

Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Item #09-IV-10LP – Mount Vernon District

Markup Session (Public Hearing held on July 14, 2010)

Chairman Murphy: APR 09-IV-10LP.

Commissioner Flanagan: All right, Mr. Chairman. This is APR Item 09-IV-10LP - - is generally located southeast of the Lorton Station Boulevard and north of Bakers Drive. APR Item 09-IV-10LP proposes adding text stating effort should be made to ensure development of the nominated parcel is compatible with the residential uses that surround it. This nomination was proposed to address concerns with regard to compatibility with existing surrounding residential neighborhoods, should this site be developed in the future. Staff's posture is that the recommendation to maintain the subject area as open space is an attempt to influence the development that can occur under the existing I-5 Industrial Zoning designation of the subject property, and the recommendation for open space gives the impression that the Comprehensive Plan could prohibit permitted uses from being developed. Furthermore, the adopted Plan notes substantial buffering and screening is strongly encouraged if non-residential uses are developed next to the residential use. Screening between the industrial uses permitted by existing zoning and residential uses are set forth in the Zoning Ordinance. For these reasons, staff recommends retaining the adopted Plan. The Task Force recommended, after the staff made this recommendation to them, the Task Force recommended the nomination be adopted as submitted. Testimony by the nominator pointed out that the two-plus acres are now open space and the only thing the nomination asks is that an effort be made to maintain the land as open space before it is developed if it is to be developed other than as zoned. Therefore, Mr. Chairman, the SOUTH COUNTY APR ITEM 09-IV-10LP - - while I understand the staff's position, I support the nomination as a means to address future development of the site and the possible effects on its neighbors. I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE NOMINATION AS SUBMITTED, AS SHOWN ON PAGE 222 OF THE STAFF REPORT BOOK DATED JULY 14, 2010 AND ON PAGE 6 OF THE STAFF REPORT.

Chairman Murphy: Without objection.

Commissioners Hart and Lawrence: Mr. Chairman?

Chairman Murphy: Yes. Okay. Una voce. Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. I have a SUBSTITUTE MOTION on this one. I MOVE THAT THE NOMINATION BE DENIED AND THE ADOPTED PLAN BE RETAINED.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Is there a discussion of that motion?

Commissioners Hart and Flanagan: Mr. Chairman?

Chairman Murphy: Hold on. Mr. Hart, then Mr. Flanagan.

Commissioner Hart: Yes. Thank you. I think staff is correct, and - - and that the adopted Plan contains sufficient protections for the juxtaposition of residential and non-residential anyway. In looking at the configuration of this parcel, moreover, it's very long and narrow, so that I think it's going to be difficult to put something very large in there anyway if the Ordinance screening is included. And finally, this one I thought was poorly worded in that the sentence that was being added was not a model that we would want to follow. I think the Chairman has pointed out that if there's some applications that come in with some of this new text, some of these are going to be difficult for staff to analyze or the Commission or the citizens, anybody. The sentence that's being added says, "Effort should be made to make parcel 107-2 ((1)) 13 more compatible with the adjacent residential parcels that surround it." I don't know how you make parcels compatible with each other. I don't know what that sentence means. I think if we have enough in the Plan already about the - - the juxtaposition of these uses, protection in the Ordinance about screening, I think we can figure it out if - - if something comes along, and if they do it the by-right way, they're going to have to follow all the rules anyway. So, the staff is right. Thank you.

Chairman Murphy: Mr. Flanagan.

Commissioner Flanagan: Yes. The only reason I supported this, Mr. Chairman, is because when developers go to develop a piece of property, they don't look all through it - - the Zoning Ordinance and the Comprehensive Plan - - for all these other locations that provide guidance on open space. And so, they go to the text for that site and therefore, I think what they will see there - - you know - - is some language that's encouraging them to consider this as open space instead. The difficulty that I have with this one at the same time is that there isn't anything really adjacent to it that it would be compatible, other than residential. And yet, it's zoned I-5. So, we've got a problem here where the owner may once again come in and try to slip in a storage unit or something like that then he can do it - - you know - - under the I-5. So, the - - what the community is trying to do is to give him some other reasons for doing that other than proposing a storage facility.

Chairman Murphy: Yes. Well, even - - I mean even if I accept - - accept your major premise, which I doubt I'll do, I think the staff looks at the surrounding property and how it's affected by the subject property. And we rely upon their evaluation of both those areas, the subject property and the surrounding properties, to give us a comprehensive recommendation as to what should go there. And Mr. Hart says this language is going to give everybody a little bit heartburn as to how you interpret it on the subject property.

Commissioners Sargeant and Lawrence: Mr. Chairman?

Chairman Murphy: Yes, Mr. Sargeant. Mr. Lawrence.

Commissioner Sargeant: Historically speaking, this stems from an experience that has - - has served as salt in a wound for the South County area in particular, the South County Federation has experienced for its citizens, where a storage area directly adjacent to a brand new community was placed with little or no input, with little or no opportunity to do the kind of aesthetics that you would hope for a planned residential area. So, I understand the language may be awkward, but the concerns area real. And if we can at the very least defer this until better language can be - - can be crafted with the - - with the Commission's and staff's input, I think that might be preferable to just dismissing this as merely - - I certainly understand what you're saying. The point is there is realistic perception here regarding what has occurred previously in this area with storage units and everything adjacent to residential areas.

Chairman Murphy: Okay. Mr. Lawrence.

Commissioner Lawrence: Thank you, Mr. Chairman. Understanding that - - that perhaps such a deferral might - - might gain us some better language, I have the same question for staff that I had the last time. Would the presence of such guidance in the Plan on this land have an effect to place this landowner at a disadvantage that would not be if the language wasn't there?

