

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, JUNE 15, 2016**

PRESENT: Peter F. Murphy, Springfield District
Frank A. de la Fe, Hunter Mill District
James R. Hart, Commissioner At-Large
Timothy J. Sargeant, Commission At-Large
Ellen J. Hurley, Braddock District
John C. Ulfelder, Dranesville District
James T. Migliaccio, Lee District
Julie M. Strandlie, Mason District
Earl L. Flanagan, Mount Vernon District
Karen Keys-Gamarra, Jr., Sully District
Janyce N. Hedetniemi, Commissioner At Large

ABSENT: Kenneth A. Lawrence, Providence District

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The meeting was called to order at 8:15 p.m., by Chairman Peter F. Murphy, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION GO INTO CLOSED SESSION WITH ATTORNEYS FROM THE COUNTY ATTORNEY'S OFFICE TO DISCUSS SPECIFIC LEGAL MATTERS REQUIRING THE PROVISION OF LEGAL ADVICE, AND SPECIFICALLY RELATING TO SENATE BILL 549, THE NEW PROFFER BILL THAT WAS RECENTLY SIGNED BY THE GOVERNOR, ALL AS PERMITTED BY *VIRGINIA CODE SECTION 2.2-3711(7)*.

Commissioner Hart seconded the motion, which carried by a vote of 11-0. Commissioner Lawrence was absent from the meeting.

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Upon returning from closed session, Commissioner de la Fe MOVED THAT, IN ACCORDANCE WITH *VIRGINIA CODE SECTION 2.2-3712*, THE PLANNING COMMISSION MEMBERS CERTIFY THAT, TO THE BEST OF EACH MEMBER'S KNOWLEDGE, ONLY PUBLIC BUSINESS MATTERS LAWFULLY EXEMPTED FROM OPEN MEETING REQUIREMENTS UNDER THE VIRGINIA FREEDOM OF INFORMATION ACT AND ONLY SUCH PUBLIC BUSINESS MATTERS AS WERE

IDENTIFIED IN THE MOTION BY WHICH THE CLOSED SESSION WAS CONVENED WERE HEARD, DISCUSSED, OR CONSIDERED IN CLOSED SESSION.

Commissioner Hart seconded the motion, which carried by a vote of 11-0. Commissioner Lawrence was absent from the meeting.

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On behalf of Commissioner Lawrence, Commissioner Hart announced that the Planning Commission's Tysons Committee would meet on Thursday, June 16, 2016, at 6:30 p.m. in the Board Conference Room of the Fairfax County Government Center to discuss superstreets within the Tysons Plan.

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Chairman Murphy announced that the public hearing for the Fairfax Forward 2016 Work Program had been administratively deferred to an indefinite date. He also noted that staff would present an intermediate report on this item to the Planning Commission's Land Use Process Review Committee on Thursday, September 15, 2016.

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Commissioner Flanagan stated that the applicant for SE 2011-MV-006, Hamdi H. Eslaquit d/b/a Hamdi's Child Care/Salim M. Eslaquit, had become involved in a legal matter regarding covenants with the Winstead Manor Civic Association; therefore, MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR SE 2011-MV-006, HAMDI H. ESLAQUIT d/b/a HAMDI'S CHILD CARE/SELIM M. ESLAQUIT, TO AN INDEFINITE DATE.

Commissioner de la Fe seconded the motion, which carried by a vote of 11-0. Commissioner Lawrence was absent from the meeting.

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Commissioner Migliaccio MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR PCA 82-L-030-13, PCA 87-L-031-03, AND SE 2015-LE-031, WHITE HORSE FOUR, LLC, TO A DATE CERTAIN OF SEPTEMBER 21, 2016.

Commissioner Sargeant seconded the motion, which carried by a vote of 11-0. Commissioner Lawrence was absent from the meeting.

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Commissioner Ulfelder announced his intent to defer the public hearing for RZ 2015-DR-009, Gulick Group, Inc., to a date certain of June 23, 2016, at the Planning Commission's next meeting on June 16, 2016.

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Chairman Murphy announced his intent to defer the joint public hearing for SEA 84-P-129-04/PCA 84-P-114, Arden Courts, Fair Oaks of Fairfax, VA, LLC, to a date certain of September 14, 2016, at the Planning Commission's next meeting on June 16, 2016.

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2232-H15-27 – VERIZON WIRELESS, 11300 Sunset Hills Road

(Start Verbatim Transcript)

Commissioner de la Fe: Thank you. Mr. Chairman, tonight I have a "feature shown." It is 2232-H15-27. It's Verizon Wireless, 11300 Sunset Hills Road and it is to place a telecommunication antennas on an existing wood utility pole. And I – THE DIRECTOR OF PLANNING AND ZONING HAS DETERMINED THAT THE COMMUNICATIONS FACILITY PROPOSED BY VERIZON WIRELESS, LOCATED AT 11300 SUNSET HILLS ROAD IS SUBSTANTIALLY IN ACCORD WITH THE RECOMMENDATIONS OF THE COMPREHENSIVE PLAN AND SHOULD BE A "FEATURE SHOWN," PURSUANT TO VIRGINIA CODE SECTION 15.2-2232, AS AMENDED.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of the motion? All those in favor of the motion to concur with the "feature shown" determination in 2232-H15-27, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Hart?

Commissioner Sargeant: Mr. Chairman? Mr. Chairman, abstain on that one.

Chairman Murphy: Okay. Mr. Sargeant abstains.

(The motion carried by a vote of 10-0-1. Commissioner Sargeant abstained from the vote. Commissioner Lawrence was absent from the meeting.)

(End Verbatim Transcript)

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FS-S16-3 – VERIZON WIRELESS, 13003 Lee Jackson Memorial Highway

(Start Verbatim Transcript)

Chairman Murphy: I have a "feature shown" also in the Springfield District. It's a mount – sort of a canister antenna on top of a building on Lee Highway. It is in conformance with the Plan and

with the Zoning Ordinance. So therefore, I MOVE THE PLANNING COMMISSION APPROVE FS-S16-3.

Commissioner Hart: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

(The motion carried by a vote of 11-0. Commissioner Lawrence was absent from the meeting.)

(End Verbatim Transcript)

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RZ 2014-DR-022 – BASHEER/EDGEMOORE-BROOKS, LLC (Decision Only)

(The public hearing on this application was held on January 21, 2016.)

(Start Verbatim Transcript)

Commissioner Ulfelder: It's been some time since the public hearing back in January on the – RZ 2014-DR-022, which involves some – the Brooks Farm in Great Falls. And there have been a number of meetings and a number of revisions, both to the proffers and to the General Development Plan for this proposed rezoning. And I just wanted to – I had one issue that I wanted to follow up with on staff as a result of some of those changes, if that's okay. So for staff, there was a revision that came in about week-and-a-half ago that made some additional changes that impacted stormwater – the stormwater controls on the site. And there – some of the comments that have come in this week seem to reflect, I think, some confusion as to exactly what the status of the stormwater detention and stormwater measures are on the site. So could someone just give me a quick update on where we are with the various stormwater measures on the site, in connection with this application? And particularly, what kind of bio-retention measures are now included in the proposal?

Camylyn Lewis, Land Development Services, Department of Public Works and Environmental Services: I'm Camylyn Lewis. I'm one of the stormwater reviewers in land development. And with regard to the improvements that have taken place on this project, there was originally a swale on the northern property boundary to pick up and treat water. That swale has been replaced with a bio-retention facility, which is in the northeastern corner – the primary reason there to not impact the trees on the adjoining property, but to still maintain – as much as possible – the water quality features that are on the site. That's the primary change and, really, the other changes – there aren't any changes.

