

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, JUNE 15, 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
John C. Ulfelder, Dranesville District
James T. Migliaccio, Lee District
Julie M. Strandlie, Mason District
Earl L. Flanagan, Mount Vernon District
Phillip A. Niedzielski-Eichner, Providence District
Janyce N. Hedetniemi, Commissioner At-Large

ABSENT: Karen A. Keys-Gamarra, Sully District

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The meeting was called to order at 8:18 p.m., by Chairman Peter F. Murphy, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Hurley announced that Vincent Picciano, who had served the County in various capacities for 35 years, had passed away. She noted Mr. Picciano's contributions to the County's Juvenile Court system, the County's court-appointed special advocacy, and the construction and renovation of several County facilities. In addition, Commissioner Hurley described her past coordination with Mr. Picciano on the Fairfax Center area. She also noted his contributions to the Commission and staff to the Fairfax Forward process and the County's Community Council on Land Use Engagement. Chairman Murphy echoed Commissioner Hurley's remarks regarding Mr. Picciano's contributions to the County and, on behalf of the Commission, expressed condolences to his family.

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On behalf of the Commission, Commissioner Strandlie congratulated the Class of 2017 for Annandale High School, who were conducting their graduation ceremony tonight. She added that Commissioner Keys-Gamarra's son was graduating from high school at a ceremony to be held on June 16, 2017.

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Commissioner Strandlie announced that Comprehensive Plan Amendment PA 2017-I-A1, Gallows Road Consolidation, which had been scheduled for public hearing on June 15, 2017,

had been rescinded by the Board of Supervisors at its meeting on June 6, 2017. She then thanked the public for the comments that were submitted regarding this amendment.

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Commissioner Migliaccio announced that the Planning Commission's Land Use Process Review Committee would meet on Thursday, June 22, 2017 at 7:00 p.m. in the Board Conference Room to discuss a Zoning Ordinance Amendment regarding short-term rentals.

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Chairman Murphy announced that the Citizens Council on Citizens Participation Process, which had been chaired by former Planning Commissioner Walter Alcorn, had completed deliberations and subsequently submitted proposed draft recommendations to be considered by the Board of Supervisors at their meeting on June 20, 2017. He then stated that he had requested that Commissioner Hurley address this issue with the Planning Commission's Policy and Procedures Committee to ensure that the Commission's guidelines were in harmony with the Council's recommendations. Chairman Murphy indicated that the dates for such Committee meetings were to be determined.

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Commissioner de la Fe stated that the applicant for RZ/FDP 2016-HM-005, Michael Faraday, LLC, had requested additional time prior to the public hearing; therefore, HE MOVED THAT THE PLANNING COMMISSION DEFER THE JOINT PUBLIC HEARING FOR RZ/FDP 2016-HM-005 TO A DATE CERTAIN OF JULY 13, 2017.

Commissioner Hart seconded the motion, which carried by a vote of 11-0. Commissioner Keys-Gamarra was absent from the meeting.

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Commissioner Niedzielski-Eichner MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR CSPA 2010-PR-022, TMG SOLUTIONS PLAZA, LP, TO A DATE CERTAIN OF JUNE 21, 2017.

Commissioner Sargeant seconded the motion, which carried by a vote of 11-0. Commissioner Keys-Gamarra was absent from the meeting.

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2232-P17-3 – AT&T, 8025 Galleria Drive, Tysons

(Start Verbatim Transcript)

Commissioner Niedzielski-Eichner: Thank you. I want to take care of one of our telecommunication items. I concur with staff's conclusion that the proposal by AT&T, to install a

24.7 tall omni-antenna enclosed in a canister, painted brown on top of an existing wooden light standard, located at 8025 Galleria Drive, Tysons, Virginia, satisfies the criteria of location, character, and extent, as specified in *Virginia Code* Section 15.2-2232, as amended. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION FIND SUBJECT APPLICATION 2232-P17-3 SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion? All those in favor of the motion to concur with the “feature shown” determination in 2232-P17-3, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. I also have a...

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Sargeant: Abstain on that one.

Chairman Murphy: Oh yes, Mr. Sargeant abstains.

The motion carried by a vote of 10-0-1. Commissioner Sargeant abstained from the vote. Commissioner Keys-Gamarra was absent from the meeting.

(End Verbatim Transcript)

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FS-S17-22 – SILVERBROOK ELEMENTARY SCHOOL, 9350 Crosspointe Drive, Fairfax

(Start Verbatim Transcript)

Chairman Murphy: I also have a “feature shown.” It is FS-S17-22. The property is Silverbrook Elementary School on Crosspointe Drive in Fairfax County. They’re planning not only a renovation, but an addition. The renovation is 63,000 feet plus. The addition is 18,000 feet plus, which includes a playground, paved areas, and a parking lot. It is in conformance with the Comprehensive Plan and the objectives of the 2232. Therefore, I MOVE WE CONCUR WITH THE STAFF’S DETERMINATION AND APPROVE FS-S17-22.

Commissioner Hart: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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

(End Verbatim Transcript)

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RZ/FDP 2016-PR-012 – SEKAS HOMES, LTD. (Decisions Only)
(The public hearing on these applications was held on May 18, 2017.)

