

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, JUNE 19, 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
Donté Tanner, Sully District

ABSENT: Julie M. Strandlie, Mason District
Walter C. Clarke, Mount Vernon District
Phillip A. Niedzielski-Eichner, Providence District
Mary D. Cortina, Commissioner At-Large

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The meeting was called to order at 7:34 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

PFM AMENDMENT – FLEXIBILITY PROJECT

(Decision Only) (Public Hearing on this application was held on June 12, 2019)

Commissioner Sargeant disclosed he was employed by Dominion Energy and recused himself from the vote.

(Start Verbatim Transcript)

Commissioner Hart: Thank you, Mr. Chairman. Last week, the Commission held public hearing on a Public Facilities Manual Amendment regarding Phase 2 of the PFM Flex Project, a Fairfax First initiative to improve the speed, consistency, and predictability of the County's Land Development Review process. The amendment covers a number of topics, including specifications for streetlights. We had a number of questions and comments from the community and Commissioners, and deferred decision until tonight. I believe we are ready to move this item forward to the Board. I wanna thank our staff team for their fine work on this project, including Don Lacquement, Leo Ratchford, Jan Leavitt, Ellie Coddling, and Danielle Badra, also John Friedman for his help with the motions. I also wanna thank the speaker from the Federation, as well as all the citizens and groups who submitted written comments and questions to help us vet this proposal. The amendment has staff's favorable recommendation, with which I concur. The most difficult aspect of the amendment is how to provide specificity for the proposed conversion

to LED light fixtures in Fairfax County for both Dominion and NOVEC. As to the particulars, although it has been advocated that we go somewhat lower than what was advertised, we're somewhat at Dominion's mercy in this regard, and they are currently 96% of Fairfax County's fixtures. But Dominion, through negotiations with various jurisdictions, has agreed to LED fixtures with a color correct temperature of 3,000 Kelvin. With staff's assistance, we have added language clarifying the objective of lowering that value and allowing light fixtures with a CCT value of 3,000 Kelvin or lower, rather than mandating 3,000 Kelvin, and also retaining the flexibility for the Director to approve an alternate fixture where appropriate. I believe this is an appropriate recommendation to the Board at this time. With the edits referenced in the transmittal yesterday, this item is ready to move forward. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE BOARD ADOPT THE PROPOSED AMENDMENTS TO THE PUBLIC FACILITIES MANUAL AS SET FORTH IN THE STAFF REPORT DATED MAY 21, 2019, WITH AN EDIT TO THE PROPOSED FOOTNOTES LOCATED AT THE BOTTOM OF EXISTING TABLE 7.7 AND PROPOSED TABLE 7.8 TO ADD THE TEXT "OR LOWER" TO READ AS FOLLOWS:

"UNLESS OTHERWISE APPROVED BY THE DIRECTOR, THE LIGHT SOURCE MUST HAVE A CORRELATED COLOR TEMPERATURE (CCT) OF 3,000 KELVIN, OR LOWER WHERE APPROVED, AND A TYPE III DISTRIBUTION."

AND I FURTHER MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD THAT THE PROPOSED AMENDMENTS BECOME EFFECTIVE AT 12:01 A.M. ON JULY 17, 2019.

Commissioner Ulfelder: Second.

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

Commissioner Ulfelder: Mr. Chairman?

Chairman Murphy: Yes. Mr. Ulfelder.

Commissioner Ulfelder: I – I support the motion and I'm appreciative of the addition of the two words, which actually I think gives more – provides some flexibility, particularly in light of some of the comments that we received. Some folks felt that even 3,000 K or Kelvin was a little high. But based on the circumstances as described by Commissioner Hart, which involves some rather long and prolonged negotiations and discussions with Dominion to even get to 3,000, I think Dominion started with 4,000, I think that this is an appropriate step. And I think that as more information is learned over time and as we have experienced along with other communities with this lighting and see if there are any additional steps that we might take to improve the environment for these lights, then we – we have some flexibility to do that, if Dominion is willing to go along with it. So, I – I support the motion. I think it's a good approach under the circumstances.

Chairman Murphy: Further discussion of the motion? Yes. Ms. Nell – Ms. Hurley.

Commissioner Hurley: Thank you. One short question. In my online discussions with you

Commissioner Hart, there was some wording that Dominion has five years – is gonna change this out within five years. I didn't see that in the text. Is that in there somewhere? That they – it says they must be changed out. Does it say in there the time?

Commissioner Hart: No. And I – I think staff could correct me if – if necessary. But the – the – the text kicks in if someone has an application. It's not – there's not a timetable for specific lights. But I think the plan would be, over time the lights would be phased out. The old lights would phase out, the new lights be – be added in. I can – I can ask staff to come down and answer Commissioner Hurley's question if that would be. Naturally we – we...

Commissioner Ulfelder: My memory...

Commissioner Hart: Prepared...

Commissioner Ulfelder: My memory is they said they've already started on this program and that the intention is to switch out all the existing lights...

