

**MINUTES OF  
FAIRFAX COUNTY PLANNING COMMISSION  
WEDNESDAY, JANUARY 11, 2017**

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

ABSENT: John C. Ulfelder, Dranesville District

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The meeting was called to order at 8:21 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

Chairman Murphy announced that former Planning Commissioner of the Providence District, Kenneth Lawrence, passed away on December 17, 2016. He said that a service was held on December 27, 2017 and multiple members of the Commission attended this service. Chairman Murphy stated that Mr. Lawrence had been appointed on January 2004 by Providence District Supervisor Linda Smyth and served for 13 years. He then described Mr. Lawrence's accomplishments and contributions to the Commission, citing developments such as those in the Tysons Corner and Merrifield area. Chairman Murphy also commended Mr. Lawrence's record of public service and diligence in carrying out his duties as a Commissioner.

On behalf of the Commission, he expressed sympathy and condolences to Mr. Lawrence's family and asked that the Commission stand and observe a moment of silence in his memory.

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Nettie White, Deputy Clerk of the Circuit Court, performed the swearing-in ceremony for the following Commissioners appointed and/or reappointed by the Board of Supervisors for four-year terms ending December 2020:

- Janyce N. Hedetniemi, Commissioner At-Large
- Phillip A. Niedzielski-Eichner, Providence District

Chairman Murphy noted that Commissioner John C. Ulfelder, Dranesville District, was also reappointed and had been officially sworn in at the Fairfax County Courthouse by the Clerk of the Court in December 2016.

Chairman Murphy thanked Ms. White for presiding over the swearing-in ceremony.

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Chairman Murphy announced that, as required by the Commission's adopted bylaws, the election of officers would be conducted at the Planning Commission's meeting on Wednesday, January 18, 2017. He added that Commissioner Migliaccio would preside over this election. He then indicated that, after the election of officers, the Commissioners would receive a form for the selection of committee seats.

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Chairman Murphy informed the Commissioners that disclosure forms were to be submitted to Jill G. Cooper, Director of the Planning Commission, by Tuesday, January 17, 2017.

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Commissioner Flanagan indicated that 2232-V16-2, a "feature shown" application by the Fairfax County Park Authority for the site located at 10418 Old Colchester Road, was listed on the agenda, but indicated that he intended to move on this item at a later date.

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Commissioner Flanagan announced his intent to defer the joint public hearing for PCA 78-V-125/RZ/FDP 2016-MV-014, CHPPENN I, LLC, from Wednesday, January 18, 2017 to Thursday, January 26, 2017 to provide additional time for the Mount Vernon Council to resolve a number of outstanding issues.

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#### ORDER OF THE AGENDA

Secretary Hart established the following order of the agenda:

1. FDPA 2012-MV-008 – FPRP DEVELOPMENT INC.
2. CODE AMENDMENT – CHAPTER 122 TREE CONSERVATION ORDINANCE AMENDMENT (SIGNS) (Countywide)
3. PCA 88-L-078 – FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY
4. PCA/FDPA 2000-HM-044-02/CDPA 2000-HM-044/PCA 2003-HM-046-03/CDPA 2003-HM-046/FDPA 2003-HM-046 – WOODLAND PARK PARCEL I, L.P. AND NVR, INC.

This order was accepted without objection.

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FDPA 2012-MV-008 – FPRP DEVELOPMENT INC. – Appl. to amend the final development plan for RZ 2012-MV-008 to permit site modifications and associated changes to the development conditions. Located on the W. side of Silverbrook Rd., S. of its intersection with White Spruce Wy., on approx. 74.46 ac. of land zoned PDH-8 and PDC. Tax Map 107-1 ((9)) A, D, E, F, G, H, J, L1, L2, and L3; 107-1 ((9)) (D) 1-11; 107-1 ((9)) (E) 1-22; 107-1 ((9)) (F) 1-25; 107-1 ((9)) (G) 1-36; and 107-1 ((9)) (H) 1-13.  
MOUNT VERNON DISTRICT. PUBLIC HEARING.

Scott Adams, Applicant's Agent, McGuire Woods, LLP, reaffirmed the affidavit dated December 7, 2016.

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 noted that staff recommended approval of FDPA 2012-MV-008.

