

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, MAY 8, 2019**

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
Walter C. Clarke, Mount Vernon District
Phillip A. Niedzielski-Eichner, Providence District

ABSENT: Julie M. Strandlie, Mason District
Donté Tanner, Sully District
Mary D. Cortina, Commissioner At-Large

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The meeting was called to order at 7:33 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 Migliaccio announced the Land Use Process Review Committee would meet on Wednesday, May 15, 2019 at 7:30 a.m., in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035 for a presentation regarding Zoning Modernization Process. The committee meeting would be televised by Channel 16 and all were welcome to attend.

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PCA 84-C-048 – PRINCE TOWNE, LLC

(Decision Only) (Public Hearing on this application was held on March 14, 2019; Decision Only from March 27, 2019)

(Start Verbatim Transcript)

Commissioner Carter: I'm ready. So, this is Prince Town, PCA...

Chairman Murphy: Mic.

Commissioner Ulfelder: Mic.

Commissioner Hart: I can't hear what he's saying.

Commissioner Carter: Rookies. PCA 84-C-048, Prince Town, LLC. We had a good public hearing on March 27th. Lots of good comments. I appreciate the comments from the adjacent community and Commissioners, as well. I particularly like the photographs of the site; the – the water damage that's going on there. I wanna thank the applicant, I think, for being patient with me on various urges to – to resolve all those issues. If you remember, we would have size of lots and setbacks, particularly on the western property line. I was concerned about the retaining wall and gradient grading adjacent to one of the homes. There were a lot of issues about drainage; current, during construction, and post development. And the location of the outfall facility. The use of a pond versus underground facility and maintenance of it. The existent stagnant water collection. There was also a concern about tree removal. There was a little bit of concern about transportation, particularly site lines and blind spots along West Ox Road. Those were the primary concerns. So, what we've done in the last six weeks is to work on the layout. One of the Commissioners actually asked that the – the – could the driveway be relocated a little bit to make the lots larger and help solve the stormwater. And at the time it didn't seem possibly, but magically over six weeks it was possible. So, the applicant has moved the driveway over, not a lot, 18 feet. But what this does, is it allows that drainage system that's working along the property or not working along the property to be resolved. And so, it also allows for additional setback of the home – homes to accommodate future decks and patios, provide for additional tree preservation, and again it provides a private stormwater management system along that boundary, which moves the houses back and keeps any decks and patios out of – out of that area. The retaining wall magically has been deleted, and the grading problems resolved. So, it will be pretty much flushed across there. A much – much better resolution for existing homes. House locations have been shown. Since this is a smaller developer and they are anxious to move, they know exactly what they're gonna build, and on the plan, they actually show potential future layout for the future decks and patios, so we get those out of the setback. So, they'll be 25 feet or more, mostly more, along that property line. So, it should resolve that. The drainage – again, the applicant is gonna construct private sewer line – private stormwater lines along those property and it should – should collect most of the water coming from this development and to stop at least this half of the water from going into that drainage. Let's see and that – that water goes to the center of the site. So, the water is draining from West Ox to the center, it's draining from the north part of the site to the center, it's draining from west side to the center, and then that goes into an underground stormwater management system. So, this – this should approve – improve the drainage system onsite substantially. And then there was a concern that I had about the outfall from that underground facility. And that outfall will go into a pipe system that leads into a pond that is several lots away. So not – since this is up on the top of the area, it shouldn't be impacting the adjacent lots. Now the underground stormwater management facility. The staff and the adjacent community strongly support the use of this underground stormwater management facility. The advantage of it is it holds back the water more so than – than a pond would. And also, since this is the top of the drainage area, anybody downstream wouldn't be subject if the dam would break on a surface pond so it wouldn't be subject to – to any dam breach problem. The requirement – the public facilities management is a hundred percent of the cost of maintenance for the next 20 years has to be provided by that developer and 40 percent of the placement cost up front. And that's a requirement. Let's see. It will also be – the top of it will be usable as open space, which is another feature rather than a dip in – in – in the area. And the maintenance should be a fairly limited requirement. They call them jellyfish but they – they have