Commissioner Ulfelder: But there now are a total of three bio-retention facilities on the site and, as I understand it, they're all level two. Is that correct?

Ms. Lewis: All but one of them are level two. And the one that isn't a level two – the level one is going into – looking at the stormwater management facility, which is the northern underground facility, is feeding into that one. So there is secondary treatment on that level one facility.

Commissioner Ulfelder: Is it correct to say that all of the collective measures that are now included in this plan, based on the GDP and the proffers, for stormwater retention are – significantly exceed the requirements of the Commonwealth and Fairfax County for stormwater retention and treatment, as part of this development.

Ms. Lewis: They are obviously proposed – from what we can see, they're going to exceed that. Obviously, the detailed review – we look at that again when we review the site plan. There are some measures that are also proposed, which we really don't give them any credit for. And so they've really gone above.

Commissioner Ulfelder: Okay. Thank you.

Chairman Murphy: Ready?

Commissioner Ulfelder: Yeah, if anybody else has any question.

Chairman Murphy: Any questions from anyone else before we go on verbatim? Okay. Mr. Ulfelder, please.

Commissioner Ulfelder: All right. Thank you, Mr. Chairman. The hearing on this application took place almost six months ago. Staff, after a lengthy review, concluded that the application met all of the requirements of the Zoning Ordinance and the Public Facilities Manual – and was consistent with the Comprehensive Plan, as well as the Springvale Community Planning Sector portion of the Comprehensive Plan. At the hearing, however, a number of questions, concerns, and issues were raised, some by the Commissioners and others by neighboring property owners, Great Falls residents, and the Great Falls Citizens Association. During the deferral period, these same community groups have raised additional issues, as well as provided more detail about their original issues. There have been a number of meetings, including walking meetings at the Brooks Farm property with the applicant, the community, and county staff to look more closely at the issues. And, as a result, the proposed proffers and the General Development Plan have gone through a number of revisions in order to better address the various concerns. The site, currently zoned RA and RE, is surrounded by large residential subdivisions, consistent with their RE zoning classification, with mature trees and landscaping – and some with small ponds and lakes. The pond on Brooks Farm sits at the headwaters of the Pond Branch watershed, which over the years has felt the impact of earlier development and is suffering from serious erosion along some sections of the stream bed. In addition, the homeowners in the immediately adjacent Walker Lake Subdivision have serious concerns about the impact of the proposed development on their downstream lake, which not only is a valued amenity, but provides local fire protection as well as some control of stormwater for the upstream portion of Pond Branch. These concerns are real and deserve careful consideration when considering the possible environmental impacts of the proposed development. At the public hearing, however, a more fundamental question was raised about the rezoning process, including this Commission's responsibility in making recommendations to the Board of Supervisors and the extent of the Board's authority in cases

where the application appears to meet the technical criteria set forth in the Zoning Ordinance and the Public Facilities Manual, as well as be in accord with the Comprehensive Plan. In this case a large number of local residents have spoken out in opposition to the application because of the potential environmental and other impacts of the proposed new development – and concerns about the impact of this and other future development on the semi-rural character of Great Falls. While meeting the technical requirements of the Zoning Ordinance and the Public Facilities Manual are obviously critical to the eventual approval of any rezoning application, the Comprehensive Plan is more general in nature and requires application and interpretation on a case-by-case basis. It is developed, particularly the Area Plans, with significant input from local residents and reflects their vision for their community. But rezoning actions also must meet legal standards and a body of case law has grown in Virginia, a strong property rights state, that further defines and limits the authority of local jurisdictions when considering rezoning applications. As set forth in the December 30th staff report, there are a number of policy objectives applicable to this application, as well as specific guidelines for cluster development. Among other things, the Plan calls for the protection and enhancement of existing neighborhoods, “by ensuring that infill development is of compatible use and density/intensity, and that adverse impacts on public facility and transportation systems, the environment, and the surrounding community will not occur.” This does not mean no impact. Otherwise, any new development at a greater intensity than what is currently in place would be subject to denial. It does require, however, a careful review in the context of the site of the proposed development and its potential impact on the area. The proposed development on the 52-acre Brooks Farm site now consists of 19 homes, a reduction from the original proposal of 23. And the overall density on the site is now 0.365 – in the mid-range of the 0.2 to 0.5 recommended in the Comprehensive Plan and comparable to the densities of the surrounding developments. As a result of the most recent revisions and the elimination of one lot, the developer has been able to eliminate the proposed swale at the north end of the property and no longer needs any stormwater waivers. It also allows the developer to significantly reduce the limits of clearing and grading on the north end of the property in order to avoid possible damage to the trees on the adjoining properties. The applicant will be restoring and enhancing the existing pond, stabilizing the banks of the existing perennial stream, as well as reforesting the riparian fringe areas within the RPA/EQC. They will also be installing various level 2 bio-retention facilities, along with a number of other measures to control the volume of stormwater on-site and to improve the quality of the water as it leaves the site. Collectively, the various measures planned for this development go well beyond the minimum currently required by the Commonwealth and Fairfax County. They also have committed to a phased approach to the development to avoid any erosion and sediment problems that can occur during the development stage. And they have agreed to post-construction monitoring of the downstream channels for two years after completion of the project and to be responsible for any corrective restoration, if it is determined it is required. Similarly, they will be working with the Walker Lake Subdivision residents to make certain that potential runoff from the site is not causing sedimentation or water quality problems in Walker Lake. The applicant has agreed to establish a permanent conservation easement for approximately 10 acres of mature forest land on the eastern edge of the property and overall, the amount of open space has increased to 42 percent. They also will be installing public trails through the property, working with the Great Falls Trailblazers to make them equestrian friendly, as well as for walkers and bikers. They have committed to various measures to reduce water consumption by the new residents, to install state-of-the-art septic systems to significantly reduce potential pollution, and to limit the amount of additional impervious area that can be added to the lots in the future. These measures, along with many

others, are aimed at protecting the local environment and to make certain that it will continue to be protected into the future. For these reasons, and based on the staff analysis reflected in the original staff report, as well as the three subsequent addendums to the original staff report, I believe that the proposed rezoning from RA to RE Cluster meets or exceeds the requirements of the Zoning Ordinance and the Public Facilities Manual – and is consistent with the Comprehensive Plan, including the Springvale Community Planning Sector – which is UP-2 – Plan. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE RZ 2014-DR-022, SUBJECT TO THE PROFFERS DATED MAY 31, 2016.

Commissioner Migliaccio: Second.

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

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes, Mr. Hart.

Commissioner Hart: I want to – I'm going to support the motion. I wanted to make one additional observation. One of the guiding principles that the courts have given us in evaluating a rezoning application is that the locality cannot deny to one owner what has already been granted to a similarly situated owner. I think this is a paradigm example of a situation like that where we have an island or RA surrounded by RE where Plan text is identical – where the density has been the same for the entire area for many areas in the plan – where everyone around it has already gotten the 0.2 to 0.5. I don't think it's easy to deny the last – the hole in the donut – what everyone else has already gotten. Those cases are sometimes difficult to identify, but in this case, everything around this property has already gotten the RE and the benefit of that. Thank you.

Chairman Murphy: Any other discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2014-DR-022, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

(The motion carried by a vote of 11-0. Commissioner Lawrence was absent from the meeting.)