Commissioner Hart: Yeah. And there's money allocated...

Commissioner Ulfelder: In five years.

Commissioner Hurley: Alright – alright – it just says they must be changed out. And when we do a must...

Commissioner Hart: We don't have a timeframe in the PFM, but that probably isn't the place to put it.

Commissioner Hurley: Alright, if you're satisfied; I'm satisfied.

Commissioner Hart: But Mr. – Mr. Lacquement if you could or Mr. Ratchford.

Don Lacquement, Site Code Research and Development Branch, Land Development Services: Don Lacquement, Land Development Services. That's correct. It's two sort of completely different projects. The PFM is really just addressing the proposed development. And when you have a proposed development that has an entrance along an existing roadway, where existing High Pressure Sodium or Metal Halide lighting would be and you're using that to qualify for the lighting of your entrance, you would have to replace that. And that's all that the PFM addresses. Public Works has separate street light conversion program that the Board is – it's a five-year program that the Board has allocated money on third quarter to start it for a full replacement over a five-year period of all the – all the streetlights in the County. So that's kind of – that's a little bit ahead of where we're going. And this basically is catching the PFM up to that.

Commissioner Hurley: So, if we're on track, that's great. Thank you.
Mr. Lacquement: Yeah.

Chairman Murphy: Further discussion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt Plan Amendment Flexibility Project as articulated by Mr. Hart this evening, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Each motion carried by a vote of 6-0. Commissioner Sargeant recused himself from the vote. Commissioner Migliaccio was absent from the vote. Commissioners Clarke, Niedzielski-Eichner, Strandlie and Cortina were absent from the meeting.

(End Verbatim Transcript)

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Commissioner Hart announced the Planning Commission and the Board of Supervisors land use and natural landscaping at County facilities tour was scheduled on June 22, 2019 at 9:00 a.m. at 12099 Government Center Parkway, Fairfax, Virginia 22035. The first stop would be from 9:00 a.m. to 9:40 a.m. at the Fairfax County Public Safety Headquarters Building followed by a bus tour to other sites.

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ORDER OF THE AGENDA

Chairman Murphy established the following order of the agenda:

1. SE 2019-HM-005 – MADHURI PEDDI
2. PCA/FDPA 2005-PR-039-02/PCA/FDPA 88-P-030-03/2232-P18-34 – WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (“WMATA”)
3. RZ/FDP 2018-BR-026 – ERICKSON LIVING AT BRADDOCK ROAD, LLC
4. RZ/FDP 2017-PR-015/PCA 88-D-005-09 – PS BUSINESS PARKS, LP
PCA 2014-PR-004 – AMHERST PROPERTY, LLC
5. PRC 86-C-121-06/CP 86-C-121-15 – NS RESTON, LLC

The order was accepted without objection.

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SE 2019-HM-005 – MADHURI PEDDI – Appl. under Sect. 6-105 of the Zoning Ordinance to permit a home childcare facility. Located at 2472 Silk Ct., Herndon, 20171 on approx. 1,650 sq. ft. of land zoned PDH-8. Tax Map 25-1 ((28)) 11. HUNTER MILL DISTRICT. PUBLIC HEARING.

Suresh Peddi, Applicant, reaffirmed the affidavit dated March 3, 2019.

There were no disclosures by Commission members.

Jay Rodenbeck, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He stated that staff recommended approval of SE 2019-HM-005.

There was a discussion between Mr. Rodenbeck; William Mayland, Zoning Evaluation Division, Department of Planning and Zoning; and multiple Commissioners regarding the following:

- The number of non-resident employees;
- Parking requirements and enforcement of pick up and drop off times; and
- The location and available access to the designated outdoor play areas.

The discussion resulted in no changes to the subject application.

Mr. Peddi waived his presentation and concurred with staff's recommendation.

There was a discussion between Mr. Peddi, Mr. Rodenbeck, Mr. Mayland, and multiple Commissioners regarding the following:

- The need for additional non-resident adults to satisfy the adult-child ratio;
- Revised Statement of Justification and proposed development conditions dated June 19, 2019 that addressed provisions for an outdoor play area near the property within the Frying Pan Stream Valley Park or the backyard of the property; and
- The State's approval requirement for a childcare license.

The discussions resulted in adding development conditions to accommodate one to two non-resident employees and modifications to the hours of operation.

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

(Start Verbatim Transcript)

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Commissioner Carter: Okay. The applicant proposes a special exception to operate a home child care center – childcare center in a townhouse for up to 12 children, with one to two non-resident employees as needed. The applicant presently operates a permitted home childcare center for a maximum of five children. Okay. The – the open space is adequate for the children. A small vent – fenced backyard is available. But in addition, there is open space located in a townhouse cluster, as well as a nearby local park that's available. Parking is available to serve the needs of

the owners of the townhouse and the daycare center. Two spaces in the garage, two spaces behind the garage are available, as well as some visitor spaces if there would be some additional non-resident employees. Additional pickup and drop-off spaces also available. Twelve to fifteen visitor spaces within the townhouse cluster will be used by the center if a conflict occurs with the drop-off and pickup of children. Hours of operation will be staggered for drop-off and pickup of children to avoid conflicts. So, with that, could the applicant again confirm for the record their agreement to the proposed development conditions, including adding the notion of up to one to two non-resident employees?

