

Planning Commission Meeting
November 14, 2013
Verbatim Excerpt

RZ/FDP 2013-MV-001 – A&R HUNTINGTON METRO, LLC

Decision Only During Commission Matters
(Public Hearing held on October 24, 2013)

Commissioner Flanagan: Yes, thank you, Mr. Chairman. This evening, we have on the agenda a decision only on RZ/FDP 2013-MV-001, A&R Huntington Metro, LLC. Before – before I move on this, and I do intend to move on this this evening, I would like to just go back and clarify what has happened since the public hearing, which was held on October 24. And at that public hearing, there was – we had not received any comments from the community – the Huntington Community Association with regard to how they regard the project, which is in the heart of their neighborhood, or from the Redevelopment Housing Authority, which supervises the Huntington Conservation Area. And so I deferred – the Commission deferred that – the decision until November 4 [sic], which was two weeks, in order to give those two organizations an opportunity to submit their written comments. In the meantime, the Huntington Community Association did file their comments on November 4th, three days before the scheduled decision on November 7th and I'm distributing that letter tonight because on November 7, I deferred again until November 14th, tonight, in order to give the Redevelopment Housing Authority additional time to provide comments. Those have not been forthcoming and so I am prepared to move ahead on this application since I do not – the only reason these deferrals are necessary is because this application didn't get to the Housing Authority on January the 18th when it was supposed to – should have been transmitted to them. And after that time – that amount of time, I would fully have had expected that RHA's comments would have been completed by tonight. And so I'm going to be moving ahead with the motion on this because I don't think that the bureaucracy should be the cause of holding the applicant hostage until next year. The – if – it doesn't appear from a memo that you received from RHA that they will not be able to get comments to us until the – until the – after the 12th of December. We do not have any meetings scheduled after that and so it would be deferred into 2014 and at some peril to the viability of the project. So consequently, I don't think there's probably – from what I've heard in the comments that RHA was going to make or that they have – they've already done the review – I don't think it would add much to the difference to what we're hearing from the housing – the Huntington Community Association in the letter which you have tonight. With that in mind, I would like though to review also some of the features of this application and if I could have the applicant come to the lectern, I would like to review some things with him because since the public hearing on October 24, they have made changes to the proffers – taking into consideration many of the comments that you Commissioners raised at the public hearing. And those particularly related to – to parking and to the guest parking, to deliveries, and that sort of thing – and we have in the process – in the intervening time – stumbled across the fact that they will have additional time to make their findings known. And so I'm asking Mr. Looney – if he, tonight, will answer some questions about some of those items. First of all –

Chairman Murphy: Hold – we're on verbatim now, I believe. Are we?

Commissioner Flanagan: Are we? No, I don't think we are until I move.

Commissioner de la Fe: No.

Chairman Murphy: No, you started calling the case so we're on verbatim.

Commissioner Flanagan: We are on verbatim? Okay, well –

Commissioner de la Fe: Make it quick.

Commissioner Flanagan: Anyway, you are aware of the fact that they're in the – could you give us the basis, basically, of the housing community or the – community association comments that's in their letter.

Mark Looney, Esquire, Cooley LLP: As to their comments?

Commissioner Flanagan: Yes, I think that they have – they stated in here that they find that the application satisfies the amendments to the conservation plan for this site.

Mr. Looney: Obviously, Mr. Flanagan – for the record, Mark Looney with Cooley on behalf of the applicant – obviously, the Huntington Community Association letter speaks for itself in terms of their view that the project meets the intent of the Conservation Plan. I don't know that I really have much to add to that beyond what their – what their letter already provides, as long as it has been entered into the record.

Commissioner Flanagan: And basically, that is that the – it – there are five points, I believe, in the Conservation Plan and they are satisfied that it meets all of those requirements.

Mr. Looney: Yes sir, that's my understanding.

Commissioner Flanagan: Fine. Thank you so much.

Chairman Murphy: Go ahead.

Commissioner Flanagan: Okay, with that then, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2013-MV-001 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED NOVEMBER 14, 2013.

Commissioner Sargeant: Second.

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

Commissioner Migliaccio: Thank you, Mr. Chairman. I'll be very brief since we are on verbatim. Simply put, I cannot support this application in its current form. Staff did a good – excuse me – staff did a good job of listing the outstanding issues of this application, many stemming from the lack of land consolidation. Out of a recognition of the difficulty and jump-starting projects near the Huntington Metro, I will abstain rather than vote no. Thank you.

Chairman Murphy: Is there further discussion?

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes, Mr. Hart.

Commissioner Hart: Thank you. This is a difficult case and I think it involves some countywide principles. I would have been more comfortable with a deferral to wait to see what the Redevelopment Housing Authority had to say. And I think from reading the resolution from 1976, I feel like – even though there's some sort of rush to get this done before the end of the year now – that that was what the Board had intended in the 70s. There is some good things about the application and I think that we want to encourage redevelopment in Huntington. Staff is still recommending denial and I agree with Commissioner Migliaccio's observations about staff's reasons. We, I think, have an obligation to the Board to point things out when maybe we don't agree with them and I think on this one where we've got a mixed use with retail with zero parking, that may have countywide implications. There's a lot of waivers on this case. Commissioner de la Fe has pointed out in the past the problems with applications with so many waivers and I think part of that is stemming from the fact that there really wasn't consolidation. This is such a small site and these things don't fit. The retail with zero parking is not going to work. The waiver of the loading space is making that worse. And I think in a neighborhood with an existing residential parking district with restricted parking, all of those things coming together are going to make this very, very challenging for the residents and the tenants in the retail space. There are good things in the application. I think the applicant has tried since the public hearing with some of the changes in the proffers to address some of these concerns. But in the final analysis, I think staff is still right. So I won't be supporting the application. 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 2013-MV-001, say aye.