(End Verbatim Transcript)

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ZONING ORDINANCE AMENDMENT (PDC/PRM INCREASE IN FAR) (Countywide)
(Decision Only) (The public hearing on this item was held on May 25, 2016.)

(Start Verbatim Transcript)

Commissioner Sargeant: Thank you, Mr. Chairman. I have a decision only tonight for the Zoning Ordinance Amendment on the PDC/PRM District. I would like to make some comments, which will be followed by several motions and my proposal is to go through all the motions related to this Zoning Ordinance Amendment and then have – hopefully have a second and then move on for discussion, if that would be okay. And I have some motions after that. First of all – some comments before several motions. Transition is a word we hear in the lexicon of planning. We are certainly a County in transition from a suburban community to a suburban and urban community. We're in transition from a way of life that is very much dependent on the automobile to an era where the words "multi-modal transit" are part of the new vision for Fairfax County. And we are continuing the transition from planning visions that have served us well for decades to new planning visions and horizons to meet contemporary needs and expectations of our fellow citizens. And that is where this Zoning Ordinance Amendment comes in. It is needed for those areas of our County that are poised for revitalization. And it will be need for those areas in the County where citizens are working to create a new vision. The Zoning Ordinance Amendment is not a vision. It does not bypass any of the development requirements that are necessary in a good application. Whether it's stormwater management, landscape requirements, desirable and proportional residential and commercial scale for a particular site – and, most certainly, transportation and traffic. None of the usual criteria we all utilize when reviewing a development application can or should be ignored. The changes that we will consider in this Zoning Ordinance Amendment do not exempt any development from compliance with any applicable County, State or Federal regulations. Does this Zoning Ordinance Amendment override the Comprehensive Plan recommendations for floor area ratio in a given area? No. And it does not delete the requirements for traffic analysis or transportation demand management or transportation alternatives, especially when we are considering development in the revitalization areas. This Zoning Ordinance Amendment is a tool for implementation of Comprehensive Plan guidance in the revitalization areas, now and in the future. With all of that said, we have received from thoughtful input during the public review process and have worked to address concerns. For example, we heard some concerns about possible overflow parking in adjacent neighborhoods. We will address that with additional language in the Zoning Ordinance Amendment. Just this afternoon, I received additional text that does not require re-advertising and may offer more specific consideration for adjacent neighborhoods near the higher density developments. In addition, I will offer a separate motion for Board of Supervisors Action that may further address that issue. It's also important to note that the County's Parking District regulations may be appropriate for addressing overflow parking in a neighborhood, whether it is caused by nearby high-density development or citizens who don't wish to pay for parking at a Metro parking garage. Regarding the concerns we heard about allowing 50 percent of the open space requirements above grade, it should be noted that current regulations allow 100 percent open space above grade. This amendment to 50 percent should be an improvement. And finally, Mr. Chairman, I am anticipating some thoughtful discussion from my fellow Planning Commissioners as we consider whether to recommend approval of Option 1, which would allow an increase in Floor Area Ratio up to 5.0 when a development application is located in a Selective Area, or Option 2, which would allow a maximum FAR of 5.0 in the Transit Station Areas and a maximum FAR of 4.0 in the Community Business Centers and Community Revitalization Districts. And with that, Mr. Chairman, I'm ready to make several motions related to this Amendment. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE PROPOSED ZONING ORDINANCE AMENDMENT REGARDING ARTICLES 2, 6, 9, 11, 13, 16 AND APPENDIX 7, PLANNED

DEVELOPMENT COMMERCIAL, PLANNED RESIDENTIAL MIXED USE DISTRICTS AND OTHER ASSOCIATED PROVISIONS, AS SET FORTH IN THE STAFF REPORT DATED APRIL 26, 2016, SUBJECT TO THE FOLLOWING:

- WITH REGARD TO PARAGRAPH 5 OF SECTION 6-206 REGARDING SECONDARY USES IN THE PDC DISTRICT, I MOVE THE PLANNING COMMISSION RECOMMEND OPTION 1, WHICH DOES NOT INCREASE THE CURRENT PROVISION REGARDING THE 25 PERCENT MAXIMUM LIMIT OF SECONDARY USES THAT CAN BE PERMITTED IN A PDC DISTRICT;
- WITH REGARD TO PARAGRAPH 10 OF SECTION 6-206 REGARDING FAST FOOD RESTAURANTS IN THE PDC DISTRICT, I MOVE THE PLANNING COMMISSION RECOMMEND STAFF'S ALTERNATIVE LANGUAGE THAT WAS PROVIDED AS A HANDOUT AT THE MAY 25TH PUBLIC HEARING. THE RECOMMENDED LANGUAGE FOR PARAGRAPH 10A2 OF SECTION 6-206 WOULD BE REVISED TO STATE, "SUCH USE OR USES SHALL COMPRISE NOT MORE THAN 15 PERCENT OF THE APPROVED GROSS FLOOR AREA OF THE PLANNED DEVELOPMENT;"
- IN TERMS OF A CLARIFYING CHANGE TO THE PROVISIONS ABOUT PARKING REDUCTION REQUESTS, I MOVE THAT THE PLANNING COMMISSION MODIFY PARAGRAPH 5 OF SECTION 11-102 ON PAGE 26, LINE 24 TO ADD THE WORDS, "INCLUDING POTENTIAL IMPACTS ON EXISTING OVERFLOW PARKING IN NEARBY NEIGHBORHOODS," AND ADD THAT TO THE END SENTENCE AFTER, "OR THE ADJACENT AREA;"
- WITH REGARD TO SECTIONS 6-208 AND 6-408 REGARDING THE MAXIMUM FLOOR AREA RATIO IN THE PDC AND PRM DISTRICTS, I MOVE THAT THE PLANNING COMMISSION RECOMMEND OPTION 1, WHICH WOULD ESTABLISH A MAXIMUM FAR OF 5.0 FOR DEVELOPMENTS LOCATED IN A SELECTIVE AREA. A SELECTIVE AREA IS USED TO IDENTIFY THOSE GEOGRAPHIC AREAS THAT ARE EITHER A TRANSIT STATION AREA, Commercial Revitalization Area – COMMERCIAL REVITALIZATION DISTRICT, AND/OR COMMUNITY BUSINESS DISTRICT;
- AND LASTLY, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD ADOPT THIS AMENDMENT, WITH THE CHANGES AND OPTIONS OUTLINED IN THIS MOTION, WITH EFFECTIVE DATE OF 12:01 A.M., ON THE DAY FOLLOWING ADOPTION.

Commissioner de la Fe: Second.

Chairman Murphy: Seconded by Mr. de la Fe. Is there a discussion of the motion? All those in favor of the motion, as articulate by-

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes, Mr. Hart.

Commissioner Hart: Yeah, I think there – there was going to be discussion. Let me – let me OFFER AN AMENDMENT. Let's just see what happens. I MOVE THAT WE AMEND MR. SARGEANT'S MOTION, SUCH THAT INSTEAD OF OPTION 1 FOR 6-208 AND 6-408 – I move that THE PLANNING COMMISSION RECOMMEND OPTION 2, WHICH WOULD ESTABLISH A MAXIMUM FAR OF 5.0 FOR DEVELOPMENTS LOCATED IN A TRANSIT STATION AREA AND A MAXIMUM FAR OF 4.0 FOR DEVELOPMENTS LOCATED IN A COMMERCIAL REVITALIZATION DISTRICT OR COMMUNITY BUSINESS CENTER, IN BOTH DISTRICTS ONLY WHEN THE DEVELOPMENT WILL IMPLEMENT THE SITE SPECIFIC DENSITY/INTENSITY AND OTHER RECOMMENDATIONS OF THE ADOPTED COMPREHENSIVE PLAN. Other than that change, Mr. Sargeant's motion would be left alone.