no relationship to jellyfish. These are canisters that go into this vessel and it's the canisters that get replaced. So, the water comes in, goes through the canisters, which are a filter, and then it goes into the underground facility. So, it should be pretty easy to maintain. Especially if the money's there. Tree preservation. The applicant has increased the tree preservation because they moved the lots a little bit. Again, additional setbacks are provided on the western-eastern lot lines. The tree save areas have been carefully delineated. That was kind of the concern of the adjacent community. So, they left that snow fencing to delineate those – those tree areas. So, tree preservation has been improved. Transportation. Since they moved the entrance drive a little farther east, it's – that's a curb there. So, they locating it in the middle of a curb and it – the dedication for the right-of-way has already occurred and the applicant has to pull back the vegetation if there is a problem with – with the sight distance. So, transportation should be improved – improved. So, with all of that, I'm ready for a motion unless there's a discussion.

Chairman Murphy: Please.

Commissioner Carter: Okay. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA 84-C-048, SUBJECT TO THE EXECUTION OF PROFFERED CONDITIONS CONSISTENT WITH THOSE DATED APRIL 15TH, 2019.

Commissioner Niedzielski-Eichner: Second.

Chairman Murphy: Seconded by Mr. Niedzielski-Eichner. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve PCA 84-C-048, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motions carries.

The motion carried by a vote of 9-0. Commissioners Tanner, Cortina, and Strandlie were absent from the meeting.

(End Verbatim Transcript)

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PA 2018-II-F2 – COMPREHENSIVE PLAN AMENDMENT (ONE UNIVERSITY)
(Decision Only) (Public Hearing on this application was held on April 24, 2019)

(Start Verbatim Transcript)

Commissioner Hurley: Thank you, Mr. Chairman. Once again, before we begin this evening, I will make some preliminary comments. We are here to discuss a proposed Comprehensive Plan amendment. Because this amendment involves possible residential use, it could implicate *Virginia Code*, Section 15.2-2303.4, which the Virginia General Assembly enacted in 2016. That

statute restricts local authority regarding proffers in certain residential rezonings. While the General Assembly approved amendments to the statute earlier this year, those amendments do not affect our discussion tonight. Although this meeting doesn't directly involve a rezoning application, one has been filed and we want to be certain that nothing said or done here could in any way raise an issue under that statute. So, in an abundance of caution, even though this hearing concerns a proposed Plan amendment, not a rezoning, we will discuss and consider only the impacts of any potential amendment of the subject property, not any proffers that a rezoning applicant might make to address those impacts. Nothing in our discussion here should be construed as a suggestion, request, or requirement for any proffer. Due to the statute and the uncertainty over its application, our discussion of certain issues may be more constrained than has been the case historically. In the past, we've had open, collaborative discussions not only about the impacts of proposed development, but also about how those impacts might be addressed. Unfortunately, the current statute doesn't encourage such an open dialogue. Should the discussion tonight venture into those areas, please understand that no one on the County side is suggesting, requesting, or requiring any proffer. However, there could be another mechanism, such as a development plan assisted with the rezoning application, to address some concerns. Two weeks ago, the – this Planning Commission conducted a public hearing on Comprehensive Plan Amendment 2018-II-F2, better known as One University. The public hearing began at midnight and continued past 2:30 in the morning. The very late hour was regrettable, but unforeseeable. Three previous cases that evening took far longer than originally expected. While we have received some correspondence that the One University public hearing should have been postponed; however, that would have been a disservice to those who had already been waiting four or five hours for their turn to speak. I have since reached out to each of my fellow Planning Commissioners to address their concerns, as well as the concerns of the speakers and our many correspondents. The concerns vary, of course, but the majority seem to focus on potential increased density at this site, combined with concerns about the vegetative buffers and increased vehicular and pedestrian traffic. Potential transportation mitigation measures, in particular, would be discussed in-depth during any future rezoning process. However, it should also be noted that from a transportation and other standpoints, it is good to have people work, live, play, and learn in the same community. In addition, many comments have been received supporting expanded opportunities for affordable housing in the central part of the County. Over the last two weeks, staff has modified its recommendations as shown on the handout distributed this evening. These modifications strengthen conditions – the condition language to emphasize the preservation of existing healthy mature trees to ensure adequate supplemental planning of buffers in adjacent – and in adjacent open areas with native vegetation. And last and certainly not least, to emphasize pedestrian safety. Are there any questions or discussion? If not. Yes?

