

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, MAY 17, 2018**

PRESENT: Peter F. Murphy, Chairman, Springfield District
James R. Hart, Commissioner At-Large
James T. Migliaccio, Lee District
Timothy J. Sargeant, Commissioner At-Large
Ellen J. Hurley, Braddock District
John C. Ulfelder, Dranesville District
John A. Carter, Hunter Mill District
Julie M. Strandlie, Mason District
Walter C. Clarke, Mount Vernon District
Phillip A. Niedzielski-Eichner, Providence District
Donté Tanner, Sully District
Mary D. Cortina, Commissioner At-Large

ABSENT: None

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The meeting was called to order at 7:31 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

MINUTES APPROVAL – FEBRUARY 2018

(Start Verbatim Transcript)

Commissioner Migliaccio: Thank you, Mr. Chairman. A few items. First, we have some minutes to approve from February of 2018. I MOVE THAT THE PLANNING COMMISSION APPROVE THE MINUTES FOR 2/1, 2/8, 2/15 AND 2/22/2018.

Commissioner Hart: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Clarke abstains, not present on the Commission.

Commissioner Clarke: Yes, Sir.

Chairman Murphy: Okay. At that time.

The second motion carried by a vote of 11-0-1. Commissioner Clarke abstained.

(End Verbatim Transcript)

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PCA 82-L-071 – BELL GROUP, LLC

(Start Verbatim Transcript)

Commissioner Migliaccio: Okay. I have two other items. One is a public hearing that was scheduled for tonight. To accommodate the applicant, I am going to move that to June 28th. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR PCA 82-L-071, BELL GROUP, LLC, TO A DATE CERTAIN OF JUNE 28TH.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart is there a discussion? All those in favor of the motion to defer the public hearing on PCA 82-L-071, Bell Group, LLC, to a date certain of June 28th, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 12-0.

(End Verbatim Transcript)

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PCA 82-L-030-13/PCA 87-L-031-03/SE 2015-LE-031 – WHITE HORSE FOUR, LLC
(Decision Only) (Public Hearing on these applications was held on April 26, 2018)

Commissioner Migliaccio: And one other – I have a decision only that I am deferring the decision only this evening for White Horse Four, LLC. And, Ms. Lewis is it the 14th?

Catherine Lewis, Zoning Evaluation Division, Department of Planning and Zoning: Yes.

Commissioner Migliaccio: Okay. Thank you. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR PCA 82-L-030-13, PCA 87-L-031-03 AND SE 2015-LE-031, TO A DATE CERTAIN OF JUNE 14TH, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENTS AND ELECTRONIC COMMENTS.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Hart...

Commissioner Hart: I actually didn't.

Chairman Murphy: Oh, you didn't. Okay.

Commissioner Sargeant: Second.

Chairman Murphy: Mr. Sargeant then. Is there a discussion of the motion? All those in favor of the motion to defer the application – the decision only on those three applications to a date certain of June 14th, with the record remaining open for comments, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 12-0.

(End Verbatim Transcript)

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Commissioner Migliaccio stated the Land Use Process Review Committee met on May 16, 2018, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035. The topic of discussion was the proposed 2018 Zoning Ordinance Amendment Work Program. Commissioner Migliaccio stated the Committee endorsed the amendment and would seek approval from the Planning Commission. A clean copy of the amendment would be submitted to the Planning Commission. All revisions and/comments should be submitted to Commissioner Migliaccio or Leslie Johnson, Zoning Administrator, Zoning Administration Division, Department of Planning and Zoning. Commissioner Migliaccio also stated Commissioner Ellen J. Hurley was elected Vice Chairman of the Land Use Process Review Committee.

Commissioner Migliaccio stated the Land Use Process Review Committee also met regarding the North County new Site-Specific Plan Amendment Process.

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ZONING ORDINANCE AMENDMENT – SHORT TERM LODGING

(Decision Only) (Public Hearing held on May 3, 2018)

(Start Verbatim Transcript)

Commissioner Hart: Thank you, Mr. Chairman. I have two items. First on the Short-Term Lodging amendment. Everyone should have received yesterday, a copy of a memo from Ms. Pesto to me with some additional information from staff. We – we also will be getting first of the week, a memo from the County Attorney's office. Staff is still hard at work on this and I hope

we're making good progress. In the meantime, Mr. Chairman, I MOVE TO FURTHER DEFER THE PLANNING COMMISSION'S DECISION ON THE PROPOSED ZONING ORDINANCE AMENDMENT REGARDING SHORT-TERM LODGING RESIDENTIAL OWNER RENTER OPERATED DWELLINGS ONLY, TO A DATE CERTAIN OF MAY 24, 2018, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENTS.