Commissioner Migliaccio: Second.

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

Commissioner Migliaccio: Mr. Chairman, I'm supporting the alternate – the Option 2 because I believe that the 5.0 that staff has recommended, outside of the TSA areas, is just too much right now. And that – coupled with an open space requirement that – granted, is 50 percent rather than the 100 percent that was in – doesn't mean that the 100 percent was a good policy at 3.0. And I would rather have that a different number, perhaps 35 percent, but that's outside of the realm of the advertising so we can't debate that this evening. But I believe Option 2 is a better way forward on this and that's why I'm supporting Mr. Hart's motion.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Yes.

Chairman Murphy: And then Mr. de la Fe.

Commissioner Hart: I made the motion because I wanted in an orderly fashion to discuss – I think there's some disagreement as to 4.0/5.0 and where we were going to go. I can see it both ways and I think it's a – I think it's a close call. I have never bought into the assumption that by adopting Option 1, we were somehow raising the FAR to 5.0 across the board in these vast areas throughout the County, which never-the-less is the – the drumbeat that we've been hearing in all of the letters – or many letters and emails that – never-the-less, I would be more comfortable with Option 2 and I would have suggested – I don't have it – but a follow-on motion – something to the effect that we revisit this in two years and see where we care and if it needs to be tweaked further. Nothing is permanent, but I was more comfortable with the – Option 2 and the 4.0, at least outside of the Transit Station Areas.

Commissioner de la Fe: Mr. Chairman?

Chairman Murphy: Mr. de la Fe.

Commissioner de la Fe: Yes, I seconded the original motion and I support the original motion because I think nothing in that motion of setting the – setting it at 5.0 means that you have to have 5.0 in all of these places. And I just think that the flexibility should be there. There may be a situation where that would be appropriate. I don't know, but as Mr. Hart said, everything changes. But I would much rather have the flexibility, as recommended by staff, rather than making a distinction between the two areas.

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Mr. Flanagan. Then Ms. Strandlie.

Commissioner Flanagan: Yes, I would – I am in favor of the original motion, as proposed. In Richmond Highway, we have quite a few Community Business Centers that – to be effected by this. And we have a special advisory group at the present considering changes to the Comprehensive Plan, specifically with regard to density. And at one of those – at one of our early meetings, I indicated that my principle concern is that we would have a development limited to 4.0, only to have the Yellow Line built in where each of those Community Business Centers will become TSAs – Transit Station Areas. And that means that the redevelopment of those areas at a later date would be greatly difficult because once the buildings are built – you know, three or four stories high – and they have life of 20 or 25 years – and so, consequently, I think that I had encouraged the advisory group on – the Embark Advisory Group to start planning now for the higher density – and so that we will eventually have some very nice open space around taller buildings and have much more walkable community – one that's more attractive. And so consequently, I'm inclined to go with the 5.0 now so that we can start planning some of those Community Business Centers for the higher density that they will eventually enjoy when they become stations on the Yellow Line.

Chairman Murphy: Thank you. Ms. Strandlie.

Commissioner Strandlie: Thank you, Mr. Chairman. I too would support Option 1. This has been a very difficult process and decision. We've heard from many members of our community, some who support the – Option 1 in its entirety – some who support Option 2 – some who don't want any changes whatsoever. Because the *Virginia Code* requires that planned developments shall not exceed the density or intensity permitted in the adopted Plan, I think that Option 1 is appropriate – and that there is not that concern that has been generated – that it may result in increased density beyond that. We also have a very vigorous community involvement process where we have full community involvement. We have multiple meetings of our Land Use Committee and, of course, we have the required public hearings. And further, there could be – and this is hard to visualize and conceptualize in some cases – there could be a time when a 4.0 FAR could prevent Seven Corners and Annandale from achieving the vision that is in the current plans that are already adopted. And because of that, I would support Option 1.

Chairman Murphy: Further discussion?

Commissioner Migliaccio: Mr. Chairman, just on Mr. Flanagan's point regarding the Embark Richmond Highway planning process that you're talking about – I understand the CBC – that we have the CBCs in there, but we also – by the end of it – we will be designating two of them for the TSA areas. So they will be 5.0 anyway because of the extension of two stops. Thank you.

Chairman Murphy: Further discussion? All right, we'll vote on the alternate motion first. All those in favor of the alternate motion, as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: The alternate – wait a minute now – alternate motion is-

Commissioner de la Fe: Option 2.

Commissioner Sargeant: Option 2

Chairman Murphy: Option 2.

Commissioner Migliaccio: An amendment.

Commissioner Sargeant: Amended motion.

Commissioner Hart: My motion is to amend his motion.

Chairman Murphy: All those in favor of-

Commissioner Migliaccio: Mr. Hart's amendment?

Commissioner Ulfelder: It's a – it's a single amendment so that we either that up or down and then go back to the original motion.

Chairman Murphy: Right. Yes, that's what we're going to do.

Commissioner Ulfelder: Okay. That's – I just want to be clear. We're just voting on whether Option 1 or Option 2 will be part of the broader amendment that Mr. Sargeant-

Chairman Murphy: Right. So – okay, all those in favor of Mr. Hart's motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners de la Fe, Flanagan, Hedetniemi, and Sargeant: Aye.

Chairman Murphy: I believe-

Commissioner de la Fe: Or nay.

Chairman Murphy: -nay.

Commissioner Sargeant: Nay. We haven't done too many nays. That's a-

Chairman Murphy: I believe the nays – all right. Ms. Keys-Gamarra, yes or no on Mr. Hart's motion?

Commissioner Keys-Gamarra: Yes.

Chairman Murphy: Ms. Strandlie?

Commissioner Strandlie: No.

Chairman Murphy: Ms. Hedetniemi?

Commissioner Hedetniemi: Nay.

Chairman Murphy: Mr. Flanagan?

Commissioner Flanagan: Nay.

Chairman Murphy: Mr. de la Fe?

Commissioner de la Fe: No.

Chairman Murphy: Mr. Hart?

Commissioner Hart: Aye.

Chairman Murphy: Mr. Migliaccio?

Commissioner Migliaccio: Aye.

Chairman Murphy: Mr. Sargeant?

Commissioner Sargeant: No.

Chairman Murphy: Just so that I can keep the record straight. Ms. Hurley?

Commissioner Hurley: No.

Chairman Murphy: Mr. Ulfelder?

Commissioner Ulfelder: Aye.

Chairman Murphy: Okay, the motion is defeated – two, four, six to five – the Chair votes no.

Commissioner Hart: Four to seven.

Chairman Murphy: Four to seven. I'm sorry, yes. Thank you very much. Returning to the main motion, which would be Option 1 and 2. All those in-

Commissioner Hart: Mr. Chairman?

Chairman Murphy: yes.

Commissioner Hart: I did want to say something on the main motion as well. I'm going to support the main motion, notwithstanding the-

Chairman Murphy: Option 2.

Commissioner Hart: -Option 2 issue. I think that the – the most important circumstance here is that every case is going to have a case-by-case review with two public hearings. And if there some ridiculous proposal or inappropriate density or intensity or whatever it is, I think we're capable of making that determination – hearing the citizens – listening to that. And that case-by-case review is going to, I think, be the firewall. So I think we're all right.