Suresh Peddi, Applicant's Agent: Yeah. I agree. All the conditions.

Commissioner Carter: With that I MOVE THE – THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE FOLLOWING:

- APPROVAL OF SE 2019-HM-005 SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED JUNE 19TH, 2019, AS AMENDED.

Commissioner Tanner: Second.

Chairman Murphy: Seconded by mister – Mr. Tanner. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that they approve SE 2019-HM-005, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 8-0. Commissioners Clarke, Niedzielski-Eichner, Strandlie and Cortina were absent from the meeting.

(End Verbatim Transcript)

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PCA/FDPA 2005-PR-039-02 – WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (“WMATA”) – Appls. to amend the proffers and final development plan for RZ 2005-PR-039 previously approved for Mixed Use Development to permit relocation of a Traction Power Sub-Station and associated modifications to proffers and site design with an overall Floor Area Ratio (FAR) of 1.37. Located in the N. W. quadrant of the intersection of Prosperity Ave. and Gallows Rd. on approx. 14.06 ac. of land zoned PRM and CRA. Comp. Plan Rec: Mixed Use. Tax Map 49-1 ((1)) 27C (pt.) and 49-1 ((32)) 1, 2, 3, 4 and 5. (Concurrent with PCA/FDPA 88-P-030-03 and 2232-P18-34). PROVIDENCE DISTRICT. PUBLIC HEARING.

PCA/FDPA 88-P-030-03 – WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY ("WMATA") – Appls. to amend the proffers, conceptual and final development plan for RZ 88-P-030 previously approved for Mixed Use Development to permit relocation of a Traction Power Sub-Station and associated modifications to proffers and site design with an overall Floor Area Ratio (FAR) of 1.25. Located on the N. side of Prosperity Ave., E. of Dorr Ave. and on the S. side of I-66 on approx. 1.33 ac. of land zoned PDC and CRA. Comp. Plan Rec: Mixed Use. Tax Map 49-1 ((1)) 27C (pt.). (Concurrent with PCA/FDPA 2005-PR-039-02 and 2232-P18-34). PROVIDENCE DISTRICT. PUBLIC HEARING.

2232-P18-34 – WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY ("WMATA") – Appl. under Sect(s). 15.2-2204 and 15.2-2232 of the Code of Virginia to permit relocation of the Traction Power Substation. Located in the N.W. quadrant of the intersection of Prosperity Ave. and Gallows Rd. on approx. 14.06 ac. of land zoned PRM and CRA. Tax Map 49-1 ((1)) 27C (pt.) and 49-1 ((32)) 1,2,3, 4 and 5. (Concurrent with PCA 2005-PR-039-02 and PCA/FDPA 88-P-030-03 and FDPA 2005-PR-039-02). PROVIDENCE DISTRICT. PUBLIC HEARING.

Mark Moorstein, Applicant's Agent, Offit Kurman, P.A., reaffirmed the affidavits dated May 17, 2019.

Commissioner Sargeant disclosed he was employed by Dominion Energy and recused himself from the vote.

Commissioner Hart disclosed the law firm of Hart & Horan, P.C. had two cases in the past year, one was ongoing and the other concluded within the past five months, where attorneys in Mr. Moorstein's firm represented an adverse party or parties. He stated that matter and those parties were unrelated to the application and there were no business or financial relationship and, to his knowledge, did not believe this would affect his ability to participate in the case. Commissioner Hart also disclosed his professional working relationship with Mr. Moorstein that transpired more than three decades ago.

Katelyn Antonucci, 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 PCA 2005-PR-039-02, FDPA 2005-PR-039-02, PCA 88-P-030-03, FDPA 88-P-030-03, and 2232-P18-34.

There was a discussion between Ms. Antonucci and Commissioner Hart regarding the conditions of the proposed site and tree save area.

The discussion resulted in no changes to the subject applications.

Mr. Moorstein gave a presentation on the subject applications.

There was a discussion between Mr. Moorstein; Susan Shaw, Virginia Department of Transportation; Michael Albright, Kimley-Horn and Associates, Inc.; and multiple Commissioners regarding the following:

- The updated changes to development conditions Numbers 6 and 7 regarding the relocation of the Traction Power Sub-Station (TPSS) and if the TPSS remained at the current location, methods in place for the 4,200 square foot tree preservation area; and
- The distance of the proposed TPSS building from the 32-inch concrete barrier and whether the distance between the two met the Washington Metropolitan Area Transit Authority guidelines and requirements.

The discussion resulted in no changes to the subject applications.