Commissioners Ulfelder and Sargeant: Second.

Chairman Murphy: Seconded by Mr. Ulfelder and Mr. Sargent. Is there a discussion of the motion? All those in favor of the motion to continue the public hearing deferral, with the record remaining open for comment on Zoning Ordinance Amendment Short-Term Lodging, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. And, that was to May 24th, with the record remaining open for written comment.

The motion carried by a vote of 12-0.

(End Verbatim Transcript)

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Commissioner Hart announced the Zoning Administration Division, Department of Planning and Zoning would host three open houses. The first would be held on Monday, May 21, 2018 from 7:00 p.m. to 9:00 p.m. at Colvin Run Elementary School, 1400 Trap Road, Vienna. The second would be held on Wednesday, May 23, 2018 at 7:00 p.m. to 9:00 p.m. at Chantilly High School, 4201 Stringfellow Road, Chantilly. The third would be held on Monday, June 4, 2018 at 7:00 p.m. to 9:00 p.m. at South County High School, 8501 Silverbrook Road, Lorton. Commissioner Hart added all citizens are welcome to attend.

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SEA 99-P-046-02/SEA 84-P-105-04 – FLINT HILL SCHOOL

(Start Verbatim Transcript)

Commissioner Niedzielski-Eichner: Yes Sir.

Chairman Murphy: Okay.

Commissioner Niedzielski-Eichner: So yes, Mr. Chairman, I do want to offer a motion to defer....

Commissioner Hart: His microphone.

Chairman Murphy: Mic.

Commissioner Niedzielski-Eichner: There we go. The Flint Hill School proposes amends to two special exceptions that permitted construction of school buildings and facilities on its two properties to support a private K-12 education program. The first application that was to be before us tonight to amend a – proposes to amend its SE to move its middle school from its lower campus in Jermantown and Chain Bridge Road to its upper campus at Jermantown and Oakton Roads. This change would increase the maximum number of students allowed for the upper school campus by a hundred, from seven hundred students to eight hundred students. The second application to amend would decrease the maximum student enrollment allowed at the lower campus from seven hundred students to five hundred students, to reflect a relocation of the middle school to the upper campus. Approval of these changes would result in a net reduction of one hundred students permitted on both campuses. The reason for moving for hearing deferral is that Flint Hill formally submitted earlier this week, proposed changes to its upper campus application. Proposed amendments to its development conditions are – are to further address community concerns about traffic and safety impacts on Oakton Road beyond those already made to its original proposal, that were to be the subject of tonight's public hearing. These proposed changes need to be evaluated by VDOT in County Planning Zoning and Transportation staff. A concerted effort was into informing the community of my decision to seek a deferral of this hearing. Thus said, I apologize to anyone who is here this evening prepared to testify regarding these special exception amendment applications. So, with that Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR APPLICATION SEA 99-P-046-02 AND SEA 84-P-105-04, TO A DATE CERTAIN OF JUNE 28TH, 2018 WITH THE RECORD REMAINING OPEN FOR WRITTEN OR ELECTRONIC COMMENTS.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of the motion? All those in favor of the motion as articulated by Mr. Niedzielski-Eichner to defer the Flint Hill School application to a date certain of June 28th, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Niedzielski-Eichner: And Mr. Chairman, I have one more. I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS DEFER ITS PUBLIC HEARING ON THESE TWO AMENDMENTS TO A DATE AFTER JUNE 28TH, 2018.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Discussion? All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Niedzielski-Eichner: Thank you, Mr. Chairman.

The motion carried by a vote of 12-0.

(End Verbatim Transcript)

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FSA-B01-12-2 – SPRINT, 8996 Burke Lake Road, Burke, VA 22015

(Start Verbatim Transcript)

Commissioner Hurley: Thank you, Mr. Chairman. I don't see Mr. Hansen in the audience. Does the staff have the photograph that I had asked for? No. I'm getting blank looks.

Chairman Murphy: He went to the Caps game.

