those in favor of the motion to deny the Final Development Plan 2015-HM-012, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners de la Fe, Flanagan, Migliaccio, and Murphy: Nay.

Chairman Murphy: Motion carries. Same division.

Commissioner Hart: Thank you.

Chairman Murphy: Thank you very much.

Commissioner de la Fe: I believe Mr. Flanagan has changed – he voted with – at least that’s what it sounded like.

Commissioner Flanagan: I voted with your motion and nay on the follow-on motion.

Chairman Murphy: Okay.

Commissioner Hart: I think all four were 7 to 4.

Commissioner Flanagan: It was 7-4.

Chairman Murphy: Okay. 7 to 4. Mr. Migliaccio? Oh, I thought you...

Commissioner Migliaccio: I do have something when Mr. de la Fe’s done.

Chairman Murphy: Okay. And the motion – the additional motion that Mr. Hart made at the last meeting is still in effect to the Board of Supervisors regarding the exploration of the building.

Commissioner de la Fe: Mr. Chairman?

Chairman Murphy: Having said all that, Mr. de la Fe?

Chairman Murphy: Mr. Chairman, I request that the verbatim from our non-action on July 11th, I believe it was.

Commissioner Hedetniemi: June 16th.

Commissioner Hart: June 16th.

Commissioner de la Fe: On June 16th – be included.

Chairman Murphy: Without objection? Okay. Thank you very much.

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(The first motion failed by a vote of 4-7. Commissioners Hedetniemi, Hart, Hurley, Keys-Gamarra, Sargeant, Strandlie, and Ulfelder voted in opposition. Commissioner Lawrence was absent from the meeting.)

(The second, third, and fourth motion carried by a vote of 7-4. Commissioners de la Fe, Flanagan, Migliaccio, and Murphy voted in opposition. Commissioner Lawrence was absent from the meeting.)

JLC