Commissioner Niedzielski-Eichner: Mr. Chairman?

Chairman Murphy: Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Yeah. Just – so when – before we go on verbatim, I just want...

Chairman Murphy: We're on verbatim.

Commissioner Niedzielski-Eichner: We're on right now? Okay.

Chairman Murphy: Yes.

Commissioner Niedzielski-Eichner: Well then, I'll simply make this remark. Historically, I – my practice has been to abstain on both the – or fall within the proffer legislation. In this instance, it's a Comprehensive Plan amendment. I will be voting and will be voting in support of. I do reserve the prerogative to reassess that decision if and when a rezoning request comes forward. I hope the applicant in that circumstance has allows that project to come under the new proffer legislation, which allows for a conversation and discussion about the – with the applicant, without worries about implications for the County being liable for various sundry matters. So, that's my statement. Thank you.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: Thank you, Mr. Chairman...

Chairman Murphy: Anyone else have comment? Okay.

Commissioner Ulfelder: Just grumbles.

Commissioner Hurley: Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE STAFF RECOMMENDATION FOR PLAN AMENDMENT 2018-II-F2, AS APPEARS ON PAGES 19 TO 21 OF THE STAFF REPORT DATED APRIL 3RD, 2019, WITH MODIFICATIONS TO THE PROPOSED CONDITIONS AS SHOWN AS MY HAND – ON MY HANDOUT DATED MAY 8TH, 2019.

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: Thank you. I appreciate Commissioner Hurley's efforts on this case and the – the changes that have been made since the public hearing. I'm – I'm troubled by this because I largely agree with the comments made by both sides. And I want very much to support a project that deals with affordable housing in particularly in this location. I have concerns, however, that the intensity that's proposed for this site is too much and that what is driving the intensity of the site is not really the capacity of the site to handle it but instead the economics of how many units are needed to finance the construction of the affordable units. And I don't think we ought to be making planning decisions on that basis. I – I expect that if this passes and we're dealing with the rezoning application in short order, that there still will be concerns particularly about the intersection of University Drive and Route 123. And I have concerns about the existing amount

of pedestrian volume crossing 123 at certain times of day and it seems to me that an intensification of this site will only exacerbate that situation. We got a letter today from Senator Petersen and Delegate Bulova and I – he – both of them I think are suggesting that they wanted some answers from VDOT before we voted on the Plan. I would hope that, in lieu of that, we would at least try and deal with those issues a little more specifically before we get to the rezoning. Thank you.

Chairman Murphy: Mr. Ulfelder and then Mr. Sargeant.

Commissioner Ulfelder: I – I understand the issues that Commissioner Hart raises and I – I just want to say I will support this with the understanding that when we come to the rezoning, I plan to, and I think some of the other Commissioners based on what their questions were before, will be taking a very hard look at the issues of the pedestrian crossing and the traffic. And in fact, they both have in impact on each other in terms of pedestrian crossing and light time and so on – signal time. But that the fact that we're – I may be voting for this Plan amendment does not assure what my vote might be at the time of the rezoning.

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: Thank you, Mr. Chairman. I'm gonna echo some of Commissioner Ulfelder's comments regarding this. While I will be supporting this particular motion, I think this is a first – a Comprehensive Plan amendment is a first step and not a final step for sure. And I would note two significant passages within the staff report. One being the current transportation plan that quote on Page 14, "there are no improvements currently planned for the intersection of Route 123 and University Drive." I think that's a significant hurdle to overcome for the future and must be addressed in the future. Then, on Page 18 of 24, "the balance between furthering affordable housing goals and ensuring the continued quality of life of existing residential neighborhoods describes the primary challenge of this Plan amendment." And I appreciate the – those comments with the staff report. So, we have a long way to go. We have a lot of significant work to – to accomplish to move this forward, but I will support this motion.