Mr. Adams gave a presentation wherein he explained the following:

- The purpose of the subject application was to resolve a financing issue associated with the previously-approved development for the site;
- The previously-approved development was a public/private partnership between the County and the applicant wherein this development utilized tax credits;
- The utilization of tax credits incurred a subsequent requirement that the development obtain approval of tax credit reviews from appropriate state and federal agencies, as well as approval from the Fairfax County Architectural Review Board (ARB);
- The architecture that had been approved by the appropriate agencies and the ARB included setbacks that required a modification to the previously-approved final development plan for the development; and
- The subject application would ensure that the approved architecture was consistent with final development plan and conceptual development plan for the site.

Chairman Murphy called for speakers from the audience, but received no response; therefore, he said 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 Murphy closed the public hearing and recognized Commissioner Flanagan for action on this case.

*(Start Verbatim Transcript)*

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Chairman Murphy: Public hearing is closed. Mr. Flanagan.

Commissioner Flanagan: Thank you, Mr. Chairman. I request that the applicant confirm, for the record, their agreement to the development conditions dated on my birthday – only the year is different, 2016 – as contained in the staff report.

Chairman Murphy: It's a very solemn date. Be careful.

Scott Adams, Applicant's Agent, McGuireWoods, LLP: I confirm our agreement with the development conditions listed in the staff report.

Commissioner Flanagan: Thank you.

Mr. Adams: Thank you.

Commissioner Flanagan: With that, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION APPROVE FDPA 2012-MV-008, SUBJECT TO THE PROPOSED FINAL DEVELOPMENT PLAN AMENDMENT DEVELOPMENT CONDITIONS DATED DECEMBER 28, 2016.

Commissioner Hedetniemi: Second.

Chairman Murphy: Seconded by Ms. Hedetniemi. Is there a discussion of the motion? All those in favor of the motion to approve FDPA 2012-MV-008, say aye.

Commissioners: Aye.

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

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

*(End Verbatim Transcript)*

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CODE AMENDMENT – CHAPTER 122 TREE  
CONSERVATION ORDINANCE AMENDMENT (SIGNS) –  
The proposed amendment to Chapter 122 (Tree Conservation Ordinance) will add a new Article 8, Notice, and renumber the subsequent article accordingly. Pursuant to the authority granted by § 15.2-961.2 of The *Code of Virginia*, the new provision authorizes the Director of Land Development Services to post a sign on private property to notify the public that an infill lot

grading plan has been submitted to the County for review. The proposed provision specifies the minimum information that will be included on the sign and incorporates the state mandated limitation that the County cannot disapprove the plan for the failure to post the notice. COUNTYWIDE. PUBLIC HEARING.

Jerry Stonefield, Code Development and Compliance, Department of Public Works and Environmental Services (DPWES), presented the staff report, a copy of which is in the date file. He noted that staff recommended adoption of the proposed Code amendment.

Replying to questions from Commissioner Sargeant, Mr. Stonefield explained the following:

- The proposed amendment was submitted after the passage of legislation by the General Assembly of Virginia on March 11, 2016, which added Section 15.2-961.2 to *Code of Virginia*;
- The provisions of Section 15.2-961.2 granted localities the authority to adopt an amendment to their respective tree conservation ordinances, if such an ordinance was in place;
- The Board of Supervisors, exercising the authority granted by Section 15.2-961.2, made a motion at its meeting on July 26, 2016 to direct staff to evaluate the possibility of adopting an amendment to the County's tree conservation ordinance;
- The purpose of the proposal was to amend the County's tree ordinance, but adoption of such an amendment was not necessary to make the County's policies consistent with those of the State of Virginia;
- The adoption of the proposed amendment was necessary to permit the posting of the signs, as articulated in proposed County Code text in Attachment A of the staff report;
- The signage that would be permitted under the proposed amendment would inform surrounding residents that a grading plan had been submitted and provide an opportunity to submit comments to staff;
- The installation of signage, as articulated in the proposed amendment, would not impact the review process or approval status of a grading plan, provided that the plan was consistent with the provisions prescribed by the County Code;
- The provisions articulated in the proposed amendment did not create a separate public hearing process for the review of a grading plan;
- The provisions articulated in the proposed amendment would apply exclusively to infill lot grading plans and would not impact the procedures for grading plans for an area less than 2,500 square feet;

- The review process for infill grading plans included other provisions for informing residents of these plans, but the signage permitted under the proposed amendment would add an additional provision and staff would evaluate other methods for notifying the public; and
- The signage permitted under the proposed amendment would not hinder the implementation of an approved infill development plan.