Commissioner Hurley: Okay. Well, I've asked staff to bring out a photograph tonight. This is about a "feature shown" on top of the roof of the building that's next door to a County-owned building that happens to be occupied by the Kings Park Library and the Braddock District Supervisor's office. And on top of this is a fake flag pole, there's a little gold ball on top and a little sort of narrow thing with little ball on top. And, the proposal is to replace this with more of a canister. So, it's a bigger diameter, but it's on top of a roof. There's really not much change, I wish I had the photograph as evidence to show you. But having looked at the photographs being quite familiar with that particular location, I MOVE THAT THE PLANNING COMMISSION FIND THAT THE FACILITY PROPOSED UNDER FSA-B01-12-2 SATISFIES THE CRITERIA OF LOCATION, CHARACTER AND EXTENT, AS SPECIFIED IN SECTION 15.2-2232 OF THE CODE OF VIRGINIA, AND IS THEREFORE SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE COMPREHENSIVE PLAN.

Commissioners Migliaccio and Niedzielski-Eichner: Second.

Chairman Murphy: Seconded by Mr. Migliaccio and Mr. Niedzielski-Eichner. All those in favor of the motion to concur with the feature shown in – feature shown amendment in the Braddock District, FSA-B01-12-2, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hurley: And I also MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL TO THE BOARD OF SUPERVISORS OF FSA-B01-12-2.

Commissioner Migliaccio: Second.

*Chairman Murphy: Seconded by Mr. Migliaccio. All those in favor of the motion, say aye.
Commissioners: Aye.*

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

Both motions carried by a vote of 12-0.

(End Verbatim Transcript)

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ORDER OF THE AGENDA

Vice Chairman Hart established the following order of the agenda and called the case scheduled for the public hearing:

1. RZ/FDP 2018-SP-001 – JAG DEVELOPMENT COMPANY, LLC

This order was accepted without objection.

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RZ/FDP 2018-SP-001 – JAG DEVELOPMENT COMPANY, LLC – *Appls. to rezone from C-3 and HC to PDH-20 and HC to permit Multi-Family Residential Development with an overall density of 23.46 dwelling units per acre (du/ac) including affordable and workforce dwelling units and approval of the conceptual and final development plan. Located in the S.W. intersection of Legato Rd. (RTE. 7967) and Legato Rd. (RTR. 656) on approx. 3.93 ac. of land. Comp. Plan Rec: Public Facilities, Government and Institutional with option for Residential Use up to 1.25 (FAR). Tax Map 46-3 ((1)) 45, 46, 47, 48, 49 and 50. SPRINGFIELD DISTRICT. PUBLIC HEARING.*

The public hearing was in the Springfield District; therefore, Chairman Murphy relinquished the Chair to Vice Chairman Hart.

Elizabeth D. Baker, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, P.C., reaffirmed the affidavit dated May 2, 2018.

Vice Chairman Hart disclosed the law firm of Hart & Horan, P.C. had two cases where the attorneys in Ms. Baker's firm represented an adverse party or adverse parties. He stated that matter and those parties were unrelated to application. Commissioner Hart stated the law firm of Hart & Horan, P.C. had no business or financial relationship and to his knowledge, did not believe this matter before the Planning Commission would affect his ability to participate in the case.

Kelly Atkinson, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She stated that staff recommended approval of RZ 2018-SP-001 and FDP 2018-SP-001.

Commissioner Murphy noted an issue in the staff report regarding the site distance along Legato Road. The issue was resolved by the Virginia Department of Transportation and the development conditions dated May 17, 2018 reflected same. Ms. Atkinson confirmed.

Vice Chairman Hart inquired about the word “may” in the first sentence of Development Condition Number 7 included in Appendix 2 of the staff report. He asked whether the first sentence was optional. In response, Ms. Atkinson stated the word “may” would be changed to “must”.

Ms. Baker gave a presentation wherein she stated the following:

- The proposed application was located in the Fairfax Center area and was one of the amendments to the plan for that area;
- There was an existing church on the property, zoned C-3, with a right to develop an office building with a 1.0 floor area ratio;
- The overlay level of the Fairfax Center was planned for residential development. The residential units either faced the street along Legato Road North, Legato Road East or the central open space area;
- The applicant met with the adjacent neighbors which included the Centerpointe Homeowners Association (HOA). The HOA was concerned about the tree preservation and the proximity of the units to the adjoining property line;
- An Urban Forester visited the site and identified the critical route zones. The applicant made modifications to the design and increased the transitional screen in order to ensure the trees were not harmed on the adjacent property. A large white oak tree would be preserved. The oak tree was also the focal point in the open space area;
- The application met the requirements of the Comprehensive Plan. The proffers reflected public facilities, parks, and other amenities;
- The site distance issue was resolved; and
- The proposed application would complete the remaining undeveloped portion of the Centerpointe community.