Chairman Murphy: Further discussion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt Plan Amendment 2018-II-F2, Comprehensive Plan Amendment, One University, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Hart: Abstain.

Chairman Murphy: Motion carries. Mr. Hart abstains. Thank you very much. Thank you...

Commissioner Hurley: Mr. Chairman?

Chairman Murphy: Oh, I'm sorry.

Commissioner Hurley: Mr. Chairman, it has been a long road already we have a ways to go. But in the meantime I do wanna thank Marianne Gardner, Michael Lynskey, Tom Fleetwood, and last again not least, Marcia Pape for their attention to all of the input from the community, as well as their unending attention to many details. Thank you.

Chairman Murphy: Thank you very much.

The motion carried by a vote of 8-0-1. Commissioners Tanner, Strandlie and Cortina were absent from the meeting. Commissioner Hart abstained from the vote.

(End Verbatim Transcript)

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PCA 2011-PR-023-02/CDPA 2011-PR-023-02/FDP 2011-PR-023-05/PCA 2011-PR-023-03 – CITYLINE PARTNERS, LLC

(Decision Only) (Public Hearing on this application was held on April 24, 2019)

(Start Verbatim Transcript)

Commissioner Niedzielski-Eichner: Alright. Thank you, Mr. Chairman. We still have work to do on this particular application. We are – there is progress being made but still work to be done. So, I'm going to defer for another week. And this will be the last deferral. The – the Board will consider this application in two weeks. So, this will be the last opportunity for deferral and the last opportunity to resolve these differences. I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR PCA/CDPA 2011-PR-023-02, FDP 2011-PR-023-05, AND PCA 2011-PR-023-03, CITY PIPE – CITYLINE PARTNERS, LLC TO A DATE CERTAIN OF MAY 16TH, 2019, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENTS.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Discussion? All those in favor of the motion to defer the decision only on those applications as articulated by Mr. Niedzielski-Eichner to a date certain of May 16th, with the record remaining open for written comments, say aye.

Commissioners: Aye.

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

The motion carried by a vote of 9-0. Commissioners Tanner, Strandlie, and Cortina were absent from the meeting.

(End Verbatim Transcript)

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PRCA-B-846-02 – RESTON HEIGHTS RESIDENTIAL I, LLC

(Decision Only) (Public Hearing on this application was held on May 1, 2019)

(Start Verbatim Transcript)

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Commissioner Carter: This is PRCA B-...

Chairman Murphy: Mic.

Commissioner Carter: PRCA-B-846-02, Reston Heights Residential. I am gonna join the party and also defer this item. We had three items that came up at the hearing. One was the access easement between two properties, placemaking including landscaping, trees, potential and – and additional landscaping, and improving the stormwater management. There just hasn't been time to work on these. What we got is lawyers from opposing sides with opposing perspectives. And I don't think we should be entering into that item. So, we need more time, basically, and I want to defer this to May 22nd. So, PRCA-B-846-02, Reston Heights Residential. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR THIS PROJECT TO A DATE CERTAIN OF MAY 22ND. We also may have to move the Board of Supervisors hearing as well, you know.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of the motion? All those in favor of the motion to defer decision only on PRCA-B-846-02 to a date certain of May 22nd, with the record remaining open for comments, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Do we know at this time if we're gonna have to move the Board date? Or, I don't know what the Board date is. I don't have it in front of me.

William Mayland, Zoning Evaluation Division, Department of Planning and Zoning: The Board date would be – have – would be moved is May 21st currently. So it...

Chairman Murphy: Okay.

Mr. Mayland: We'll defer the Board date to most likely June 4th...

Chairman Murphy: So, you'll MOVE THAT THE BOARD DATE BE DEFERRED FOLLOWING THE PUBLIC HEARING OF THE PLANNING COMMISSION?

Commissioner Carter: Yeah.

Chairman Murphy: Is it SO MOVED?

Commissioner Carter: [Inaudible].

Commissioner Hart: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Each motion carried by a vote of 9-0. Commissioners Tanner, Strandlie, and Cortina were absent from the meeting.