Commissioner Migliaccio asked for additional information on how citizens would utilize the information posted on the signage that would be permitted under the proposed amendment. Mr. Stonefield said that the signage would include a phone number and website address for the appropriate County staff and staff would subsequently provide the requested information on the grading plan. Commissioner Migliaccio then asked whether these signs would be posted on private property and Mr. Stonefield confirmed that the signage would be located on such sites. A discussion ensued between Commissioner Migliaccio and Mr. Stonefield regarding the impact that the citizen input generated by the signage would incur and the possibility of utilizing other methods for informing nearby residents wherein Mr. Stonefield said that other methods of informing residents were not precluded by the proposed amendment and Commissioner Migliaccio said that he favored utilizing stamped letters to inform residents of such plans.

Commissioner Flanagan asked for additional information regarding the circumstances in which the signage permitted by the proposed amendment would be necessary. Mr. Stonefield indicated that such signage would be required exclusively for lots in which the construction of a single-family dwelling unit or an addition to such a unit required a grading plan. He added that such signage would not be necessary in instances that involved subsequent modifications to residential lots, such as landscaping or the installation of a pool.

In response to questions from Commissioner Hart, Mr. Stonefield explained the following:

- The County was not required to adopt the proposed amendment because the provisions of the legislation from the State of Virginia, as articulated in Section 15-2-961.2 of the *Code of Virginia*, were permissive;
- The cost of installing the signage would be incurred by the County and not the property owner;
- The County Code would remain consistent with the State of Virginia's policies, regardless of whether the proposed amendment was adopted; and
- The County would employ additional staff to install the signage permitted by the proposed amendment and address the citizen comments generated by the signage.

A discussion ensued between Commissioner Hart and Mr. Stonefield regarding the recourse for the staff addressing citizen inquiries generated by the signage, the impact that citizen inquiry generated by the signage would incur on the review process for infill lot grading plans, and the

impact that the proposed amendment would incur on residents wherein Mr. Stonefield indicated that the hiring of additional staff was intended to minimize the impact on the review process for grading process.

When Commissioner Hart asked for additional information regarding the feasibility of Commissioner Migliaccio's suggestion to utilize stamped letters to inform residents of infill lot grading plans, Mr. Stonefield stated that staff had evaluated this provision and subsequently determined that proposed amendment was more feasible. A discussion ensued between Commissioner Hart and Mr. Stonefield regarding the absence of a mechanism for residents to address concerns about grading plans and the manner in which such concerns would be addressed wherein Mr. Stonefield indicated that while this issue remained unresolved, staff favored adoption of the proposed amendment.

Commissioner Strandlie pointed out that the proposed amendment would not be applicable at certain sites within the County, citing an instance in the Mason District where this amendment would not have been utilized for a development that involved significant grading and tree removal. Mr. Stonefield concurred, stating that the proposed amendment would not apply in the instance she cited because the development in question was a subdivision, which required the application of a different portion of the County Code. In addition, Commissioner Strandlie cited another instance where a by-right development was implemented along Columbia Pike and this development had also incurred significant grading on the site, but indicated that the proposed amendment would not have applied for this development either.

In reply to questions from Commissioner Keys-Gamarra, Mr. Stonefield explained the following:

- The proposed amendment was intended to inform communities about the grading of residential lots for single-family detached dwelling units;
- The issue of informing the neighboring residents about grading plans for a site had been raised by certain communities, many of which were located in the Dranesville District;
- The motion to authorize the proposed amendment had been made by Supervisor John Foust of the Dranesville District; and
- The review of the proposed amendment included discussions of other notification methods, such as stamped letters, but staff determined that signage was the most feasible method of implementing the provisions of Section 15-2-961.2.

