

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, JULY 27, 2023**

PRESENT: Phillip A. Niedzielski-Eichner, Chairman, Providence District
Timothy J. Sargeant, Vice Chairman, Commission At-Large
Evelyn S. Spain, Secretary, Sully District
John C. Ulfelder, Parliamentarian, Dranesville District
Daren Shumate, Mason District
Mary D. Cortina, Braddock District
Daniel G. Lagana, Franconia District
Walter C. Clarke, Mount Vernon District
Candice Bennett, Commissioner At-Large
Andres Jimenez, Commissioner At-Large

ABSENT: John A. Carter, Hunter Mill District
Peter F. Murphy, Springfield District

OTHERS: Aaron Klibaner, Planning Division (PD),
Department of Planning and Development (DPD)
Graham Owen, PD, DPD
Thomas Burke, Transportation Planning Division, Fairfax County Department of
Transportation
Brandon McCadden, Zoning Evaluation Division (ZED), DPD
Brent Krasner, ZED, DPD
Satabdi Samaddar, Deputy Clerk, Department of Clerk Services (DCS)
Kevin Jackson, Senior Deputy Clerk, DCS
Teresa DeSantis, DCS

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The meeting was called to order at 7:30 p.m., by Chairman Phillip A. Niedzielski-Eichner, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Chairman Niedzielski-Eichner announced that the three items on the agenda were scheduled for a second public hearing, as required by recent statutory changes by the Commonwealth of Virginia's General Assembly, to meet the requirements for processes for public notices and hearings. Chairman Niedzielski-Eichner emphasized that all previously submitted written correspondence and testimonies on these applications had been made part of the public record and would be taken into consideration by the Commission prior to the final decision.

Chairman Niedzielski-Eichner stated that at last night's Planning Commission's public hearing on the Parking Reimagined Zoning Ordinance Amendment, he had made a major omission when thanking people for their help and did not recognize the Planning Commission's support staff in

the Department of Clerk Services. He thanked them for their work in coordinating in-person, phone, and video testimonies for over 60 speakers, along with the numerous written correspondence.

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ORDER OF THE AGENDA

Secretary Spain established the following order of the agenda:

1. PA 2021-II-V1 - PAN AM SHOPPING CENTER
2. RZ/FDP 2021-BR-018 – MARY H. DAY
3. SE 2022-BR-00042 – TIFFANY D. SANTANA

This order was accepted without objection.

Chairman Niedzielski-Eichner recited the rules for public testimony.

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The first application was located in the Providence District; therefore, Chairman Niedzielski-Eichner relinquished the Chair to Vice Chairman Sargeant.

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PA 2021-II-V1 - PAN AM SHOPPING CENTER – To consider proposed revisions to the Comprehensive Plan for Fairfax County, VA, in accordance with the *Code of Virginia*, Title 15.2, Chapter 22. This Amendment concerns approx. 25.18 acres, generally located at the southeast corner of Route 29 and Nutley Street (Tax Map # 48-4 ((1)) 12F) in the Providence Supervisor District. The site is planned for community retail use up to 0.35 FAR. The amendment proposes mixed-use development to include community-serving retail uses and multifamily residential uses; with up to 585 dwelling units. Recommendations relating to the transportation network may also be modified. PA 2021-II-V1 is concurrently under review with Rezoning application RZ 2022-PR-00009. PROVIDENCE DISTRICT. PUBLIC HEARING.

Aaron Klibaner, Planning Division (PD), Department of Planning and Development (DPD) presented the staff report, a copy of which is in the date file. He noted that staff recommended adoption of the plan amendment, PA 2021-II-V1.

There was a discussion between Commissioner Niedzielski-Eichner and Thomas Burke, Transportation Planning Division, Fairfax County Department of Transportation, on the following:

- Comparison of the traffic impact analysis conducted during the plan amendment phase and the rezoning phase;
- Explanation of the scope of the traffic analysis conducted during the rezoning phase;
- The factors that were included in a traffic analysis for a site located near a Metrorail station;
- The extent to which the trips generated by the proposal would compare to the trips generated by the existing development on the site; and
- Considerations for future implication on transportation projects.

There were no listed speakers. Vice Chairman Sargeant called for speakers from the audience.

Frank Furgione, Maple Lane, Fairfax, spoke in opposition to the proposed plan amendment. He stated that the initial project was described as a proposal for a new condominium/townhouse development, which had been replaced with a proposal for a rental facility. Mr. Furgione emphasized that creating a sense of community was a shared vision among homeowners in the surrounding area. He voiced concerns about the impact the new development would have on achieving the desired sense of community, the subsequent overcrowding of the public school system, and the safety concerns for pedestrian and bicyclists.