Chairman Murphy: Alright, all those in favor of the motion say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Thank you, Mr. Chairman.

Chairman Murphy: Thank you, Mr. Sargeant.

Commissioner Sargeant: I have two additional motions and then some final comments, if I may.

Chairman Murphy: Please.

Commissioner Sargeant: Stemming from the process and public input here – Mr. Chairman, I'd like to be able to address some of the concerns we heard further about overflow parking in adjacent neighborhoods. And as such, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS EXPEDITE THE REVIEW AND CONSIDERATION OF ITEM NUMBER 17 ON THE PRIORITY 1 LIST OF THE DRAFT 2016 WORK PROGRAM REGARDING PARKING REDUCTIONS.

Commissioner de la Fe: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Thank you, Mr. Chairman. Two more motions and I'm finished here.

Chairman Murphy: You're pressing your luck, but that's okay.

Commissioner Sargeant: I know, well – it has been suggested that in the past, public outreach regarding these associated comprehensive plan amendments or rezoning proposals have been insufficient to foster a broad community assessment of the proposal. In order to highlight any circumstance where a rezoning application is associated with a concurrent comprehensive plan amendment, I MOVE THAT THE DEPARTMENT OF PLANNING AND ZONING INCLUDE A STATEMENT ABOUT ANY CONCURRENT REZONING APPLICATION THAT IS CURRENTLY UNDER REVIEW WITH ANY NOTIFICATION OF A PROPOSED PLAN AMENDMENT AND ON THE PROJECT-SPECIFIC PLAN AMENDMENT WEBSITE AND SIMILARLY, THAT ANY NOTIFICATION OF THE REZONING APPLICATION INCLUDE A NOTICE THAT THERE IS A CURRENT PROPOSED COMPREHENSIVE PLAN AMENDMENT.

Commissioner Strandlie: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Thank you, Mr. Chairman. And finally, the proposed changes to the floor area ratio maximum in the PDC and PRM Districts are specifically tied to those areas of the comprehensive plan that include land use guidelines that may accommodate higher-intensity developments in selective areas. In those areas, the impact of traffic is typically of paramount concern to the occupants of nearby developments. As such, I FURTHER MOVE THAT STAFF CONTINUE TO ENSURE THAT THE TRAFFIC IMPACTS ASSOCIATED WITH APPLICATIONS FOR A REZONING TO THE PDC AND PRM DISTRICTS IN SELECTIVE AREAS BE THOROUGHLY EVALUATED. SUCH ANALYSIS SHOULD INCLUDE, FOR EXAMPLE:

- VEHICLE TRIP REDUCTIONS GAINED THROUGH DESIGN, MIX OF USES, AND AMENITIES PROVIDED ON SITE AND WITHIN WALKING DISTANCE;
- TRIP REDUCTIONS DURING AND AT THE COMPLETION OF THE DEVELOPMENT ACHIEVED THROUGH TRANSPORTATION DEMAND MANAGEMENT PROGRAMS; AND

- THE CAPACITY OF THE TRANSPORTATION NETWORK SERVING THE SITE AND SURROUNDINGS, AS IT RELATES TO CURRENT CONDITIONS, OTHER PROPOSED DEVELOPMENTS IN THE AREA, AND UPON DEVELOPMENT OF THE APPLICATION PROPERTY.

Commissioner Hedetniemi: Second.

Chairman Murphy: Seconded by Ms. Hedetniemi. Is there a discussion of that motion?

Commissioner Migliaccio: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Migliaccio: Just for clarification, this is what staff is currently doing. You just want to reinforce that so that the citizens know that we're not just getting to this now?

Commissioner Sargeant: Absolutely.

Commissioner Migliaccio: Thank you.

Chairman Murphy: All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Mr. Chairman, thank you very much. And finally, let me just add my thanks to Leslie Johnson and Donna Pesto, who have worked so hard for so many months in support of this and the outreach and the very difficult, sometimes very controversial case. I'd also like to thank my fellow Planning Commissioners for their thoughtful input and consideration of this Zoning Ordinance Amendment – not only tonight, but during Work Programs, committee meetings, public hearings – it's been very helpful and very informative. And finally, let me thank the citizens who have participated in this process, whether for or against this particular Zoning Ordinance Amendment and who continue to particulate through their local planning processes and civic groups and Comprehensive Plan input. Your input was essential and will continue to be essential because, as I think Commissioner Hart indicated, nothing is specific and permanent and lasts forever. And always, we need your guidance and vigilance. So thank you very much.

Chairman Murphy: Thank you. And just to keep the record straight, I'm going to call for an omnibus motion. I would recommend to the Board of Supervisors that we adopt Articles 2, 6, 9, 11, 13, 16, and Appendix 7, as modified and articulated by Mr. Sargeant this evening.

Commissioner Ulfelder: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much. Thank you all who participated in the process.

(Commissioner Hart's amendment to the first motion failed by a vote of 4-7. Commissioners de la Fe, Flanagan, Hedetniemi, Hurley, Murphy, Sargeant, and Strandlie voted in opposition. Commissioner Lawrence was absent from the meeting.)

(The original first motion and each subsequent motion carried by a vote of 11-0. Commissioner Lawrence was absent from the meeting.)

(End Verbatim Transcript)

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ORDER OF THE AGENDA

Secretary Hart established the following order of the agenda:

1. PA 2014-III-FC2 – FAIRFAX TOWNE CENTER PLAN (Springfield District)
2. ZONING ORDINANCE AMENDMENT – APPROVAL PROCESS FOR MONOPOLES AND TOWERS

This order was accepted without objection.

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The first public hearing was in the Springfield District; therefore, Chairman Murphy relinquished the Chair to Vice Chairman de la Fe.

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PA 2014-III-FC2 – FAIRFAX TOWNE CENTER PLAN – To consider proposed revisions to the Comprehensive Plan for Fairfax County, VA, in accordance with the *Code of Virginia*, Title 15.2, Chapter 22. This Amendment concerns approx. 22.8 ac. generally located at 12200 West Ox Rd, Fairfax, VA 22033 at the intersection of West Ox Road and Monument Drive (Tax Map Parcel 46-3((1)) 24A) in the Springfield Supervisor District. The area is planned for office/mix use up to an intensity of 0.45 floor area ratio (FAR) at the overlay level with a retail and residential use option in Sub-unit J1 of the Fairfax Center Area. The Amendment will consider mixed-use redevelopment of the shopping center that may include multifamily residential,

retail/commercial, hotel, and office uses up to a maximum intensity of 1.2 FAR. Recommendations relating to the transportation network may also be modified. SRINGFIELD DISTRICT. PUBLIC HEARING.

Kenneth Sorenson, Planning Division (PD), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended adoption of PA 2014-III-FC2.

Vice Chairman de la Fe called the first listed speaker and recited the rules for public testimony.