A discussion ensued between Commissioner Keys-Gamarra and Mr. Stonefield, with input from Bill Hicks, Land Development Services, DPWES, regarding the effectiveness of utilizing signage compared to notification letters wherein Mr. Hicks stated the following:

- The labor requirements for sending notification letters had been evaluated and was determined to be unfeasible;

- The County processed a significant number of grading plans annually; and
- The cost and labor requirements for the utilization of signage was significantly less than that of notification letters and such a procedure would not impact staff's ability to process grading plans.

Chairman Murphy expressed concern regarding the reactions of citizens to the signage that would be posted under the proposed amendment and the limited ability for citizens to impact the grading plans referenced on the signage. Mr. Hicks stated that utilizing signage would provide additional opportunities for neighboring residents to inform staff on a site, but echoed Mr. Stonefield's previous remarks regarding the existing review process, stating that the proposed amendment would not impact this process.

Commissioner de la Fe expressed concern regarding the language in Section 15.2-961.2 stating that the failure to post signage on the property shall not be grounds for denial of a grading plan because this limited the impact of the proposed amendment. Mr. Stonefield acknowledged the effect of this language on the proposed amendment.

Commissioner Hurley expressed concern regarding the portion of the language in the first sentence of Section 122-8-1 (a) that stated, "[T]he Director will, except for minor revisions to approved plans that do not affect the limits of clearing and grading, post a sign on the property to notify the public that the plan has been submitted for review." She then indicated that this language was unclear as to whether the recourse of the director was required or optional. Mr. Stonefield reiterated that the language utilized in the Virginia General Assembly's legislation for Section 15.2-961.2 was permissive, but the language in the proposed amendment was intended to indicate that the provisions were required.

Chairman Murphy reiterated his concern regarding the reactions of citizens to the signage that would be posted under the proposed amendment and the limited ability for citizens to impact the grading plans referenced on the signage.

Commissioner Migliaccio expressed concern regarding the logistics for implementing the signage permitted by the proposed amendment and the impact this would incur on private property owners attempting to redevelop their property. Mr. Stonefield stated that such logistics for installing the signage had not been finalized. Mr. Hicks added that grading plans for a site utilized a specific timeframe and staff intended to respond to citizen concerns generated by this signage within that timeframe. A discussion ensued between Commissioner Migliaccio and Mr. Hicks regarding the process for reviewing a grading plan upon submission, the potential process for installing the appropriate signage under the proposed amendment, and the process for verifying that the signage was properly installed wherein Mr. Hicks indicated that staff would utilize the services of a contractor to install the signage while staff reviewed the plan, adding that a second sign would be installed in the event that a rejected plan was resubmitted.

A discussion ensued between Commissioner Hart and Mr. Stonefield, with input from Mr. Hicks, regarding the timeframe for installing the signage permitted by the proposed amendment, the appropriate duration that such signage would be posted on a site, the method for



determining the appropriate location of the sign on the site, the ramifications for instances where the signage was not appropriately installed, and the citizen concerns that would be generated by this signage wherein Mr. Stonefield indicated that policies for such signage had not been finalized and Mr. Hicks noted that such policies would be disclosed in the contract attached to a grading plan.

Referring to the last sentence on the first paragraph of Section G on Page 3 of the staff report, which stated that the County could not disapprove a plan for the failure to post the notice, Commissioner Flanagan asked staff to verify that this sentence was referring to an infill lot grading plan. Mr. Stonefield confirmed that this language was referring to such a plan. He then asked for additional information on who would be at fault if notice referenced in this sentence was not posted. Mr. Stonefield indicated that the County would be at fault. A discussion ensued between Commissioner Flanagan and Mr. Stonefield regarding the effectiveness of the proposed amendment, the impact the proposed amendment would incur on the review process for infill grading plans, and the ability for citizens to address their concerns for a plan that had already been approved wherein Mr. Stonefield stated that staff intended to comply to the provisions of the proposed amendment in a manner that did not impact the review process of a grading plan or the ability of property owners to pursue such plans.

A discussion ensued between Commissioner Niedzielski-Eichner and Chairman Murphy, with input from Commissioner Sargeant, regarding the Commission's intent for moving on the proposed amendment and the process the Board of Supervisors utilized for reviewing the proposed amendment.