There was a discussion between Mr. Klibaner; Graham Owen, PD, DPD; Mr. Burke, and multiple Commissioners on the following issues:

- Clarification on the status of homeownership alongside the development of new rental properties;
- Staff stated that the proposed plan amendment does not preclude the property owners from renting out their units and the Comprehensive Plan Amendment did not specify that the units had to be rentals or owner occupied;
- Confirmation that the Capital Improvement Plan projection for student capacity area calculate in five-year increments;
- Confirmation that school capacity and student projections would be evaluated during a future rezoning of the subject property;
- Clarification that the student membership between 2022 and 2023 was 545 students and the projected student capacity for 2027 and 2028 was 585 students; and
- Concerns regarding the existing bicycle path and cross-over to Nutley Street;

Fran Wallingford, 3311 Mantua Drive, Fairfax, voiced concerns related to the current policies and procedures set in place that guided the decision-making process. Ms. Wallingford recognized that the applicant addressed a few concerns raised by the community but had not addressed the issue related to the robust community engagement effort. She also echoed concerns from the previous speaker regarding the proposal's impact on the local school system.

Gregory A. Riegle, McGuireWoods LLP, representing Federal Realty OP LP., spoke on behalf of the property owner/applicant and stated that they had been transparent from the beginning of this application that the proposed development would consist of rental units. He also noted the benefits of rental units over condominium units. Mr. Riegle stated for the record the applicant's agreement to the revised language of the proposed plan amendment.

There being no more speakers, and staff had no closing remarks; therefore, Vice Chairman Sargeant closed the public hearing and recognized Commissioner Niedzielski-Eichner for action on this plan amendment.

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Commissioner Niedzielski-Eichner MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF PA 2021-II-V1, PAN AM SHOPPING CENTER, AS SHOWN IN THE STAFF REPORT DATED JUNE 7, 2023, WITH MODIFICATIONS AS CONTAINED IN THE HANDOUT DATED JULY 27, 2023.

Commissioner Bennett seconded the motion, which was carried by a vote of 10-0. Commissioners Murphy and Carter were absent from the meeting.

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Chairman Niedzielski-Eichner resumed the duties of the Chair.

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RZ/FDP 2021-BR-018 - MARY H. DAY – Appls. to rezone from R-1 to PDH-3 to permit residential development with an overall density of 2.09 dwelling units per acre (du/ac) and approval of the conceptual and final development plan. Located on the W. side of Zion Dr. approx. 560 ft. N. of its intersection with Guinea Rd. on approx. 2.80 ac. of land. Comp. Plan Rec: Residential, 2 - 3 du/ac. Braddock District. Tax Map 77-2 ((1)) 15 and James Young Way public right-of-way to be vacated and/or abandoned. (Approval of this application may enable the vacation and/or abandonment of portions of the public right-of-way for James Young Way to proceed). BRADDOCK DISTRICT. PUBLIC HEARING.

There were no disclosures by Commission members.

Lynne J. Strobel, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, P.C., reaffirmed the affidavit dated January 9, 2023.

Brandon McCadden, Zoning Evaluation Division (ZED), Department of Planning and Development (DPD) presented the staff report, a copy is in the electronic date file. He stated that staff recommended approval of RZ 2021-BR-018 and FDP 2021-BR-018, subject to the modifications outlined in a memorandum dated July 20, 2023, a copy of which is in the date file.

Ms. Strobel gave a presentation on the subject application.

There was a discussion between Ms. Strobel; Brent Krasner ZED, DP;, and Commissioner Cortina on the following:

- Explanation of the revised proffer language referring to responsibility of sub-division and the site plan;
- Explanation regarding the responsibilities and liabilities of the property owners in the event that the proposed development integrated with the neighboring Burke Junction Community;
- The applicant's agreement to the proposed proffered conditions;
- Clarification on the language for proffered condition 15A;
- The extent to which the applicant had addressed concerns that the character and design of the dwelling units was consistent with those of neighboring units; and
- The extent to which the applicant had addressed concerns regarding landscaping around the subject property.

Chairman Niedzielski-Eichner called the first listed speaker.

Tony Kronfli and Tania Brunn, 5576 James Young, Fairfax, both spoke in opposition to the subject applications. A copy of Mr. Kronfli and Ms. Brunn's written statement is in the date file.