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

Start Verbatim Transcript)

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Commissioner Hart: Thank you. Mr. Moorstein, if you could come back to the podium for a minute. Mr. Chairman, I first request that the applicant confirm for the record their agreement to the proposed FDPA 2005-PR-039-02 development conditions dated June 17, 2019 and the proposed FDPA 88-P-030-03 development conditions dated June 17, 2019.

Mark Moorstein, Applicant’s Agent, Offit Kurman, P.A.: Yes. We are – we’re reaffirming and confirm those.

Commissioner Hart: Thank you. Mr. Chairman, I concur with staff’s conclusion that the proposal by WMATA, to relocate the TPSS, satisfies the criterial of location, character and extent, as specified in *Virginia Code* Section 15.2.2232, as amended. Therefore, Mr. Chairman, I first MOVE THAT THE PLANNING COMMISSION FIND THE SUBJECT APPLICATION 2232-P18-34 SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioner Tanner: Second.

Chairman Murphy: Seconded by Mr. Tanner. Is there a discussion of the motion? All those in favor of the motion to approve 2232-P18-34, say aye.

Commissioners: Aye.

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

Commissioner Hart: Second, Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA 2005-PR-039-02,

SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED MAY 16, 2019.

Commissioner Tanner: Second.

Chairman Murphy: Seconded by Mr. Tanner. Is there a discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve PCA 2005-PR-039-02, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Third, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA 88-P-030-03, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED MAY 16, 2019.

Commissioner Tanner: Second.

Chairman Murphy: Seconded by Mr. Tanner. Discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve PCA 88-P-030-03, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Fourth, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION APPROVE FDPA 2005-PR-039-02, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JUNE 17, 2019, AND SUBJECT TO THE BOARD'S APPROVAL OF THE ASSOCIATED PCA.

Commissioner Tanner: Second.

Chairman Murphy: Seconded by Mr. Tanner. Discussion? All those in favor of the motion to approve FDPA 2005-PR-039-02, subject to the Board's approval of the PCA, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Fifth, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION APPROVE FDPA 88-P-030-03, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JUNE 17, 2019, AND SUBJECT TO THE BOARD'S APPROVAL OF THE ASSOCIATED PCA.

Commissioner Tanner: Second.

Chairman Murphy: Seconded by Mr. Tanner. Discussion? All those in favor of the motion to approve FDPA 88-P-030-03, subject to the Board’s approval of the PCA, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Sixth, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE MODIFICATIONS AND WAIVERS LISTED IN THE HANDOUT DATED JUNE 19, 2019, which I’m not gonna read whole list here, THAT WAS PROVIDED TO YOU TODAY WHICH SHALL BE MADE A PART OF THE RECORD OF THIS CASE.

Commissioner Tanner: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Each motion carried by a vote of 7-0. Commissioner Sargeant recused himself from the vote. Commissioners Clarke, Niedzielski-Eichner, Strandlie and Cortina were absent from the meeting.

(End Verbatim Transcript)

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RZ/FDP 2018-BR-026 – ERICKSON LIVING AT BRADDOCK ROAD, LLC –
Appls. to rezone from R-1 to PCC to permit continuing care facility with an overall Floor Area Ratio (FAR) of 0.60 and approval of the conceptual and final development plan. Located on the S. side of Braddock Rd. at its intersection with Burke Station Rd. on approx. 78.87 ac. of land. Comp. Plan Rec: Residential at 2-3 du/ac w/opt. for a continuing care facility at an intensity up to 0.60. Tax Map 69-1 ((1)) 34). BRADDOCK DISTRICT. PUBLIC HEARING.

Commissioner Carter disclosed he worked with Erickson Living on similar projects in Bethesda, Maryland and recused himself from the vote.

Commissioner Hurley announced her intent to defer the decision only on the application to allow the applicant and community to review the proffer language and mitigate any concerns.

Lynne Strobel, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, P.C., reaffirmed the affidavits dated May 30, 2019.

Commissioner Hart disclosed the law firm of Hart & Horan, P.C. had one case in which attorneys in Ms. Strobel's firm represented an adverse party or parties. He stated that matter and those parties were unrelated to the application and there were no business or financial relationship and, to his knowledge, did not believe this 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-BR-026 and FDP 2018-BR-026.

There was a discussion between Ms. Atkinson; Mike Garcia, Transportation Planning Division, Fairfax County Department of Transportation; Charles Ryan, Business Services Bureau, Fairfax County Fire and Rescue; Andrea Dorlester, Planning and Development, Park Authority; and multiple Commissioners regarding the following:

- Traffic impacts on Braddock Road which included the western entrance that served the affordable dwelling units;
- The purpose of relocating of an existing bus stop;
- The reasons an acceleration lane was not constructed that would prevent traffic from making a right turn out of the affordable dwelling unit building;
- The Department of Fire and Rescue's request that the applicant proffer a cash contribution of \$450,000 towards the cost of one emergency medical services transportation unit;
- Language in Proffer Number 5 B. regarding the applicant's agreement to provide a monetary contribution to the Fire and Rescue Department's Ambulance Replacement Reserve Fund in the amount of \$183.67 per unit, and whether the language would apply to future age restricted applications;
- The applicant's dedication of a 27.3-acre parcel of land to the Fairfax County Park Authority and its future use; and
- Clarification and intent of the proposed traffic circulation plan.