A discussion ensued between Commissioner Sargeant and Mr. Stonefield regarding the frequency with which citizens submitted complaints for not being sufficiently informed of an infill grading plan, the process for responding to citizen inquiries generated by the signage permitted within the proposed amendment, and the information that would be provided to citizens when responding to such queries wherein Mr. Stonefield indicated that the information provided to citizens would include details pertaining to tree removal procedures for a site.

When Commissioner Sargeant asked whether the cost efficiency of implementing the provisions of the proposed amendment would be subject to further evaluation, Mr. Stonefield said that this issue had been discussed and would continue to be discussed prior to the Board of Supervisors' public hearing for this amendment. Commissioner Sargeant then asked whether further review of the proposed amendment was required if it were determined that the cost and effectiveness of the proposed amendment was not adequate, Mr. Stonefield stated that there was no such requirement to continue this review, reiterating that the provisions of Section 15.2-961.2 stated that consideration of the proposed amendment was optional.

Chairman Murphy 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 Murphy closed the public hearing and recognized Commissioner Sargeant for action on this item.

*(Start Verbatim Transcript)*

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Chairman Murphy: Public hearing is closed. Mr. Sargeant.

Commissioner Sargeant: Well thank you, Mr. Chairman. I appreciate all the comments and input from my fellow Planning Commission members and staff. The grilling went well. Didn't you think? So I believe we could provide just enough time to see if it can be tweaked, see if it can answer some other inquiries, see if it can be better settled. So I'd like to defer it for just a week, if I can get that support for it, and then, without completely repeating this process, I think we can make a final decision. So with that, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION DEFER A DECISION ONLY ON THE PROPOSED AMENDMENT TO CHAPTER 122, THE TREE CONSERVATION ORDINANCE OF THE CODE OF THE COUNTY OF FAIRFAX, TO THE COMMISSION'S MEETING ON JANUARY 18<sup>TH</sup>, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENT.

Commissioners Flanagan and Hedetniemi: Second.

Chairman Murphy: Seconded by Mr. Flanagan and Ms. Hedetniemi. Is there a discussion of the motion? All those in favor of the motion to defer decision only on this Code Amendment to a date certain of January 18<sup>th</sup>, with the record remaining open for comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? No. Thank you.

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

*(End Verbatim Transcript)*

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PCA 88-L-078 – FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY – Appl. to amend the proffers for RZ 88-L-078 previously approved for 195 dwelling units to permit 200 dwelling units at a density of 23.98 dwelling units per acre (du/ac) with associated modifications to proffers. Located W. of Richmond Hwy., S. of Fordson Rd. and N. of Ladson Ln. on approx. 8.34 ac. of land zoned R-20, CRD, HC. Comp. Plan Rec: Residential. Tax Map 101-2 ((6)) 507A. LEE DISTRICT. PUBLIC HEARING.

Ahmed Rayyan, Applicant's Agent, Department of Housing and Community Development, Fairfax County Redevelopment and Housing Authority, reaffirmed the affidavit dated July 22, 2016.

There were no disclosures by Commission members.

Commissioner Migliaccio asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived, and the public hearing closed. No objections were expressed; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Migliaccio action on this case.

*(Start Verbatim Transcript)*

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Chairman Murphy: Without objection, the public hearing is closed. Recognize Mr. Migliaccio.

Commissioner Migliaccio: Thank you, Mr. Chairman. This is a simple PCA to allow the Housing Authority to go forward with a grant application. It essentially cleans up a housekeeping matter that aligns – there's actually 200 units there. There were supposed to be 195. Now there's – this is going to allow to have the 200 units to remain. Mr. Chairman, therefore, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA 88-L-078, SUBJECT TO THE PROFFERS DATED DECEMBER 27, 2016.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve PCA 88-L-078, say aye.

Commissioners: Aye.

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

Commissioner Migliaccio: Mr. Chairman, I have one other motion regarding a parking reduction recommendation. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A PARKING REDUCTION REQUEST, NUMBER 7163-PKS-003-1.

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. Thank you very much.