Kendra Seymour spoke in opposition to the subject applications because the applicant's efforts to address the concerns of neighboring communities were not adequate.

Katie Marfori, 5570 James Young Way, Fairfax, spoke in opposition to the subject applications. A copy of Ms. Marfori's written statement and presentation is in the date file.

David Hunger, 5578 James Young Way, Fairfax, spoke in opposition to the subject applications. A copy of Mr. Hunger's written statant is in the date file.

Catherine Gause, 5579 James Young Way, Fairfax, spoke in opposition to the subject applications because of concerns regarding the privacy of neighboring residents and the adequacy of the applicant's tree preservation commitments.

Kim Vendryes, 5578 James Young Way, Fairfax, spoke in opposition to the subject applications. A copy of Ms. Vendryes's written statement is in the date file.

There was a brief discussion between Commissioner Clark, Mr. Krasner, and Ms. Strobel on the following:

- Clarification of the status, extent, accuracy, and established boundaries in the tree inventory;
- Consideration for alternative designs or landscaping to improve the buffer between the subject property and neighboring properties; and
- The features on the subject property that limited opportunities for additional screening and buffering with neighboring properties.

Sara Mai, representing the Burke Junction Homeowners Association, spoke in opposition to the subject applications and requested that the application be deferred.

There were no more listed speakers. Chairman Niedzielski-Eichner called for speakers from the audience.

Jackson Seymour spoke in opposition to the subject applications because of the potential negative impact it would have on wildlife.

Kylie Seymore spoke in opposition to the subject applications due to the impact the development would have on wildlife, particularly on the wild turkeys.

Mohammed Raham, 5575 James Young Way, Fairfax, spoke in opposition to the subject applications.

Partho Ray, 5530 James Young Way, Fairfax, spoke in opposition of the subject applications.

There being no more speakers, Chairman Niedzielski-Eichner called for a rebuttal statement from Ms. Strobel, who responded to the testimony from the speakers as follows:

- The applicant coordinated regularly with the Burke Junction Homeowners Association to address their concerns and would continue to do so if the subject applications were approved;
- The applicant revised the proffers considerably to address the concerns of the neighboring community;
- The Comprehensive Plan recommended consolidation of the subject property with neighboring communities, but the existing property owner had been unable to pursue such consolidation;
- The density of the proposed development was less than the density of development in the neighboring residential development;
- The applicant had coordinated with the appropriate partners to ensure that the signage for the community was appropriate;
- The applicant coordinated with an arborist to ensure appropriate tree preservation on the site;
- The applicant committed to ensuring that no existing off-site trees would be impacted by the proposal, with the exception of one tree that could only be removed with approval by the Burke Junction Homeowners Association;
- The applicant had ensured appropriate spacing between the dwelling units on the subject property and the units on neighboring properties to mitigate concerns regarding privacy; and
- The subject applications were consistent with the Zoning Ordinance and the Comprehensive Plan.

There was a final discussion between Ms. Strobel and multiple Commissioners on the following issues:

- Explanation that the Burke Junction developer was not asked to consolidate, which did not preclude the applicant from pursuing a similar opportunity;
- Alternative approaches in addressing concerns regarding elevation of the proposed development;
- The overall adequacy of the applicant's tree preservation commitments and the extent to which the concerns raised by the community had been considered in finalizing those commitments;
- Confirmation that the applicant had committed to transitional screening provisions that exceeded the requirements prescribed by the County;
- The condition of the existing trees on and around the subject property;
- The applicant had committed to preserving the condition of the nearby resource protection area;
- Confirmation that the subject property had been planned for development under the Comprehensive Plan prior to the submission of the subject application;
- The extent to which the applicant had designed the proposed dwelling units to integrate properly with the elevation of the subject property;
- The accuracy of the correspondence between the Commission, the applicant, and the residents of the Burke Junction community; and
- The accuracy of the measurements of the elevation of Lot 1 within the proposed development.

There were no further comments or questions from the Commission and staff had no closing remarks. Chairman Niedzielski-Eichner closed the public hearing and recognized Commissioner Cortina for action on these cases.

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Commissioner Cortina MOVED THAT THE PLANNING COMMISSION RECOMMEND THE BOARD OF SUPERVISORS APPROVAL OF RZ 2021-BR-018, SUBJECT TO THE EXECUTION OF PROFFERED CONDITIONS CONSISTENT WITH THOSE DATED JULY 27, 2023.

Commissioner Lagana seconded the motion, which was carried by a vote of 9-0-1. Commissioners Murphy and Carter were absent from the meeting and Commissioner Jimenez abstained from the vote.