Commissioners: Opposed?

Commissioners Hart and Migliaccio: Abstain.

Chairman Murphy: Okay, motion carries. Mr. Migliaccio, Mr. Hart, and the Chair abstains. The Chair was not present for the public hearing. The motion carries.

Commissioner Flanagan: I also have another motion – a follow-on motion here.

Chairman Murphy: Go ahead.

Commissioner Flanagan: I MOVE THAT THE PLANNING COMMISSION APPROVE FINAL DEVELOPMENT PLAN 2013-MV-001, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED OCTOBER 10, 2013, AND THE BOARD'S APPROVAL OF RZ 2013-MV-001 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor of the motion to approve FDP 2013-MV-001, subject to the Boards approval of the Rezoning and Conceptual Development Plan, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners Hart and Migliaccio: Abstain.

Chairman Murphy: Motion carries, same abstentions.

Commissioner Flanagan: I have a third motion to move that the Planning Commission recommend to the Board of Supervisors approval of the following waivers and modifications – and those are listed in the staff report. And if you don't I will read all of those and include them in a single motion if that's without –

Chairman Murphy: Be my guest.

Commissioner Flanagan: -objection.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Could we pull out the loading space waiver and vote on that one separate?

Commissioner Flanagan: Which one?

Commissioner Hart: The loading space waiver.

Commissioner Flanagan: Loading space?

Commissioner de la Fe: It's the last bullet.

Cathy Lewis, Zoning Evaluation Division, Department of Planning and Zoning: Mr. Flanagan, it's the first one on the second page of your motions.

Commissioner Flanagan: The loading space?

Ms. Lewis: Right.

Commissioner Flanagan: My first waiver is underground facilities.

Chairman Murphy: The second page – it's the first one on the second page.

Ms. Lewis: The second page – the first one on the second page.

Commissioner Flanagan: Okay. All right, THE MOTION THEN WOULD BE TO ADOPT ALL OF THOSE THAT ARE IN THE STAFF REPORT, WITH THE EXCEPTION OF THAT ONE ON LOADING SPACE.

Chairman Murphy: Is there a second?

Commissioner Sargeant: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioners Hart and Migliaccio: Abstain.

Chairman Murphy: Same abstentions.

Commissioner Flanagan: Very good. And I WOULD ALSO LIKE TO MOVE TWO MORE WAIVERS THAT HAVE BEEN REQUESTED BY THE APPLICANT, WHICH ARE A WAIVER OF SECTION 6-1307-2E AND (sic) THE PFM FOR THE MINIMUM SETBACKS OF BIORETENTION FILTER BASINS FROM BUILDING FOUNDATIONS AND PROPERTY LINES AND A WAIVER OF SECTION 7-0802-2 OF THE PFM FOR PARKING GEOMETRIC STANDARDS TO ALLOW PROJECTIONS OF THE STRUCTURAL COLUMNS WITHIN THE PARKING STRUCTURES INTO THE REQUIRED PARKING STALL AREA.

Commissioner Sargeant: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries, same abstentions.

Commissioner de la Fe: We still have to vote on the loading.

Commissioner Flanagan: Yes. And finally, I would like to move – of the waivers, I WOULD LIKE TO MOVE THE MODIFICATION OF SECTION 11-203 OF THE ZONING ORDINANCE FOR REQUIRED LOADING SPACES TO PERMIT THE LOADING SPACES DEPICTED ON THE CDP/FDP.

Commissioner Sargeant: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Hart: Nay.

Commissioner Migliaccio: Abstain.

Chairman Murphy: Motion carries. Mr. Hart votes no. Mr. Migliaccio and Mr. Murphy abstain.

Commissioner Flanagan: Then my last and final motion is to MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS DIRECT THE DIRECTOR OF DPWES TO APPROVE A DEVIATION FROM THE TREE PRESERVATION TARGET, PURSUANT TO SECTION 12-0508 OF THE PUBLIC FACILITIES MANUAL.

Commissioner Sargeant: Second.

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

Commissioner Sargeant: Aye.

Chairman Murphy: You've got to do better than that.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries, same abstentions.

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(The first four motions carried by a vote of 4-0-3. Commissioners Hart, Migliaccio, and Murphy abstained. Commissioners Donahue, Hall, Hedetniemi, Lawrence, and Litzenberger were absent from the meeting.)

(The fifth motion carried by a vote of 4-1-2. Commissioner Hart voted in opposition. Commissioners Migliaccio and Murphy abstained. Commissioners Donahue, Hall, Hedetniemi, Lawrence, and Litzenberger were absent from the meeting.)

(The sixth motion carried by a vote of 4-0-3. Commissioners Hart, Migliaccio, and Murphy abstained. Commissioners Donahue, Hall, Hedetniemi, Lawrence, and Litzenberger were absent from the meeting.)

JLC