(End Verbatim Transcript)

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ORDER OF THE AGENDA

Commissioner Migliaccio established the following order of the agenda:

CODE AMENDMENT – (TREE CONSERVATION ORDINANCE)

The order was accepted without objection.

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CODE AMENDMENT – (TREE CONSERVATION ORDINANCE) – NOTICE is hereby given that the Fairfax County Planning Commission will hold a PUBLIC HEARING on: May 8, 2019, at 7:30 p.m. in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on the matter of an amendment to Chapter 122 (Tree Conservation Ordinance) of The Code of the County of Fairfax, Virginia, related to adding civil penalties, as follows: The proposed amendment to the Tree Conservation Ordinance will revise the provision regarding the processing of violations to: add “professional” and certain Arborists to the list of those who may be subject to enforcement; and revise the criminal violations and add provisions to allow the Director to seek civil penalties, rather than criminal convictions, for infractions of the Ordinance pursuant to the enabling provisions in *Virginia Code* §15.2-961.1. The amendment also revises the Definition section to specify that “Director” means the Director of Land Development Services, and includes other editorial changes. COUNTYWIDE. PUBLIC HEARING.

Jerry Stonefield, Planning Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He stated that staff recommended adoption of this item.

There was a discussion between Mr. Stonefield; Ellie Coddling, Code Development and Compliance, Land Development Services; and multiple Commissioners regarding the following:

- Clarification of Section 122-5-1, Constitution and Processing Violations, item (b) regarding the definition of “proccessional” and the types of professions applicable;
- The scope of plan review for plans submitted for review by the County, requirements at the time of development, and civil penalties imposed on individuals who were in violation of the *Virginia Code* that referenced tree preservation; and
- Educational outreach to developers, communities, and citizens regarding the *Virginia Code* that addressed tree preservation, to also include civil penalties imposed for those violations.

The discussion resulted in no changes to the subject item.

There being no listed speakers, further comments or questions from the Commission, Chairman Murphy closed the public hearing and recognized Commissioner Sargeant for action on item.

(Start Verbatim Transcript)

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Commissioner Sargeant: Alright. Thank you, Mr. Chairman. Let me begin by thanking Jerry Stonefield and Ellie Coddling, and Jan Leavitt for their work on this particular Code Amendment. I think it's extremely helpful and the option to seek civil penalties will create a deterrent against illegal land disturbing activities and add an enforcement mechanism for the County to address potential violations. I think that's helpful. With that Mr. Chairman, I move that the – and I have two motions here, sir. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE BOARD ADOPT THE PROPOSED AMENDMENTS TO THE TREE CONSERVATION ORDINANCE AS SET FORTH IN THE STAFF REPORT DATED APRIL 9TH, 2019.

Commissioners Hart and Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder and Mr. Hart. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt the Code Amendment to Chapter 122, Tree Conservation Ordinance, say aye.

Commissioners: Aye.

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

Commissioner Sargeant: Thank you, Mr. Chairman. I further MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD THAT THE PROPOSED AMENDMENTS BECOME AFFECTIVE AT 12:01 A.M. ON JUNE 26TH, 2019, AND THE REQUIREMENTS BE APPLICABLE TO PLANS SUBMITTED ON OR AFTER THIS DATE.

Commissioners Hart and Ulfelder: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Each motion carried by a vote of 9-0. Commissioners Tanner, Strandlie, and Cortina were absent from the meeting.

(End Verbatim Transcript)

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The meeting was adjourned at 8:06 p.m.

Peter F. Murphy, Chairman

James T. Migliaccio, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 552, Fairfax, VA 22035.

Minutes by: Samantha Lawrence

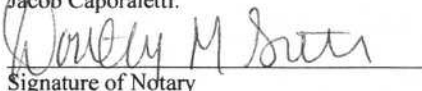
Approved on: December 11, 2019



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

County of Fairfax
Commonwealth of Virginia

The foregoing instrument was acknowledged before me this 22 day of January, 2020 by
Jacob Caporaletti.


Signature of Notary

Notary registration number: 7114113

Commission expiration: January 31, 2020

