

Planning Commission Meeting
November 21, 2013
Verbatim Excerpt

RZ/FDP 2013-LE-008 – PENN-DAW ASSOCIATES LIMITED PARTNERSHIP

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed; Mr. Migliaccio.

Commissioner Migliaccio: Thank you, Mr. Chairman. As we heard, quite a bit tonight, this application will bring a true mixed use to the Penn-Daw CBC and it will help – this project will help keep the revitalization of Penn-Daw on track and hopefully add a much needed grocery store for community members on this side of Route 1. I will briefly go over the items with Mr. Looney to verify that these will indeed become part of the proffer package as we send this up to the Board. The first item is, Mr. Looney, the commitment from the applicant to not allow any accessory use such as dance floor/karaoke. Is that correct?

Mark Looney, Esquire, Attorney/Agent, Cooley, LLP: Yes, sir, we will add a proffer to that effect.

Commissioner Migliaccio: The commitment regarding the Poag/Shaffer connection – that you commit that you are in support of what is in the Comprehensive Plan, as is there is no connection and there will be not – will not be a connection in the future.

Mr. Looney: We will add a proffer that says that, as far as we're concerned, there will not be a connection in the future.

Commissioner Migliaccio: Okay, thank you. Number three, on the tot lot issue, you will change the proffer to at least a minimum of two items in the tot lot, if not more.

Mr. Looney: Correct.

Commissioner Migliaccio: Thank you. You will have a commitment to electrical vehicle charging.

Mr. Looney: We will certainly look at it. Yes sir. Yes, sir.

Commissioner Migliaccio: Look at or commit? Because we're talking about two or three spaces in a 736-space garage.

Mr. Looney: We have not evaluated it yet, but if – we haven't evaluated it yet and so I can't say for certain exactly what we will do. It could be that we provide a conduit; it could be we provide the spaces there; but we will add a proffer to address the electric vehicle charging stations to the proffers between now and the Board. I just can't speak to exactly what it will say.

Commissioner Migliaccio: Okay. And a proffer regarding that the retail and the HOA for the multi-family housing and townhomes – we'll work out some agreement regarding the spaces that is being used in the garage for overflow parking.

Mr. Looney: We will add a proffer that addresses management of the retail and extra parking spaces for the townhomes. y Yes, sir.

Commissioner Migliaccio: And a commitment regarding the fence that will be along the Kings Garden side – a commitment that it's not going to be cinderblock or chain link fence – that we'll come up with some type of options that will not include those two; that we'll – perhaps, we can make certain that the – we can include the Supervisor's Office in that one to make certain that they're satisfied with the type of material that's being used.

Mr. Looney: Correct.

Commissioner Migliaccio: And lastly, the minimum on the ADU.

Mr. Looney: We will address a proffer looking at the percentage of ADUs that are committed to the project. Yes, sir.

Commissioner Migliaccio: Okay. That is what I have and I believe we just – we just talked about the fence.

Chairman Murphy: Okay.

Commissioner Migliaccio: Thank you, Commissioner Hurley. The grocery store proffer, but that will be worked out between the applicant and the Supervisor in greater detail. That's the one loose end I'm leaving as we move it forward tonight. With all that being said, Mr. Chairman, once I find my motions, I have a few to make. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2013-LE-008 AND THE ASSOCIATED CDP, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED November 7th – NOVEMBER 21ST, 2013 – is it 7th or 21st?

Commissioner Sargeant: 21st.

Commissioner Migliaccio: 21st, 2013.

Commissioner Sargeant: Second.

Chairman Murphy: You want to say to include the agreements made by the applicant?

Commissioner Migliaccio: Thank you, Mr. Chairman – TO INCLUDE THE PREVIOUSLY AGREED-UPON ADDITIONS TO THE PROFFER.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2013-LE-008, subject to the proffers as stated in the staff report and also the agreements made by the applicant this evening on the record, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Flanagan: This time, I want to abstain, Mr. Chairman.

Chairman Murphy: Mr. Flanagan abstains.

Commissioner Migliaccio: Okay, thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2013-LE-008, SUBJECT TO THE PROPOSED FINAL DEVELOPMENT PLAN CONDITIONS DATED NOVEMBER 7TH, 2013, AND THE BOARD OF SUPERVISORS' APPROVAL OF RZ 2013-LE-008.

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 the FDP 2013-LE-008, subject to the Board's approval of the rezoning with the stated proffers and those we agreed to tonight, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Migliaccio: And finally, Mr. Chairman, I'm going to combine all of the waivers and modifications into one motion. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE FIVE WAIVERS AND MODIFICATIONS AS STATED IN THE HANDOUT DATED NOVEMBER 14TH, 2013.

Commissioner Sargeant: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries; same abstention, I presume [sic].

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(The first motion carried by a vote of 9-0-1. Commissioner Flanagan abstained. Commissioner Lawrence was not present for the vote. Commissioner Hall was absent from the meeting.)
(The second and third motions carried by a vote of 10-0. Commissioner Lawrence was not present for the vote. Commissioner Hall was absent from the meeting.)

JLC