Commissioner Cortina asked to provide visuals of pedestrian access and improvements. Ms. Baker provided visuals. An 8-foot sidewalk would be provided along Legato Road East. That sidewalk would transition and would meet the existing 5-foot sidewalk to the west. There would also be sidewalks at the main entryway, on both sides of the streets, and would gain access to the central park area. Sidewalks would be constructed in front of all units with lead walks to the front doors of the homes. Commissioner Cortina inquired about the issues with Halsted Street. Ms. Baker stated Halsted Street was a private street owned by the Centerpointe HOA. The applicant’s proposed street was also a private street. The applicant worked with the neighbors to

provide a connection between the two streets. The connection was rejected by the HOA. The applicant provided a proffer, and at site plan, would provide an easement for future interparcel connection should the HOA reconsider. The HOA did not allow pedestrian access on Halsted Street. They believed the sidewalks along Legato Road were adequate.

Commissioner Carter asked why the units on the far western side looked different from the other units. Ms. Baker stated those units faced the neighboring property did not have full length driveways at the back. These units also had an internal garage. All other units on the site had internal garages and a tandem parking space with a minimum of 18-feet wide. Commissioner Carter inquired about the distance between the right-of-way and curb, whether street lights were part of the plan and the lack of trees at the curb and sides. Ms. Baker provided visuals of where street trees would be planted, to include the location of parking spaces. She stated street trees would be planted wherever site distance allowed. Street lights would be part of the site plan.

Vice Chairman Hart inquired about available parking spaces for deliveries to Building I. Ms. Baker stated deliveries could be made in front of Building I or on Legato Road. Fairfax County Department of Transportation considered a road diet for a section of Legato Road and would provide off street parking and bike lanes. Vice Chairman Hart stated the front of the buildings all had garage doors and delivery drivers would have to walk around to the door way area. Those areas did not provide a wraparound sidewalk or pedestrian path. Ms. Baker provided visuals of a sidewalk located left of last unit of Building I. Vice Chairman Hart asked whether Building A provided a loading space. He also asked why the applicant requested a waiver. Ms. Baker confirmed Building A provided a loading space. She added loading spaces were required in multifamily developments. The Zoning Ordinance considered a two-over-two unit a multifamily unit, hence the waiver request. Vice Chairman Hart asked staff to confirm the backstreet north of Building A was not a fire lane and delivery trucks were allowed parking. Ms. Atkinson stated said area could be considered a fire lane. She added based on driveways and onsite parking, staff did not have an issue with the request for the loading space.

Vice Chairman Hart called the first listed speaker and recited the rules for testimony.

Dave Bishop, 4107 Halsted Street, Fairfax, supported the application. He also stated the following:

- The applicant revised the plan to accommodate the HOA's concerns regarding transitional screening and adverse impacts on the conservation easement and tree preservation;
- The Urban Forest Management Division of the Department of Public Works and Environmental Services had been very helpful throughout the process;
- Concerns were conveyed through the Springfield District Land Use Committee. Meaningful changes had been made which elevated those concerns. Those changes exceeded the requirement for transitional screening;
- The limit of clearing away from the trees had been adjusted; and

- The community was not ready for interparcel access, redesigning of the landscape plan and hardscape of the community. The private roads were designed for ingress and egress and changes would not benefit the community.

Commissioner Carter asked why the HOA opposed connecting the sidewalk. Mr. Bishop stated redesign work would be required. There would be an inherent cost of time, money and inconvenience to the community. The residents would also be concerned about the volume of nonresidents that would frequent the area, in particular during the evening hours.

Commissioner Hart asked how residents would gain access to the mall from the community. Mr. Bishop stated the most prevalent way to walk from the community to the mall would be through Halsted Street, with a right turn into the mall on Reagan Oaks.

Vice Chairman Hart called for a rebuttal statement from Ms. Baker, who declined.

There being no additional speakers, further comments or questions from the Commission, Vice Chairman Hart closed the public hearing and recognized Commissioner Murphy for action on this application.