Commissioner Cortina MOVED THAT THE PLANNING COMMISSION APPROVE FDP 2021-BR-018, SUBJECT TO THE FINAL DEVELOPMENT PLAN CONDITIONS DATED JULY 26, 2023, AND SUBJECT TO THE BOARD OF SUPERVISORS' APPROVAL OF RZ 2021-BR-018.

Commissioner Lagana seconded the motion, which was carried by a vote of 9-0-1. Commissioners Murphy and Carter were absent from the meeting and Commissioner Jimenez abstained from the vote.

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SE 2022-BR-00042 - TIFFANY D. SANTANA – SE Appl. to permit a congregate living facility. Located at 5252 Pumphrey Dr., Fairfax, 22032 on approx. 12,133 sq. ft. of land zoned R-3. Braddock District. Tax Map 68-4 ((9)) 1543. BRADDOCK DISTRICT. PUBLIC HEARING.

There were no disclosures by Commission members.

Lynne J. Strobel, Applicant's Agent, Walsh, Colucci, Lubely & Walsh, P.C. reaffirmed the affidavit dated May 1, 2023.

Brent Krasner, Zoning Evaluation Division, Department of Planning and Development presented the staff report, a copy is in the electronic date file, reviewed the updates to the subject application since the first public hearing on June 21, 2023. He stated that staff recommended approval of SE 2022-BR-00042.

Ms. Strobel gave a presentation on the subject application.

Commissioner Cortina announced that on July 20, 2023, Supervisor Walkinshaw hosted a community meeting. A topic of concern surrounding this case was that the outreach that was done was primarily through the HOA and not directly with the neighbors. This resulted in many neighbors not fully understanding the scope of this case. Commissioner Cortina thanked Bethany House for their participation in the meeting and for coordinating with former clients to speak at the meeting to help the community better understand the importance and impact this type of organization could have on persons who experience domestic violence. She also thanked the applicant for their agreement to additional development conditions to ensure the requests from the community were addressed.

Commissioner Lagana expressed concern about having to state the purpose of this facility in such a public manner. He stated that he understood that the public notification requirements were a first amendment issue but supported legislative changes to better protect persons who experienced domestic violence. Commissioner Lagana argued that he did not feel that it was appropriate for this type of facility to have to go through such a public process because it exposed the location and worked against the mission of the organization. Lastly, he thanked the applicant for the updates on the subject application and extended his gratitude for allowing space for him to voice his concerns.

Commissioner Spain thanked Bethany House for their work in creating a safe space for persons experiencing domestic violence. She noted that limited resources for domestic violence victims was a national concern. Therefore, she welcomed Bethany House and expressed her appreciation for the services they provide.

Commissioner Sargeant asked for clarification on the role of the on-site security personnel. Tiffany Santana, Executive Director, Bethany House of Northern Virginia explained that the security personnel would primarily be present at night. The individual would be dressed in civilian clothes in an unmarked car, which would be parked on-site. Ms. Santana stated that there would be a point of contact made available to neighbors to address concerns. She also noted that

she has been in communication with multiple neighbors, and she was also open to continuing the conversation.

There being no listed speakers, Chairman Niedzielski-Eichner called for speakers from the audience, but received no response; therefore, he noted that a rebuttal statement was not necessary.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Niedzielski-Eichner closed the public hearing and recognized Commissioner Cortina for action on this case.

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Prior to the motion, Commissioner Cortina requested that the applicant confirm for the record their agreement to the development conditions dated July 27, 2023.

Ms. Strobel affirmed agreement to the development conditions dated July 27, 2023.

Commissioner Cortina MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE FOLLOWING:

- APPROVAL OF SE 2022-BR-00042, SUBJECT TO THE DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED JULY 27, 2023; AND
- APPROVAL OF A WAIVER OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS ALONG ALL BOUNDARIES OF THE PROPERTY IN FAVOR OF THAT SHOWN ON THE SE PLAT.

Commissioners Bennett and Sargeant seconded each of the motions, which were carried by a vote of 10-0. Commissioners Murphy and Carter were absent from the meeting.

The meeting was adjourned at 10:16 p.m.
Phillip A. Niedzielski-Eichner, Chairman
Evelyn S. Spain, Secretary

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

By: Satabdi Samaddar
Approved on: October 11, 2023

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 26 day of October 23, 2023, by

[Signature]
Signature of Notary

Notary registration number: 7114113

Commission expiration: January 31, 2024