The discussion resulted in no changes to the subject applications.

Ms. Strobel gave a presentation on the subject application.

There was a discussion between Ms. Strobel, Mr. Ryan, and multiple Commissioners regarding the following:

- Pedestrian access to the affordable dwelling units;
- The relationship between the affordable dwelling units and the proposed continuing care facility;
- The reasons why no affordable dwelling units were proposed in the assisted living facility;
- Interparcel access and options for emergency vehicle access to the site; and
- The applicant's monetary contribution to the Fire and Rescue Department's Ambulance Replacement Reserve Fund.

The discussion resulted in no changes to the subject applications.

There being no listed speakers, Chairman Murphy called for speakers in the audience.

Mike Doherty, 9900 Braddock Road, Fairfax spoke in support of the subject applications because of the need for the development in the community.

Bill Parmentier, 4701 Centerwood Drive, Fairfax, spoke in support of the subject application because of applicant's willingness to support the needs of the community and swiftly mitigated any concerns.

Chairman Murphy called closing remarks from Ms. Strobel, who declined.

There were no additional speakers, further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Hurley for action on this case.

(Start Verbatim Transcript)

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Commissioner Hurley: Thank you, Mr. Chairman. The relative paucity of number of speakers is certainly no indication of lack of interest in this case. Instead, the few speakers denotes the outstanding efforts of the applicant, the staff, and the community in getting to this point. Just about everybody is pretty well satisfied with the proposal as it stands. I particularly note a high quality of Ms. Atkinson's staff report for this large complex case. Among other laudatory comments I have heard, one long-term member of the Braddock District Land Use Committee referred to this hundred and eighty-nine page document as the best staff report he has read. All that being said, as I noted earlier, I believe an extra week would give the staff, applicant, and community time to fine-tune some proffer language. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR RZ 2018-BR-026 AND FDP 2018-BR-026 TO A DATE CERTAIN OF JUNE 26TH, 2019.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of the motion? All those in of the motion to defer the decision only on RZ/FDP 2018-BR-026 to June 26th with the record remaining open for comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 7-0. Commissioner Carter recused himself from the vote. Commissioners Clarke, Niedzielski-Eichner, Strandlie and Cortina were absent from the meeting.

(End Verbatim Transcript)

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RZ 2017-PR-015 – PS BUSINESS PARKS, LP – Appl. to rezone from C-3 to PTC to permit mixed use development with an overall Floor Area Ratio (FAR) of 1.80. Located in the N.W. and N.E. quadrants of Westpark Dr. and Westbranch Dr. on approx. 38.84 ac. of land. Comp. Plan Rec: Residential Mixed Use. Tax Map 29-4 ((7)) C1, C2, 1A2, 7A1, 8 and 11A and 29-4 ((7)) (1) 7C (pt.). (Concurrent with FDP 2017-PR-015, PCA 2014-PR-004, And PCA 88-D-005-09). PROVIDENCE DISTRICT. PUBLIC HEARING.

FDP 2017-PR-015 – PS BUSINESS PARKS, LP – Appl. to approve the final development plan for RZ 2017-PR-015 to permit mixed use development. Located in the N.E. quadrant of the intersection of West Branch Dr. and Maitland St. on approx. 5.43 ac. of land zoned PTC. Tax Map 29-4 ((7)) (1) 7C (pt.) and 29-4 ((7)) 8 (pt.), 11A (pt.). (Concurrent with RZ 2017-PR-015, PCA 2014-PR-004 and PCA 88-D-005-09). PROVIDENCE DISTRICT. PUBLIC HEARING.

PCA 2014-PR-004 – AMHERST PROPERTY, LLC – Appl. to amend the proffers for RZ 2014-PR-004 previously approved for residential/retail development at a density of 1.80 Floor Area Ratio (FAR) with associated modifications to proffers. Located N. of Jones Branch Dr., approx. 400 ft. N. of its intersection with Westpark Dr. on approx. 4.15 ac. of land zoned PTC. Comp. Plan Rec: Residential Mixed Use. Tax Map 29-4 ((7)) (1) A, 6A, 6B and 7C (pt.). (Concurrent with RZ 2017-PR-015, FDP 2017-PR-015 and PCA 88-D-005-09). PROVIDENCE DISTRICT. PUBLIC HEARING.