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(Start Verbatim Transcript)

Commissioner Murphy: Thank you, Mr. Chairman. Yesterday we received the letter that Mr. Bishop was referring to. And, I spoke to him earlier this evening, he has been with this process from the beginning. And, I told him that he should be the prototype of any representative of a homeowners association who has an abutting property that's gonna be developed, and they should all take lessons on how to negotiate for your community and come out a winner. And both – I really appreciate what you've done. And his last sentence of the second paragraph in his letter to the Commission which will be entered into the record is "we feel the applicant has made meaningful changes to their plan, which elevate our concerns about the transitional screening and preserving our conservation easement and therefore, we have no problem with the new plan as briefed". And I appreciate your comments and all the nights you've spent with those Land Use Committee. I know it went to before the Springfield District Land Use Committee, the first time and they deferred it because of the concerns that were articulated by Mr. Bishop representing his community. When they met the second time, Mr. Bishop and the staff and the Land Use Committee and so forth, the Supervisor's office, got together and worked out the application the way it is now. And that – that is certainly the way to do business. I see there are representatives from the church here. We've danced with this bear before when we did the plan amendment and gave some options for this property and now it's finally come home. And we appreciate your patience and your persistence and your tenacity and I'm glad you came tonight. I didn't know you were coming, someone pointed out that you're here and I'm glad you are here. As stated by staff, this application is in conformance with the Comprehensive Plan. It addresses all the appropriate Zoning Ordinances and most importantly addresses the residential criteria for this part of town which relies on high density and quality development. It did go before the Land Use Committee the second time and they recommended – unanimously recommended approval and so therefore, Mr. Chair – it has a solid set of proffers. I think if you read the proffers you'll know

that there are donations to Patriot Park, to the School Board, to the Fire Department for preemptive lighting, we have workforce housing and affordable dwelling units. It's a total package and I think this application is going to be a big success when it is built out and in the Fairfax Center area. So therefore, Mr. Chairman, I would move...

Vice Chairman Hart: Did we do the revision

Commissioner Murphy: Yes, and we've going to amend that development condition, I'll say that Mr. Hart mentioned. I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE RZ 2018-SP-001 AND ASSOCIATED CDP, SUBJECT TO THE PROFFERS DATED APRIL 26TH, 2018.

Commissioner Sargeant: Second.

Vice Chairman Hart: Motion has been seconded by Commissioner Sargeant. Any discussion on the motion? Seeing none, we'll move to a vote. All in favor of the motion as articulated by

Commissioner Murphy, please say aye.

Commissioners: Aye.

Commissioner Murphy: Ms. Baker, would you come forward please?

Vice Chairman Hart: Motion carries.

Commissioner Murphy: I'm sorry. Identify yourself for the record and reaffirm that you've read the development conditions, you understand them and you will abide by them.

Elizabeth Baker, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, P.C.: Yes. My name is Elizabeth Baker, I'm a planner with Walsh Colucci. I have read the development conditions, I understand them and the applicant agrees to abide by them.

Commissioner Murphy: Thank you very much. Therefore I MOVE THE PLANNING COMMISSION APPROVE FDP 2018-SP-001, SUBJECT TO DEVELOPMENT CONDITIONS DATED MAY 17TH, 2018 AND SUBJECT TO THE BOARD'S APPROVAL OF CONCURRENT REZONING AND CDP APPLICATION.

Commissioner Sargeant: Second.

Vice Chairman Hart: Seconded by Commissioner Sargeant. And Commissioner Murphy, are we changing "may" to "must" in the first line...

Commissioner Murphy: Yeah, I said that.

Vice Chairman Hart: Okay, I'm sorry, I missed that.

Commissioner Murphy: I said that, yeah.

Vice Chairman Hart: Any discussion on the motion? Seeing none, we'll move to a vote. All in favor of the motions articulated by Commissioner Murphy, please say aye.

Commissioners: Aye.

Vice Chairman Hart: Those opposed? That motion carries.

Commissioner Murphy: And again, Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE WAIVERS AND OR MODIFICATIONS SHOWN ON PAGE ONE OF THE STAFF REPORT. And I just want to say that some of these waivers and modifications were a result of the negotiations made with the homeowners association. So, I thank you for that.

Commissioner Sargeant: Second.

Vice Chairman Hart: Second by Commissioner Sargeant. Any discussion on that motion? All those in favor, please say aye.

Commissioners: Aye.

Vice Chairman Hart: Those opposed? That motion carries.

The motion carried by a vote of 12-0.

(End Verbatim Transcript)

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Chairman Murphy resumed the Chair.

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The meeting was adjourned at 8:10 p.m.

Peter F. Murphy, Chairman Murphy

James T. Migliaccio, 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: Samantha Lawrence

Approved on: September 13, 2018

Toni Michele Denson
NOTARY PUBLIC
Howard County, Maryland
My Commission Expires 6/14/2022



Jacob L. Caporaletti, Clerk to the
Fairfax County Planning Commission