Sara Mariska, 2200 Clarendon Boulevard, Suite 1300, Arlington, representing Walsh, Colucci, Lubeley & Walsh, PC, said that she was speaking on behalf of the existing owner of the site. She described the size and location of the subject property, noting its proximity to major intersections within the Fairfax Center area and a potential transit station. Ms. Mariska explained that the proposed Amendment had been authorized by the Board of Supervisors in July 2014 and had originally proposed a mixed-use development with a maximum floor area ratio (FAR) of 1.2, adding that the intent for permitting such density was to modify the existing commercial development on the site to one with a more urban character. However, she indicated that this density had been subsequently reduced and staff supported the recommendation articulated in the proposed amendment to permit a mixed-use development with an FAR of 0.8, which was consistent with the recommendations of the Springfield District Land Use Committee. She also stated that her organization would coordinate with the owner of the subject property to redevelop the site with more urban characteristics, noting that such a redevelopment might require greater density. Ms. Mariska said that there was no pending rezoning application for the subject property at the time of this public hearing, noting that the property owner would coordinate with staff and the tenants of the existing development to determine an appropriate redevelopment plan. In addition, she acknowledged the potential impacts a redevelopment of the subject property would incur on the surrounding area and stated that these impacts would be addressed during the review for a rezoning application.

Commissioner Murphy asked Ms. Mariska whether she had reviewed the modifications to the proposed Amendment articulated in the document dated June 15, 2016, which had been distributed to the Commission prior to the public hearing. Ms. Mariska indicated that she had reviewed this document and did not object to these modifications. In addition, she described the potential designs and features for a redevelopment of the subject property, stating that these designs were consistent with a town center development. (A copy of this document is in the date file.)

Commissioner Hart pointed out areas within the existing development where the internal circulation patterns were inefficient and noted the importance of improving these areas in redeveloping the site. Ms. Mariska concurred with Commissioner Hart's statement, acknowledging the need for improving traffic circulation within the site and indicating that improved provisions would be considered during the redevelopment process.

Referring to the third bullet point on page 16 of the Staff Report, Commissioner Ulfelder pointed out that the proposed Amendment highlighted the increased need for convenient access to active

recreation facilities and the need for constructing or improving nearby offsite recreation facilities. A discussion ensued among Commissioner Ulfelder, Ms. Mariska, Meghan Van Dam, PD, DPZ, regarding the definition of the word “nearby” and the sites located near the subject property that would comply with this definition wherein Ms. Van Dam said that staff would coordinate with the Fairfax County Park Authority on this issue and Ms. Mariska noted the location of existing recreation facilities near the site.

Vice Chairman de la Fe called for speakers from the audience.

Gayle Hanlon, 4252 Fox Lake Drive, Fairfax, spoke in support of the proposed Amendment. She indicated that the residents of the surrounding community had acknowledged the need for redeveloping the site, but noted that concerns had been raised regarding the density of such a redevelopment and pointed out that the initially-proposed density of 1.2 FAR had not been supported. In addition, Ms. Hanlon stated that the surrounding community was concerned about traffic congestion in the area, noting the existing traffic patterns on Monument Drive and West Ox Road. She also noted the importance of ensuring that the character of the proposed redevelopment was consistent with that of the surrounding neighborhood. Ms. Hanlon pointed out the locations of private recreation facilities located within existing residential communities near the site and expressed concern that a redevelopment at a higher density would negatively impact these facilities. In addition, she highlighted the importance of mitigating the visual impact of a redevelopment on the site and the associated impact on surrounding property values.

Referring to the second bullet on page 15 of the Staff Report, which recommended that the higher-intensity areas of a redevelopment be clustered on the northeastern portion of the site, Commissioner Ulfelder asked Ms. Hanlon if she agreed with this provision. Ms. Hanlon stated that she concurred with this provision, reiterating the importance of mitigating the impact of the redevelopment on the existing residential properties to the north of the site.

Commissioner Murphy said that the initial 1.2 FAR articulated in the proposed Amendment had not been supported by the Springfield District Land Use Committee, but echoed remarks from Ms. Mariska regarding the Committee’s support of the subsequent reduction of this intensity to 0.8 FAR. He then indicated that he also supported the 0.8 FAR and this would be reflected in his motion to adopt the proposed Amendment. Commissioner Murphy also stated that issues regarding active recreation would be addressed throughout the redevelopment process, pointing out that earlier studies had not included sufficient provisions for such features and that certain facilities had been temporary. Ms. Hanlon concurred with Commissioner Murphy’s statement, adding that she supported efforts to improve the recreational amenities in the area. Commissioner Murphy also noted that the surrounding community would have additional opportunities to review redevelopment efforts on the site during the rezoning process.

Mark Loyevsky, 12408 Benjamin Hill Lane, Fairfax, voiced opposition to the proposed Amendment because of concerns about the inclusion of a hotel as part of a redevelopment of the site. He then stated that a hotel would incur additional traffic congestion, pointing out that such a feature would require significant commuter traffic and the surrounding roads could not accommodate such traffic. He also described the existing traffic patterns around the site, stating that Monument Drive was subject to significant congestion and safety concerns. Mr. Loyevsky said he favored reducing the FAR of the proposed redevelopment on the site.

Michael Korluk, 3104 Cobb Hill Lane, Oakton, voiced opposition to the proposed Amendment. He indicated that there had been insufficient outreach regarding the proposed Amendment and favored additional coordination with the surrounding community on further efforts to redevelop the subject property. Mr. Korluk also expressed concern that the impact of such a redevelopment on the corridor of Route 50 and I-66 had not been sufficiently studied, noting that this corridor was subject to significant traffic congestion. A discussion ensued between Commissioner Murphy and Mr. Korluk regarding the location of Mr. Korluk's community and the notification procedures for the proposed Amendment wherein Commissioner Murphy pointed out that his community was outside the notification area for the proposed Amendment.

Addressing Mr. Korluk's concern regarding further study of the traffic impact of a redevelopment on the site on the Route 50/I-66 corridor, Commissioner Murphy explained that additional studies on this issue would be conducted during the rezoning process for the site.

Commissioner Hart suggested that Mr. Korluk coordinate with Ms. Mariska and her organization to address his concerns, adding that a redevelopment of the site would be subject to additional public hearings.

Leon Hartley, 12311 Donaldson Court, Fairfax, voiced opposition to the proposed Amendment because of concerns about the impact on recreational facilities in the surrounding community. He explained that the recreational facilities within the residential communities located near the site were frequently utilized by pet owners and a mixed-use development would compound this issue. In addition, Mr. Hartley expressed concern regarding the impact on stormwater runoff, noting that surrounding communities were subject to significant runoff.

Commissioner Murphy suggested that Mr. Hartley and his community coordinate with the applicant of a redevelopment on the site to address his concerns, adding that issues regarding pet owners and stormwater runoff would be addressed through the rezoning process.

There being no more speakers, Vice Chairman de la Fe called for concluding remarks from Mr. Sorenson, who declined. There were no further comments or questions from the Commission; therefore, Vice Chairman de la Fe closed the public hearing and recognized Commissioner Murphy for action on this case.

(Start Verbatim Transcript)

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Vice Chairman de la Fe: Okay, the public hearing is closed. Mr. Murphy.