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

*(End Verbatim Transcript)*

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PCA 2003-HM-046-03/FDPA 2003-HM-046/CDPA 2003-HM-046 – WOODLAND PARK PARCEL I, L.P. AND NVR, INC. – Appls. to amend the proffers, conceptual, and final development plan for RZ 2003-HM-046 previously approved for office to permit mixed use development and associated modifications to proffers and site design with an overall Floor Area Ratio (FAR) of 0.92. Located on the E. side of Corporate Oak Dr., approx. 700 ft. N. of its intersection with Sunrise Valley Dr. on approx. 5.89 ac. of land zoned PDC. Comp. Plan Rec: Residential mixed use at 1.5 FAR and mixed use at 0.7 FAR. Tax Map 016-4 ((1)) 43, 45pt., 46pt. (Concurrent with PCA/FDPA 2000-HM-044-02 and CDPA 2000-HM-044.) HUNTER MILL DISTRICT.

PCA 2000-HM-044-02/FDPA 2000-HM-044-02/ CDPA 2000-HM-044 – WOODLAND PARK PARCEL I, L.P. AND NVR, INC. – Appls. to amend the proffers, conceptual, and final development plan for RZ 2000-HM-044 previously approved for office to permit mixed use development and associated modifications to proffers and site design with an overall Floor Area Ratio (FAR) of 0.92. Located on the S. side of Dulles Toll Rd. and W. side of Monroe St. on approx. 25.71 ac. of land zoned PDC. Comp. Plan Rec: Residential with mixed use at 1.5 FAR and mixed use at 0.7 FAR. Tax Map 016-4 ((1)) 45pt. and 46pt. (Concurrent with PCA 2003-HM-046-03, CDPA/FDPA 2003-HM-046.) HUNTER MILL DISTRICT. JOINT PUBLIC HEARING.

Elizabeth Baker, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, PC, reaffirmed the affidavit dated December 20, 2016.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had multiple cases where attorneys in Ms. Baker's firm were representing adverse parties. However, he noted that this matter and those parties were not related to these cases and there was no business or financial relationship; therefore, it would not affect his ability to participate in this public hearing.

In addition, Commissioner Hart disclosed that his law firm, Hart & Horan, PC had an ongoing case in which the co-applicant listed on the affidavit, NVR, Inc., was an adverse party and since this case had not been resolved, he would recuse himself from the joint public hearing for these cases.

William Mayland, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of

PCA/FDPA 2000-HM-044-02, CDPA 2000-HM-044, PCA 2003-HM-046-03, CDPA 2003-HM-046, and FDPA 2003-HM-046.

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

- The proposal would permit a mixed-use development on the subject property that was consistent with the principles of a transit station area in Reston;
- The subject property was currently approved for the development of five office buildings with individual parking structures, but such a development did not reflect the existing recommendations of the Comprehensive Plan, which favored a mixed-use development;
- The proposed development would be consistent with the mixed-use recommendations articulated in Comprehensive Plan;
- The proposed development would include two office buildings, a multifamily building, two-over-two stacked townhome units, and townhouse units;
- The proposed development included an option for retail use in the office buildings;
- The higher-density portions of the proposed development would be located near the planned Herndon-Munroe Metrorail Station, which was located to the north and east of the site;
- The density of the proposed development would taper for the portions located farther from the planned Herndon-Munroe Metrorail Station;
- The proposed development would install a grid of streets that utilized roads that were walkable and contained pedestrian-friendly features;
- The streetscapes that would be utilized for the grid of streets would be consistent with those utilized throughout Reston;
- The parking provisions for the residential units in the proposed development would be appropriately screened to minimize the visual impact of such structures;
- The proposed development included approximately six acres of publicly-accessible parkland, which was greater than the two acres prescribed by the County's urban parks standards;
- The proposed development would install private recreational facilities in conjunction with the publicly-accessible park facilities;

- The publicly-accessible park facilities for the proposed development would include a central 3.9-acre tree-preservation area, a 1.9-acre active recreational area with various athletic facilities and a passive stormwater management park;
- The applicant had committed to constructing an off-site trail that would connect the subject property with the planned Herndon-Munroe Metrorail Station;
- The proffers contained within the subject applications included commitments to athletic fields, schools, transportation demand management, and road improvements; and
- The Hunter Mill Land Use Committee had reviewed the subject applications and voted in support of the proposed development.