PCA 88-D-005-09 – PS BUSINESS PARKS, LP – Appl. to delete land area from RZ 88-D-005 and associated modifications to proffers and site design with an overall Floor Area Ratio (FAR) of 1.80. Located in the N.W. and N.E. quadrants of Westpark Dr. and Westbranch Dr. on approx. 38.84 ac. of land zoned C-3. Comp. Plan Rec: Residential Mixed Use. Tax Map 29-4 ((7)) 1A2, C1, C2, 7A1,

8, 11A and 29-4 ((7)) (1) 7C (pt.). (Concurrent with RZ 2017-PR-015, FDP 2017-PR-015 and PCA 2014-PR-004). PROVIDENCE DISTRICT. PUBLIC HEARING.

Elizabeth Baker, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, P.C., reaffirmed the affidavits dated May 6, 2019.

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

Stephen Gardner, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He stated that staff recommended approval of RZ 2017-PR-015, FDP 2017-PR-015, PCA 2014-PR-004, and PCA 88-D-005-09.

Commissioner Ulfelder announced his intent to defer the decision only on the applications to allow Commissioner Phillip A. Niedzielski-Eichner to review the record of the hearing and to also allow time for the applicant and community to mitigate any concerns.

There was a discussion between Mr. Gardner; Andrea Dorlester, Park Authority, and multiple Commissioners regarding the following:

- Proposed screening for a portion of Building A's parking garage;
- The increased width of the sidewalk to eight feet along primary pedestrian corridors located along the streets that fronted the Signature Park;
- Restrictions and provisions in the Comprehensive Plan and Zoning Ordinance that would preclude development in the Signature Park;
- The two athletic fields that were within walking distance to the residential units; and
- Proffer Number 61 regarding the applicant's contribution to Fairfax County School Board.

The discussion resulted in no changes to the subject applications.

Ms. Baker gave a presentation on the subject applications.

There was a discussion between Mr. Gardner and multiple Commissioners regarding the following:

- The distance between streetlights and street trees going from the proposed project to the site plan and standard language in place that dictated the spacing, planting depth, the category of trees, irrigation and maintenance; and
- The two athletic fields on Jones Branch Drive provided by Cityline Partners, LLC from a previous development and the distance to the proposed residential units.

The discussion resulted in no changes to the subject applications.

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

Sally Horn, 7837 Montvale Way, McLean, representing the McLean Citizens Association (MCA), spoke in support of the subject applications, however had three modifications to the proffers and requested they be in approval for the applications. First, MCA requested confirmation in the park proffers that perpetual maintenance be consistent with the Park Authority's maintenance guidelines and requirements for life cycle replacement of facilities and features. Second, MCA requested if the applicant chose to move the athletic field to another location other than the proposed Boone Boulevard location, after construction, the field at Boone Boulevard would not be closed until an alternate field is operational. Finally, the timing for delivery of the proffered school contribution be accelerated to the time of site plan or at permit approval for the first building. (A copy of Ms. Horn's statement is in the date file.)

Jim Beggs, 9342 Sibelius Drive, Vienna, spoke in support of the subject applications and commended the applicant for agreeing to a public school contribution of \$12,262.00 per expected student for capital improvements to address impacts on schools as a result of the proposed development.

Chairman Murphy called closing remarks from Ms. Baker, who declined.

There being no additional speakers, further comments or questions from the Commission, Chairman Murphy closed the public hearing and recognized Commissioner Ulfelder for action on these applications.

(Start Verbatim Transcript)

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Commissioner Ulfelder: Thank you, Mr. Chairman. As I mentioned at the start here, I am intending to defer the decision on these – this collection of applications. So, I will just read the motion. I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR RZ/FDP 2017-PR-015, PCA 2014-PR-004, AND PCA 88-D-005-09, PS BUSINESS PARKS, LP TO A DATE CERTAIN OF JULY 10TH, 2019, WITH THE PUBLIC RECORD REMAINING OPEN FOR WRITTEN COMMENTS.

Commissioners Sargeant and Hart: Second.

Chairman Murphy: Seconded by Mr. Sargeant and Mr. Hart. Is there a discussion of the motion? All those in favor of motion to defer decision only on these applications to a date certain July 10th, with the record remaining open for written and comments, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 8-0. Commissioners Clarke, Niedzielski-Eichner, Strandlie and Cortina were absent from the meeting.

(End Verbatim Transcript)

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The Commission went into recess at 10:34 p.m. and reconvened in the Board Auditorium at 10:51p.m.

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PRC 86-C-121-06 – NS RESTON, LLC – Appl. to approve the PRC plan associated with RZ 86-C-121 to permit residential development. Located on the N. side of New Dominion Parkway approx. 300 ft. W. of Fountain Dr. on approx. 36,553 sq. ft. of land zoned PRC. Comp. Plan Rec: Mixed Use. Tax Map 17-1 ((17)) 4. (Concurrent with CP 86-C-121-15). HUNTER MILL DISTRICT. PUBLIC HEARING.

CP 86-C-121-15 – NS RESTON, LLC – Appl. to approve the Conceptual Plan for RZ 86-C-121 to permit residential development. Located on the N. side of New Dominion Parkway approx. 300 ft. W. of Fountain Dr. on approx. 36,553 sq. ft. of land zoned PRC. Tax Map 17-1 ((17)) 4. (Concurrent with PRC 86-C-121-06). HUNTER MILL DISTRICT. PUBLIC HEARING.