Commissioner Murphy: Thank you very much, Mr. Chairman. This is a great opportunity to redevelop a commercial center that needs redevelopment. It's in a key area of Fairfax Center, which is geared towards high density – providing housing for a lot of people and businesses for a lot of folks. And as staff indicated, the Amendment would modify the Plan to recommend a new option at the overlay level for mixed-use redevelopment on the subject property of up to a 0.8 floor area ratio – or FAR – that may include multifamily residential, retail/commercial, hotel,

and/or office uses. How that's going to mix – if those possibilities are not specific now – they will be specific, if and when, a rezoning is filed. As I mentioned, the Springfield District Land Use Committee unanimously recommended a maximum intensity of 0.8 FAR after listening to the citizens at the meeting as an alternative to the authorized maximum intensity, to preserve the Plan's policy of transitioning from the core – to suburban neighborhoods and minimizing mitigation measures necessary for increased automobile trips. And a lot of the issues that were brought up tonight, as I mentioned, were actually rezoning issues – if and when the Board of Supervisors approves this Plan Amendment. So therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS TO ADOPT A PLANNING COMMISSION ALTERNATIVE FOR PLAN AMENDMENT 2014-III-FC2, AS FOUND ON MY HANDOUT DATED JUNE 15TH, 2016. THIS IS A SLIGHT MODIFICATION TO THE STAFF RECOMMENDATION TO ALLOW MORE FLEXIBILITY PERTAINING TO THE MIXTURE OF LAND USES AND DRIVE-THROUGH USES AND TO MAKE A FEW MINOR EDITORIAL CHANGES.

Commissioner Hart: Second.

Vice Chairman de la Fe: Seconded by Mr. Hart. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman Murphy: Opposed? The motion carries. Thank you very much.

Commissioner Murphy: Thank you very much.

(The motion carried by a vote of 11-0. Commissioner Lawrence was absent from the meeting.)

(End Verbatim Transcript)

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At the conclusion of the case, Chairman Murphy resumed the Chair.

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ZONING ORDINANCE AMENDMENT – APPROVAL PROCESS FOR MONOPOLES AND TOWERS – *Code of Virginia* (2232 Review) shall not be required. Given that monopoles and towers can have adverse impacts on adjacent properties, it is appropriate to have staff analysis and Planning Commission review (including in some cases a public hearing to allow citizen input) prior to approval and the installation of such structures. The new State Code provisions eliminate the 2232 Review process for monopoles and towers that are permitted by right in the Zoning Ordinance. To ensure that there is still a staff review and some sort of legislative consideration, the proposed

Zoning Ordinance amendment would require special exception approval by the Board of Supervisors prior to the installation of any monopole or telecommunication tower. This would be in lieu of the current Zoning Ordinance provisions which allow monopoles and towers to be permitted by right at certain locations and when all applicable zoning regulations are met. If the proposed amendment is adopted, all monopoles and towers would continue to be reviewed through the 2232 Review process which would run concurrently with the special exception application.

COUNTYWIDE. PUBLIC HEARING.

Lorrie Kirst, Zoning Administration Division (ZAD), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that staff recommended adoption of the proposed Zoning Ordinance Amendment for the approval process of monopole and telecommunications towers.

Commissioner Migliaccio explained that House Bill 883, which was passed by the Virginia General Assembly on April 1, 2016, would go into effect on July 1, 2016, and the Board of Supervisors had requested a recommendation regarding the proposed Amendment by June 21, 2016. He then noted this timeframe would limit the Commission's ability to defer the decision only on this amendment, and indicated that he intended to move on it at the conclusion of the public hearing.

Answering questions from Commissioner Migliaccio, Ms. Kirst explained that the Special Exception process had been previously utilized for the approval of land-based telecommunication monopoles and towers that were located in residential areas. She also confirmed that under the proposed Amendment, this same process would be utilized for the approval of such facilities in commercial and industrial areas.

Commissioner Ulfelder asked whether telecommunications facilities approved under the new procedures outlined in the proposed Amendment would be subject to Section 6409 of the Spectrum Act, which was utilized for administratively approving increases in the height of existing facilities. Ms. Kirst stated such facilities would still be subject to the current procedures regarding Section 6409. A discussion ensued between Commissioner Ulfelder and Ms. Kirst, with input from Commissioner Migliaccio, regarding the procedures for approving height increases in existing telecommunications facilities, the procedures for permitting lights at the top of these facilities, the impact of these lights on surrounding communities, and the methods for addressing issues pertaining to lights on telecommunications facilities wherein Ms. Kirst indicated that the procedures outlined in Section 6409 included the approval of lighting fixtures on telecommunications facilities and Commissioner Migliaccio pointed out that such facilities were required to comply with lighting provisions prescribed by federal agencies, such as the Federal Aviation Administration.

Chairman Murphy called the first listed speaker.

Frank Stearns, 201 Liberty Street, Leesburg, representing Donohue & Stearns, PLC, stated that he was speaking on behalf of multiple telecommunications providers. He then commended the County for its current policies regarding communications facilities. Mr. Stearns indicated that he did not support the passage of House Bill 883 and favored preserving or restoring the existing procedures utilized by the County for approving these facilities, adding that he would coordinate with staff to implement such procedures. In addition, he pointed out that there were three outstanding applications for telecommunications facilities that would be affected by the passage of House Bill 883. He then requested that review of these applications continue under existing review procedures instead of utilizing the procedures outlined in the proposed Amendment, suggesting that this provision be included as a condition for approving this Amendment. Mr. Stearns said that there was precedent for permitting such a condition, citing changes in zoning provisions in the Route 28 corridor within a 1972 Zoning Ordinance Amendment. He added that such a condition would ensure sufficient review for the outstanding applications that involved public land. Mr. Stearns said that he favored implementing an appropriate process for reviewing telecommunications facilities in a timely manner, noting the importance of these facilities and the growing demand for such facilities. He also expressed concern about utilizing the Special Exception review process for certain telecommunications facilities and the additional cost for utilizing this process. (A copy of Mr. Stearns' statement is in the date file.)

Commissioner Hedetniemi expressed concern about the long term impacts of the procedures outlined in House Bill 883 and the proposed Amendment. She then suggested that staff coordinate with telecommunications providers to study these impacts after a year of utilizing these procedures.

Commissioner Migliaccio indicated that the possibility of permitting outstanding applications involving telecommunications facilities to utilize existing procedures had been studied. He then asked staff to provide additional information on this issue. Chris Caperton, Planning Division, DPZ, explained that staff had coordinated with the County Attorney on this issue and while he acknowledged the three outstanding applications referenced by Mr. Stearns, he noted that only one of these applications would be subject to a public hearing. He then indicated that staff was coordinating with the applicant to ensure that this application would be properly reviewed, but noted that the other two applications had additional concerns that had not been addressed. Subsequently, Mr. Caperton said that staff did not support Mr. Stearns' request to permit these applications to continue under existing procedures. He added that the County Attorney concurred with this position, stating that applications could not be exempt from the revised procedures outlined in the proposed Amendment.

A discussion ensued between Commissioner Hart and Mr. Stearns regarding the feasibility of requesting a condition that would permit outstanding telecommunications applications to utilize existing procedures, the scope of the Board of Supervisors' authority in permitting such a condition, and the precedent for this condition wherein Mr. Stearns reiterated his request to permit such a condition for outstanding applications involving telecommunications facilities, adding that the Board had sufficient authority to permit such a condition.

When Chairman Murphy asked whether the provisions of House Bill 883 would impact the County's "feature shown" procedures, Mr. Caperton explained that this bill would not affect

these procedures because the provisions outlined in the bill applied exclusively to monopoles and telecommunication towers. Chairman Murphy then asked whether “feature shown” procedures would apply to modifications of existing telecommunications facilities. Mr. Caperton indicated that these procedures would continue to be utilized in such cases.

A discussion ensued between Chairman Murphy and Mr. Caperton regarding the impact of House Bill 883 on the ability of public facilities, such as schools and parks, to pursue telecommunications facilities wherein Mr. Caperton indicated that the procedures articulated in the proposed Amendment for approving such facilities would be applied equally for each zoning type, including areas zoned as public land.