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

Colin Christopher, 3159 Row Street, Falls Church, representing Dar Al-Hijrah Islamic Center, stated that he supported the proposed development for the site and the associated transportation improvements because such development would incur a positive impact on residents throughout the County. However, he expressed concern regarding the association of the applicant's partner, Tishman Speyer Real Estate Ventures VI, LP, with the Clarion Project, an organization determined to be an anti-Islam hate group by the Southern Poverty Law Center. Mr. Christopher described the anti-Islamic activities of the Clarion Project and ongoing issues regarding hate crimes directed towards Islamic communities. He then said that efforts to coordinate with Tishman Speyer Real Estate Ventures VI, LP to address these concerns had been unsuccessful and requested that the decisions only for the subject applications be deferred to permit further consideration of this issue.

Jeanne Trabulsi, 509 North Nelson Street, Arlington, aligned herself with the concerns articulated by Mr. Christopher regarding the association of the applicant's partner, Tishman Speyer Real Estate Ventures VI, LP, with the Clarion Project. She added that the association with such an organization was not consistent with the values of the County. Ms. Trabulsi also concurred with Mr. Christopher's statement that Tishman Speyer Real Estate Ventures VI, LP to address the concerns raised by citizens regarding this association. In addition, she said she favored deferring the decisions only of the subject applications until Tishman Speyer Real Estate Ventures VI, LP addressed these concerns.

Alison Glick, 9905 Tenbrook Drive, Silver Spring, representing Jewish Voice for Peace (JVP), aligned herself with the concerns of previous speakers regarding the association of the applicant's partner, Tishman Speyer Real Estate Ventures VI, LP, with the Clarion Project. She described the principles and activities of JVP, noting the JVP's efforts in opposing the activities of organizations like the Clarion Project and coordinating with Tishman Speyer Real Estate Ventures VI, LP to address their concerns. Ms. Glick indicated that she did not object to the proposed mixed-use development for the site, but said she favored deferring the decisions only

for the subject applications to provide additional time for the applicant to address these outstanding concerns regarding the associations of their partners.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Ms. Baker, who stated that she could not comment on the concerns raised by the speakers, but reiterated that the proposed development for the site was consistent with the recommendations of the Comprehensive Plan.

Chairman Murphy called for closing remarks from Mr. Mayland, who declined.

When Commissioner Flanagan asked whether the applicant's affordable housing units for the proposed development would be located in the multifamily residential building, Ms. Baker confirmed that every one of these units would be located in the multifamily residential building and this practice was consistent with existing County policies.

Commissioner de la Fe acknowledged the concerns raised by the speakers, but noted that addressing these concerns was outside the purview of the subject applications. He then stated that the provisions of these applications were consistent with the necessary requirements, as prescribed by the County's land use review process. Commissioner de la Fe also cited previous cases, such as one involving the Saudi Royal Academy, where the Commission addressed similar concerns. He reiterated that the Commission and the Board of Supervisors would render a decision for the subject applications within the scope of the County's land use review policies, adding that he supported the proposed development for the site.

There were no further comments or questions from the Commission; therefore, Chairman Murphy closed the public hearing and recognized Commissioner de la Fe for action on these cases.

*(Start Verbatim Transcript)*

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Chairman Murphy: Public hearing is closed. Recognize Mr. de la Fe.

Commissioner de la Fe: Thank you. I don't need to repeat what I just said and I don't believe that – I think that the folks that the testimony referred to are very much aware of what Fairfax County stands for and how we believe in what we believe. So I just don't – I don't think waiting a day or a half an hour or talking anymore would – would actually satisfy what – what was requested. Therefore, Mr. Chairman, I request that the applicant confirm, for the record, agreement to the proposed FDPA development conditions dated December 28<sup>th</sup>, 2016.

Elizabeth Baker, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, PC: I do. And I also want to say that I was reminded by Ms. Berlin that the affidavit was really dated December 20<sup>th</sup> instead of December 21<sup>st</sup>. So I want to say that on the record as well.

Commissioner de la Fe: Okay. Thank you. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA 2000-HM-044-02, CDPA 2000-HM-044, PCA 2003-HM-046-03, AND CDPA 2003-HM-046, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED JANUARY 3<sup>RD</sup>, 2017. Or it – wait a minute – is there a different date?

William Mayland, Zoning Evaluation Division, Department of Planning and Zoning: No.