Marianne Gardner, Planning Division, Department of Planning and Zoning: Mr. Lawrence, Marianne Gardner. Yes, I believe that's a possibility. But even the bigger concern to staff is that this text tries to give an impression that the uses that are permitted under the current zoning may be forestalled.

Commissioner Lawrence: So, it's even stronger than we had the other case - - in the other case?

Ms. Gardner: Right. And - - and we feel that they may - - that would be a false impression because anything that's permitted by-right in the I-5 Zoning District could - - could happen here. And that was really one of our biggest issues.

Commissioner Lawrence: And I do understand the issue. When you have open space, it's precious, but landowners' rights are also. I support the substitute motion. Thank you, Mr. Chairman.

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Yes, Mr. Flanagan.

Commissioner Flanagan: Just to comment upon the false impression. Yes, the difficulty I have with this I said is that there isn't any - - in the case of the Market Street commercial development where we had another site that's I-5 - - you know - - nearby that could really serve as open space. This one doesn't have any uses there. There are uses across the streets, and I'm not too sure. I'd like to ask staff. There's commercial across Lorton Station Boulevard. Would any of those uses across the way be interested in higher density applications using - - by purchasing this property as open space to meet their open space requirements?

Ms. Gardner: Mr. Flanagan, I think what you're referring to may be in line with some sort of transferred development - -

Commissioner Flanagan: Right. Right.

Ms. Gardner: - - because that property is not contiguous.

Commissioner Flanagan: Yes.

Ms. Gardner: So, I don't think that that's possible.

Commissioner Flanagan: We don't allow open space to be added on a detached site? It has to be contiguous?

Ms. Gardner: We have done it in certain places in the Plan where it specifically calls out if parcel A purchases parcel B and that gets dedicated to the Park Authority then there may be an option for higher intensity use. We just did that with the Plan Amendment for CIT. but I don't think that would apply here because we have no such text in the commercial area - -

Commissioner Flanagan: Right.

Ms. Gardner: - - that would set that out.

Commissioner Flanagan: Well, this is - -

Ms. Gardner: And - -

Commissioner Flanagan: This is a major VRE - - I bet everybody wanted to be aware - - this is a major VRE Commuter Station area that's right across the street from this. And my expectation is there's going to be pressure in the future - - you know - - for greater density at that location, and I just thought maybe they can meet their open space requirements by picking up this open space as a credit.

Ms. Gardner: If - - if that's something that you would like staff to look at that, I believed that would be on the order of a Plan Amendment to take a look to see whether or not we could - -

Commissioner Flanagan: I see.

Ms. Gardner: - - offer additional intensity in the commercial area if this property were purchased.

Commissioner Flanagan: Thank you.

Chairman Murphy: Anyone else? All right. We have a substitute motion. All those in favor - -

Commissioner Sargeant: Mr. Chairman? Mr. Chairman, if I could have one comment?

Chairman Murphy: Oh. Yes. Sure.

Commissioner Sargeant: If - - if by chance the substitute motion does not pass, I would like to offer a motion to defer.

Chairman Murphy: Okay. All those in favor of the motion - - the substitute motion to deny the nomination and retain the current Plan, say aye.

Commissioners Alcorn, Hall, Hart, Lawrence, Migliaccio, and Murphy: Aye.

Chairman Murphy: Opposed?

Commissioner Donahue: No.

Commissioners de la Fe, Donahue, Flanagan, Litzenberger, and Sargeant: Nay.

Chairman Murphy: All - - all right. We'll have division. Mr. Donahue.

Commissioner Donahue: Nay.

Chairman Murphy: All right. Mr. Migliaccio.

Commissioner Migliaccio: Aye.

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: Nay.

Chairman Murphy: Mr. Lawrence.

Commissioner Lawrence: Aye.

Chairman Murphy: Ms. Hall.

Commissioner Hall: Aye.

Chairman Murphy: Mr. Alcorn.

Commissioner Alcorn: Aye.

Chairman Murphy: Mr. de la Fe.

Commissioner de la Fe: Nay.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Aye.

Chairman Murphy: Mr. Flanagan.

Commissioner Flanagan: Nay.

Chairman Murphy: Mr. Litzenberger.

Commissioner Litzenberger: Nay.

Chairman Murphy: And the Chari votes, "aye." And the motion carries.

Commissioner Litzenberger: No. It's a tie.

Commissioner Flanagan: It's a tie, wasn't it?

Commissioner de la Fe: No.

Commissioner Flanagan: It's six to six.

Chairman Murphy: It can't be six to six.

Commissioner Hart: We have an odd number. It can't be a tie.

Commissioner Sargeant: Did Kara vote?

Chairman Murphy: What? All those who voted "aye," put up your hand. Let's make a - -

Commissioner de la Fe: Let's make it "nay" by proxy.

Commissioner Hart: You put up two hands.

Chairman Murphy: Six to five. Yes. It can't be tied. Ms. - -

Commissioner Litzenberger: Right.

Commissioner de la Fe: She left with her - -

Chairman Murphy: Lady Gaga. All right.

Commissioner Flanagan: My understanding of that is that this nomination now doesn't go to the Board of Supervisors. Is that right?

Chairman Murphy: That's right.

Commissioner Hall: That's correct.

Commissioner Flanagan: Okay.

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(The substitute motion to deny the nomination carried by a vote of 6-5 with Commissioners Alcorn, Hall, Hart, Lawrence, Migliaccio, and Murphy in favor; Commissioners de la Fe, Donahue, Flanagan, Litzenberger, and Sargeant opposed; Commissioner Harsel not present for the vote.)

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