When Commissioner Flanagan asked whether the provisions of House Bill 883 applied exclusively to industrial and commercial areas, Ms. Kirst pointed out that these provisions could potentially apply to residential areas that included certain utility easements and public lands.

Chairman Murphy asked whether the Special Exception procedure was sufficiently equipped to process monopole and telecommunications towers applications, expressing concern that modifications to this process might be necessary to address the issues associated with such facilities. Ms. Kirst stated that the Special Exception procedure was sufficient, pointing out that this procedure had been utilized for facilities located within a residential area. She then indicated that no changes to these procedures were necessary to accommodate the provisions of the proposed Amendment. When Chairman Murphy then asked whether the standards of location, character, and extent that had been utilized in the previous 2232 review process would apply to these procedures, Ms. Kirst indicated that these standards would continue to be utilized, noting that the review processes for Special Exception and 2232 applications would occur concurrently.

Commissioner Hart pointed out the difficulties of modifying the County’s review procedures to be consistent with the provisions of House Bill 883, noting that the measures articulated in both the proposed Amendment and the House Bill were subject to additional revisions. Mr. Stearns concurred with these remarks, but expressed concerns regarding the revised review procedures for telecommunications facilities on public lands, stating that providers were unfamiliar with these procedures. A discussion ensued among Commissioner Hart, Ms. Kirst, Mr. Stearns, Leslie Johnson, ZAD, DPZ, regarding the process for reviewing Special Exception applications for public facilities, the extent to which a Special Exception would be modified in applications involving a telecommunications facility, and the instances in which such a facility was installed in a site that had a previously-approved Special Exception wherein Ms. Kirst confirmed that there were existing procedures for installing a telecommunications facility on a site that had a previously-approved Special Exception and Mr. Stearns reiterated the importance of permitting outstanding applications for such facilities to proceed under the previous process.

Commissioner Ulfelder explained that the purpose of the proposed Amendment was to specify the zoning districts in which a telecommunications facility could not be installed by-right, stating that the provisions of this Amendment would establish a review process for these facilities in a manner that would permit for sufficient input from the Commission and the public. He then acknowledged that these procedures would require additional time to ensure full compliance, but indicated such procedures were appropriate in response to the provisions articulated in House

Bill 883. Mr. Stearns pointed out that the length of the review process for a 2232 application that involved a Special Exception was significantly longer than a 2232 application that did not include a Special Exception. A discussion ensued between Commissioner Ulfelder and Mr. Stearns regarding the circumstances of the review process for such applications, the extent of the review process for telecommunications facilities, the effectiveness of the previous review process, and the status of the three outstanding applications wherein Commissioner Ulfelder said that additional time for review had been necessary in these cases because they were located in residential areas and such time would not be necessary in other districts.

Commissioner Migliaccio stated that he concurred with the conclusions of the County Attorney that permitting the three outstanding applications to proceed under the previous review procedures was unfeasible. He also announced that he would include a follow-on motion to address concerns about the efficiency of the revised review process for such facilities, stating that he favored streamlining the process for approving facilities in certain districts. Mr. Stearns indicated that telecommunications providers would coordinate with the County on these processes.

Chairman Murphy called for speakers from the audience, but received no response. He then asked for closing remarks from Ms. Kirst, who declined. There were no further comments or questions from the Commission; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Migliaccio for action on this item.

(Start Verbatim Transcript)

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Chairman Murphy: Alright, public hearing is closed. Mr. Migliaccio.

Commissioner Migliaccio: Thank you Mr. Chairman. Before I begin my motion, I would like thank Ms. Kirst, Mr. Caperton, Ms. Johnson, and our County legal staff and all others who have worked on this zoning amendment to get it here tonight in a quick and efficient manner. I know we are up against the clock and we have to get this done before July 1. Otherwise, bad things can happen. With that being said, Mr. Chairman, we are here tonight to debate and vote on this monopole approval process amendment due to the actions of the General Assembly, specifically House Bill 883. While Fairfax County has worked with the industry and all stakeholders in the past to come up with a workable process that steers many of the cell towers toward industrial and commercial areas of the County, this one action by the General Assembly wipes out all of that work and potentially silences the voices of Fairfax County residents. What I find most disappointing about how we arrived here tonight is that it did not have to be. Up until the final days of the General Assembly, the bill in question recognized that the localities in Northern Virginia, including Fairfax, did not have a process problem with siting monopoles and excluded them from the bill. Unfortunately, a state senator who represents Fairfax County amended the bill to include Fairfax County and here we are tonight. If the Board of Supervisors does not pass this Amendment by July 1, the citizens of Fairfax County will have no influence or control when it comes to siting monopoles and cell towers in commercial and industrial sections of the County. They will no longer have the opportunity to voice their opinions and concerns in a public hearing

through the 2232 process. The County will also lose the ability to determine and regulate the potential adverse effects that a 199-foot tower might have on nearby residential neighborhoods. The best way that we can protect the citizens of the County is to fold all monopoles and cell towers into the Special Exception process. While this might be more cumbersome and expensive for industry, it is the only way forward between now and July 1. It is essentially a placeholder until we can get something better in the system. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE PROPOSED APPROVAL PROCESS FOR TOWERS ZONING ORDINANCE AMENDMENT BE APPROVED, AS ADVERTISED AND CONTAINED IN THE STAFF REPORT DATED MAY 17TH, 2016, WITH AN EFFECTIVE DATE OF 12:01 A.M. ON THE DAY FOLLOWING ADOPTION.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Ms. Sargeant and seconded by the Chair. Is there a discussion of the motion? Just to spin off a little bit on what Mr. Migliaccio said – you know, I guess when you're elected to the House of Delegates, you're elected to represent the people of your district and the people in the state. And you have the responsibility to create legislation and to vote for legislation, but it just seems to me that if you're in a jurisdiction where you're going to create or vote on a piece of legislation that impacts that jurisdiction and you ain't that far away from the Board of Supervisors, who represents the people in the county – that before you would do something like this to a legislation – especially pull the exemption out – you may want to talk with the Board of Supervisors. You may want to coordinate your vote or your action on a piece of legislation with the home team. And that didn't happen here – surprise. Further discussion of the motion? All those in favor of the motion, as articulated by Mr. Migliaccio to recommend to the Board of Supervisors that it adopt the approval process for monopoles and towers Zoning Ordinance Amendment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Is there any other business before the-

Commissioner Migliaccio: Mr. Chairman, I just have one follow-on motion-

Chairman Murphy: I'm sorry.

Commissioner Migliaccio: -just to capture – not to discount what Mr. Stearns has said and just to continue what staff has been doing. Recognizing that this Zoning Ordinance Amendment is just a placeholder that nobody is happy with seeing tonight, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS DIRECT STAFF TO CONTINUE THEIR WORK ON THE SUBJECT MATTER BY ENGAGING ALL APPROPRIATE STAKEHOLDERS TO STREAMLINE THE APPROVAL PROCESS FOR THE SITING OF MONOPOLES AND CELL TOWERS IN COMMERCIAL AND INDUSTRIAL SECTIONS OF THE COUNTY.

Commissioner Sargeant: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Migliaccio: Thank you, Mr. Chairman.

(Each motion carried by a vote of 11-0. Commissioner Lawrence was absent from the meeting.)

(End Verbatim Transcript)

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The meeting was adjourned at 11:10 p.m.

Peter F. Murphy, Chairman

James R. Hart, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jacob Caporaletti

Approved on: January 12, 2017



John W. Cooper, Clerk to the
Fairfax County Planning Commission