Commissioner de la Fe: No, January 3<sup>rd</sup>, 2017.

Commissioner Migliaccio: Second.

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

Commissioner Flanagan: Yes. I'd like to take the opportunity to say I'm going to vote in favor of this motion. I think it was a very adequately response to the testimony that we had this evening. And I would like everybody to know that this particular Commissioner was instrumental in the establishment of the Saudi Academy on Richmond Highway in Alexandria and have been actively invited to the Saudi Embassy on many occasions in recognition of that assistance. So I don't think you'll find anybody on this Commission, you know, that your group should be disappointed with in any way. And I'll vote in favor of this motion. Thank you, Mr. Chairman.

Chairman Murphy: Ms. Hedetniemi.

Commissioner Hedetniemi: Thank you, Mr. Chairman. I'm going to abstain on this vote because I'm concerned about the emotion that has been expressed to us today. Thank you.

Chairman Murphy: Okay. Yes, Ms. Keys-Gamarra.

Commissioner Keys-Gamarra: Yes, I listened very carefully and I am also concerned about what has been expressed today. I also understand that, as this Board, we are limited to enforcing the Zoning Ordinance, as well as the Comprehensive Plan, but I wanted you to know I don't have any antidotes other than to say that I heard you and that much of what you said is outside of the purview of what we can do. But we – certainly, your words lay very heavily on my heart and if I have the power to do something, I would. Thank you.

Chairman Murphy: Further discussion? Yes, Ms. Strandlie.

Commissioner Strandlie: I would just like to reiterate that. I represent the Mason District, one of the most diverse areas of Fairfax County, and we value all of our citizens and every religion. So I definitely heard you. Again, we're limited in what we can do. I would hope that Tishman and Speyer would actually return your call. Thank you.

Chairman Murphy: And, just for the record, the Chair was the one that recommended that the Board of Supervisors approve the Saudi Academy. It's in my district – the new one – one before



PCA 2003-HM-046-03/FDPA 2003-HM-046/CDPA 2003-HM-046/  
PCA/FDPA 2000-HM-044-02/CDPA 2000-HM-044 –  
WOODLAND PARK PARCEL I, L.P. AND NVR, INC.

January 11, 2017

– after the one on Route 1. All those in favor of the motion to recommend to Board of Supervisors that it approve PCA 2000-HM-044-02, CDPA 2000-HM-044, PCA 2003-HM-046-03, AND CDPA 2003-HM-046, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Hedetniemi abstains. Mr. de la Fe.

Commissioner Keys-Gamarra: Mr. Chair, I'm going to abstain.

Chairman Murphy: Okay. Ms. Keys-Gamarra abstains also.

Commissioner de la Fe: Mr. Chairman, I MOVE APPROVAL OF THE WAIVERS AND MODIFICATIONS CONTAINED IN THE HANDOUT DISTRIBUTED TO YOU THIS EVENING DATED JANUARY 11, 2017, WHICH WILL BE MADE A PART OF THE RECORD.

Commissioner Migliaccio: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstentions folks?

Commissioners Hedetniemi and Keys-Gamarra: Yes.

Chairman Murphy: Okay. Same abstentions.

Commissioner de la Fe: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION APPROVE FDPA 2000-HM-044-02 AND FDPA 2003-HM-046, SUBJECT TO THE PROPOSED FINAL DEVELOPMENT PLAN AMENDMENT CONDITIONS DATED DECEMBER 28, 2016, AND THE BOARD OF SUPERVISORS' APPROVAL OF PCA 2000-HM-044-02, CDPA 2000-HM-044, PCA 2003-HM-046-03, AND CDPA 2003-HM-046.

Commissioner Migliaccio: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstentions. Is that it?

Commissioner de la Fe: That's it.

Chairman Murphy: Okay. Thank you very much.

Each motion carried by a vote of 8-0-2. Commissioners Hedetniemi and Keys-Gamarra abstained. Commissioner Hart recused himself from the vote. Commissioner Ulfelder was absent from the meeting.

*(End Verbatim Transcript)*

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The meeting was adjourned at 10:06 p.m.

Peter F. Murphy, Chairman

James R. Hart, Secretary

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

Minutes by: Jacob Caporaletti

Approved on: May 4, 2017



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