There were no disclosures by Commission members.

William Mayland, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He stated that staff recommended approval of PRC 86-C-121-06 and CP 86-C-121-15.

John McGranahan, Applicant's Agent, Hunton Andrews Kurth, LLP, gave a presentation on the subject applications.

There was a discussion between Mr. Mayland and multiple Commissioners regarding the following:

- The language in Section 63.01 of Zoning Ordinance that addressed rezoning to a Planned Residential District; and
- The language in the Master Conceptual Plan that addressed the maximum density for units in certain areas in Reston.

The discussion resulted in no changes to the subject applications.

Chairman Murphy called the first listed speaker.

David Rogus, 1830 Fountain Drive, Unit 1203, Reston, representing Paramount Condominium Homeowners Association, spoke in opposition of the subject applications and concurred with staff's conclusion and recommendations.

Brian Carlson, 1830 Fountain Drive, Unit 907, Reston, opposed the applications, concurred with Mr. Rogus' statement, and waived his right to speak.

In his rebuttal, Mr. McGranahan addressed concerns regarding the access road to Library Street and vehicular access from Fountain Drive and Explorer Street to Reston Town Center North. He also addressed the added proposed pedestrian access. Mr. McGranahan stated the applicant agreed to meet a number of commitments on construction as noted in development condition Number 26.

There being no additional speakers, further comments or questions from the Commission, Chairman Murphy closed the public hearing and recognized Commissioner Carter for action on these applications.

(Start Verbatim Transcript)

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Commissioner Carter: Okay. This is an interesting case...

Chairman Murphy: Mic.

Commissioner Carter: It's on. I've got it on.

Chairman Murphy: Oh...

Commissioner Carter: How 'bout that...

Chairman Murphy: The next key word is closer.

Commissioner Carter: Okay. Alright. Alright. You know these – these cases. I've been enamored with our process over the last year or so. Our process is to – is to have the hearing, pull out sore thumbs, defer and work those out, and bring it back. That's – that's our general process. Some cases I – I think we can't do that and I – I think this is unfortunately one of these cases. There's a lot of back and forth, a lot of good comments on – on all sides of this. But I have six major concerns. One is the conformance with the development plan. And it's – some would question

what the development plan is. But I think the development plan includes the zoning, it includes the park, it includes all of those features, and this project is not in conformance with requirements of the zoning case and development plan approved by the Board of Supervisors for Part 5 of the North Town Center District. This was approved in '87, it was reaffirmed in 2009. There is a table. We can argue about the WDUs. Were they counted? Were they not counted? The table is what it is. It – it has the data on it and it's – it's not – you can try to interpret it, but it has the numbers the way it is. And this project will take this above the fifty units per acre according to that table. So, I think it is not in conformance and I – I appreciated that box, the top and the bottom. I like that, but I can't imagine we just disregard the Comprehensive Plan in these cases in Reston. We have a lot of projects to go and particularly when the Zoning Ordinance is tied directly to – to the Comp Plan. And I think in those cases we can make a strong argument that – that there – whether you – whether you put in the top box or bottom box it – it does apply. So again, my point one is it's not in conformance with the development plan that I think includes the park. Number two. So, if you wanna put it in the bottom box there, I think it does not conform to the land use and density requirements of the Comprehensive Plan and the Zoning Ordinance. So now I'm putting it in the bottom box. And – and I think this is a real problem in the way we do things and we have that case earlier tonight where the park is designated, but then somebody buys the park and then – well, maybe we can develop on this. I think this one is – is an open space. There's some density left, but not 58 units worth. I also think the – you're suppose to have a mix of – of land uses. You're suppose to have residential as well as least a little bit of commercial and I think that's inherent in the land use and density argument. Third. The location of WDUs on-site. The application's not in conformance with the recommendations to provide WDUs. The proposed development locates all that – the WDUs off-site with an unknown location. I don't know where you would buy the WDUs. Everybody is struggling to find them. But in the last year, we have had no cases that tried to do the WDUs off-site. And in most cases, we've even reduced the tiers for the WDUs from 70, 80 to 100 is – is been our standard procedure in Reston. So, I – I think this project is not in conformance with the – the WDU notion. Next, the consolidation. The plan clearly calls for the consolidation and I think the Zoning Ordinance backs that up. It – it says there's no density on this. It – let's see. From the plan it says the Comprehensive Plan recommends this underdevelopment parcel located south of the Regional Library and Winwood Children Center be considered for redevelopment only if consolidated with either or both of the adjacent parcels on which the library and shelter are located. It is unfortunate that that joint development didn't – didn't work out. I appreciated that – that comment. But undoubtedly that's coming back. We have money to rebuild the library so that's – that's gotta be resolved. So, I think you're no in conformance with that consolidation issue. And again, I think you can tie that both to the plan and the Comp Plan. The Comp Plan as well as the Zoning Ordinance. I think this project is not in conformance with the transportation recommendations in the Comp Plan and would not be in conformance with site plan kind of issues with transportation. First of all, Library Street is the only street that goes all the way through north Reston, goes through the existing Town Center, goes across the W&OD trail and connects directly to the – to the WMATA – the future WMATA Metro Station. So, I think this is a critical link in the transportation network. These things are important to have and this would certainly come in as part of the site plan. It's necessary to enhance the circulation and access to the area to help relieve congestion at key intersections. The – also, the extension of Library Street is intended to occur at the same time at the future development. And I won't go back to the site plan, but if you pull that up, I think regardless of the circuitous and I think that is a problem

