Planning Commission Meeting
July 28, 2010
Verbatim Excerpt

APR Item #09-IV-1LP – Mount Vernon District

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

Chairman Murphy: APR 09-IV-1LP.

Commissioner Flanagan: Yes, Mr. Chairman. APR Item 09-IV-1LP, generally located east of Hooes Road, south of Fairfax County Parkway, and west of the eastern boundary of the Fort Belvoir and north of the Potomac River. That's where it is. And the APR Item 09-IV-1LP proposes to add text to the Lower Potomac Planning District Overview section and to the Lorton-South Route 1 Community Planning Sector that promotes building height that is consistent with or lower than the height of the existing tree canopy. The nomination seeks to ensure that the design of new development respects the natural topography and the existing tree cover of the Lower Potomac Planning District. The Task Force recommended that the nomination be adopted as submitted. Staff recommends that the adopted Plan be retained because the existing tree canopy varies, and using it as a standard would not promote fair and equitable treatment of all properties within the Planning District. The Planning - - the public hearing testimony supported the Task Force recommendation, noting that the text was purposefully similar to other indefinite Comprehensive Plan text to promote building height consistent with or lower than surrounding tree canopy within the District. Mr. Chairman, FOR APR ITEM 09-IV-1LP, I support the Task Force recommendation because the natural green skyline is prominent, but often overlooked - - an often overlooked characteristic of the Lower Potomac Planning District and should be noted in the Comprehensive Plan. Therefore, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE NOMINATION BE ADOPTED AS SUBMITTED AS SHOWN ON PAGE 63 OF THE STAFF REPORT BOOK DATED JULY 14, 2010 AND ON PAGE 5 OF THE STAFF REPORT.

Chairman Murphy: Without objection.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart. Mr. Alcorn. Now we've got to comment if it's not covered. Mr. Hart.

Commissioner Hart: Yes, Mr. Chairman. I have a SUBSTITUTE MOTION. Is this the time to make it?

Chairman Murphy: If you want to.

Commissioner Hart: Yes. Mr. Chairman, I would MOVE THAT THE NOMINATION BE DENIED AND THAT THE EXISTING COMPREHENSIVE PLAN TEXT BE RETAINED. The staff is correct. I think that the adoption of the nomination would not promote fair and equitable treatment of all properties within the Planning District. Reference to the existing tree

canopy is too inconsistent and varies throughout. The tree canopy also changes over time in a secessional forest. Different species of trees dominate. Heights of trees may change. There can be diseases or natural catastrophes that change whether a site is vegetative or not. Development of one site or another might affect the context in which any given site is located. So that a property owner who is zoned one way, but situated next to something that's been already cleared, might be preferred or disadvantaged depending on what they're next to. This is a mish-mash. We can evaluate, I think, case by case - - on evaluate - - we can evaluate it on a case-by-case basis whether there's sufficient buffering, whether buildings are too high, or the topography or the surrounding uses, but this isn't the way to do it, and staff is correct. So, that's why I offer the substitute motion.

Chairman Murphy: Mr. Alcorn.

Commissioner Hart: I guessed I discussed it before I - - before there's a second.

Commissioner Alcorn: Yes, I'll second the motion. I just want to confirm with staff. Is staff still recommending the adopted Plan be retained?

Aaron Klibaner, Planning Division, Department of Planning and Zoning: That's correct.

Commissioner Alcorn: Okay. Yes, I concur with Commissioner Hart's comments on this. I think we should deal with this on a case-by-case basis. Thank you.

Chairman Murphy: I do - - I mean the problem I have is I don't understand it. I mean if the trees keep growing, could they add an extra floor by-right as long as it's below the tree line?

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: I'd like the staff comment on that.

Mr. Klibaner: Well, exactly. The - - from a technical standpoint, as we said the tree canopy varies and so we were struggling with the idea, how do we measure this? So, there isn't a common standard that we could come up with - - feasibility come up with from a technical standpoint. Would we count all the trees on the site and measure all the heights and then average them? I mean I don't know if even such a thing is - - I don't know if we do that. But anyway, the idea is - - I guess we sort of agree with you that we didn't understand it either.

Chairman Murphy: Yes. And conversely, if we had some sort of a natural disaster and some trees came down, would the - - would the - - would the guy with the building have to chop a floor off? You know, it doesn't - - it doesn't make sense to me. And I understand that, and I thought this would discourage some commercial development in an area where I thought the Supervisors of the Lee District and the Mount Vernon District were very eager to develop properties down there that would enhance the commercial value of the land in the southeastern part of the County. And I think it would be very difficult if we had an application - - if we ever

did - - with that kind of restriction on it that we could evaluate it properly and decide what is proper for the tree line in relationship to the buildings. Anybody else?

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: I think the challenge is how a local civic association would interpret this too. I mean, what - - how would they apply this? And how we would reach any variables? How would we resolve any variables with staff on something like this? That's the one concern.

Chairman Murphy: Mr. Flanagan.

Commissioner Flanagan: Yes. This has already been implemented on several projects, and it works out very well. The - - in the case of the Inova Healthplex application that just came before the Commission, this is a very steep sloped site and there are trees at the top of the hill and trees at the bottom of the hill, the buildings are halfway between. And so consequently, what the - - the buildings heights were limited to the heights below the tree canopy protected under the Plan.

Chairman Murphy: Okay. But did they agree to do that, or was it in the Plan language that covered that particular part of the County?

Commissioner Flanagan: It was - -

Chairman Murphy: So, you put language in the Plan now.

Commissioner Flanagan: Yes, they agreed to it.

Chairman Murphy: Well, see that's the difference. They agreed to that. That - - that's no problem because that doesn't give the staff or anyone else a chance to evaluate it. It's already there. They're giving it. It's one of the proffers. And so - - you know.

Commissioner Flanagan: I have a question for staff as well.

Chairman Murphy: Yes. Mr. - - go ahead.

Commissioner Flanagan: Yes. The text that the nomination contains does not make this a requirement, does it? It's just a consideration?

Chairman Murphy: Considerations become requirements when the staff is evaluating the rezoning application. We should know that.

Mr. Klibaner: Aaron Klibaner. I'm sorry. I forgot to introduce myself earlier.

Commissioner Flanagan: It's 1LP.

Mr. Klibaner: Well, we often say that the guidance in the Comprehensive Plan is just that, guidance. But again, we also - - we also do try to put guidance in the Plan that is practical from the standpoint that it can be implemented. And again, staff was struggling with how would we implement this.

Chairman Murphy: Okay. All those in favor of the substitute motion to retain the Plan, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Flanagan: Nay.

Commissioner de la Fe: Abstain.

Chairman Murphy: Motion carries. Pardon?

Commissioner de la Fe: Abstain.

Chairman Murphy: Mr. Flanagan votes no. Mr. de la Fe abstains.

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(The substitute motion to deny the nomination carried by a vote of 8-1-2 with Commissioner Flanagan opposed; Commissioners de la Fe and Litzenberger abstaining; Commissioner Harsel not present for the vote.)

KAD