because you have Library Street both to the north and south of this. But the street that's proposed would probably not work well as a public street. I'm not sure the width is correct. You're supposed to have walks on both sides, the trees, the width of the sidewalks, that would be your main pedestrian bicycle and vehicular connection. It's not just the vehicular. This is your main connection to the – to the Metro. And if you don't provide that, I think that's problematic. Whether you use that, use the Comp Plan to back that up or whether it's the Zoning Ordinance in review of the site plan I – I think you can use both. The last one, perhaps not quite as important, but I – I think there is an issue about the placemaking. We've had a few of these cases recently where you show trees, and it looks very lush and then suddenly we find some utilities underground and we can't do quite as many trees. That's a problem here on this and I – I know – I think there are utilities in this case and the four street trees was not very much really, I think will be problematic. I also think that wall along New Dominion Parkway and along the street as well as the pathway. You have the wall from – from the parking garage is a problem. So, in conclusion, the application in my view does not conform to the requirements in the approved adopted plan that limits the site to open space, which I would argue is backed up with the Zoning Ordinance. The proposed development is also not in conformance with the recommendation in the Comprehensive Plan and Zoning Ordinance. For the land use intensity, the provision of WDUs, consolidation of parcels, the important extension of Library Street, and the placemaking that is part of our normal review in terms of the site plan. So, I'm ready to make a motion.

Chairman Murphy: Okay.

Commissioner Carter: Okay. So, the motion is to deny. I MOVE THAT THE PLANNING COMMISSION DENY CP 86-C-121-15 AND RECOMMEND THAT THE BOARD OF SUPERVISORS CONSIDER THE REVIEW OF THE CONCEPT PLAN AS PART OF THEIR REVIEW OF THE PRC PLAN. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS TO DENY PRC 86-C-121-06.

Commissioner Migliaccio: Second.

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

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: One concern here and I think this – this borders on the legal question and I don't think we've seen any legal input from County Attorney's Office, which might be clarifying. I'm wondering if that would be a ...

Commissioner Carter: I – I think we do have some...

William Mayland, Zoning Evaluation Division, Department of Planning and Zoning: May I ask what the legal question you have?

Commissioner Sargeant: I think it's the – the interpretation of – of – of Part 5 density issues related to who was there first so to speak and whether the – the applicant might have another –

we're hearing different interpretations of that and I appreciate that position here. I just think it might be helpful if we heard from the County Attorney or have we?

Mr. Mayland: So, the – the applicant was suggested on numerous occasions throughout this application and before the application was accepted to consider to file an interpretation request unrelated – related to density, they chose not to do that. During the review of the application before the staff report was published, I did discuss this staff report and these questions directly with the Zoning Administrator and with the Office of the County Attorney. The Zoning Administrator has interpreted density question regards related to WDUs. The provision in Reston for WDUs is different than non-other P-Districts. PRC calculates differently. And a PDC or PRM District bonus units related to provision WDUs are excluded. It's always the bonus units never the WDU. In Reston, it's only proffered bonus units are excluded. So, if you do not have proffers, you're not excluded from the provision of the density calculations. So, it's very clear what is included in Reston. It's only the provision – it's only proffered of affordable units and the bonus units associate those WDUs that would be excluded.

Commissioner Sargeant: Okay. Thank you.

Chairman Murphy: Further discussion of the motion? All those – yeah, Ms. Hurley.

Commissioner Hurley: I think I followed what staff just explained. Maybe it's just I'm too tired or it's too late or something. I thought I knew what was going on until I listened to Mr. McGranahan. So, at this point, I'm going to have to abstain because I'm kind of confused still on this legal thing.

Chairman Murphy: Further discussion? All those in favor of the motion to deny these applications as articulated by Mr. Carter, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hurley: I abstain.

Chairman Murphy: Ms. Hurley abstains.

The motion carried by a vote of 7-0-1. Commissioner Hurley abstained from the vote. Commissioners Clarke, Niedzielski-Eichner, Strandlie and Cortina were absent from the meeting.

(End Verbatim Transcript)

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The meeting was adjourned at 12:09 a.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 Caporaletti

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.

Dorothy M. Steele
Signature of Notary

Notary registration number: 7114113

Commission expiration: January 31, 2020