(Start Verbatim Transcript)

Commissioner Niedzielski-Eichner: Thank you. To start us off, would the applicant or...or applicant come forward and state your name for the record and confirm, for the record, the applicant's agreement with the proffered conditions dated May 23rd, 2017, including the revisions contained, therein, in the Final Development Plan condition dated June 6th, 2017.

John Sekas, Applicant/Title Owner, Sekas Homes, LTD.: My name is John Sekas with Sekas Homes and I confirm those items.

Commissioner Niedzielski-Eichner: Thank you, Mr. Sekas. Mr. Chairman, the matter before us is an application from Sekas Homes, Limited, to rezone 26.98 acres from the R-1 zoning district to the PDH-1 zoning district to permit the development of 22 single-family detached homes at residential density of 0.81 dwelling units per acre, a change from the currently-allowed 1 dwelling unit per acre. We decide tonight whether the applicant's proffer and development condition commitments are sufficient to warrant approval of this application. I recommend approval and will be offering a motion to this effect, but first, let me provide you with the factors I took into account in coming to this conclusion. I begin by noting that, following the May 18th public hearing, Mr. Sekas made plan design changes and offered revised proffer language to address the concerns raised by Commission colleagues and community representatives. Also, staff completed an addendum to its report to account for the changes that were made. Also of note, a number of community members have participated in the application review process by speaking at the public hearing, submitting written comments, and/or participating in a two-hour June 7th site walk. I want to take this opportunity to commend everyone – Mr. Sekas, DPZ staff, particularly Cathy Lewis and Stephen Gardner, and the community – particularly the Mantua Citizens Association and adjoining neighbors – for their diligent efforts to strengthen this application and the development itself. Finally, I want to thank my colleagues who were able to join with 25 residents, the applicant, and County...applicant, County, and VDOT staff for the site walk. Infill developments are often the most difficult applications to come before us. The challenge for all concerned is adapting a site from its existing use to a different future one. No matter how troublesome the current use of the site – and for the Kena site, the stories are abundant – the potential for change invites us to consider a range of possible futures for site use, each with their own set of implications for the community. We know that such developments

pose both opportunity and risk. And sometimes risks – both real and perceived – drive us to better solutions. Sometimes they cause us to pursue the perfect at the cost of the good. This project in its current form offers a good, even excellent, alternative use of the former Kena Temple site, but it is not perfect. We should not expect it to be. Our land use regulations, of course, limit the options for the future site use. For example, under the current R-1 zoning, the developer can, by right, subdivide the site into 17 parcels and build a home on each, assigning parcel owners responsibility for maintaining their portion of the resource protection area and the tree preservation plan. Instead of the by-right option, Sekas Homes proposes a rezoning to build 22 homes instead of 17. In return, the developer offers to convey Parcel A – 13.5 acres in size – to the Park Authority, who serves as the steward of our resource protection areas and environmental quality corridors. He also commits to revegetate and reforest a sizable tract of impervious asphalt, while also installing a stormwater system that will, for the first time, control site runoff into the Bear Branch, a perennial stream. And he commits to building a trail to connect Parcel A to Accotink Trail and Eaton Park. Also of note are the applicant's monetary contributions toward the Housing Trust Fund and schools and Park Authority, none of which the County would receive with a by-right development. As I noted, Sekas Homes revised its proffers and development plans in response to issues raised by the Commission and public during the May 18th public hearing. These changes – as relates to tree save, lot design, HOA responsibilities, and public facilities cash contributions – are summarized in a June 12th letter to the Commission and highlighted in staff's addendum to its report. I support these revisions. I do want to close my assessment, however, with a discussion of the site access and egress options, which have dominated the post-hearing public discussion. The context for this discussion is the impact of the development and upgraded service road on the Arlington Boulevard/Barkley Road intersection. We should first note that this intersection has been subject of a long-standing community concern to include the location of the service road, relative to the intersection, the peak-load traffic on Barkley in the morning rush hour and cut-through traffic. Further, the previous use of the site generated high traffic volume, albeit episodically. Finally, a recently-approved comp plan amendment to address this site's planned use included the following text-specific language, "Consideration should be given to additional access points, such as a right-in and/or right-out access point on Arlington Boulevard." Staff projects that the 22 single-family homes will generate 26 peak morning trips and 27 peak evening trips. The applicant proposes to construct a right-turn only exit from the property onto Arlington Boulevard in order to provide a second point of egress in addition to that offered by the Arlington Boulevard /Barkley intersection. The applicant also proposes removing the existing right-in from Arlington Boulevard into the site, which was constructed without a VDOT permit. In addition, the applicant proposes to improve the service road sufficiently to meet VDOT's road acceptance criteria. To minimize traffic impacts at the Arlington Boulevard/Barkley Road intersection, some community members have advocated connecting the development to Karen Drive as the main access and egress point. The Mantua Citizens Association has had an ongoing, robust debate about the development of this site and, most specifically, about these traffic-related access and egress issues. In a June 7th memo to the Commission, the MCA President reported that the MCA Board does not endorse the Karen Drive option. The Board does, however, call for additional consideration to be given to improving the traffic flow and conditions at this intersection. Further, regarding Karen Drive, and as captured in the staff report addendum, the applicant provided an exhibit depicting the requirements to be met for a Karen Drive extension to the development. For the reasons identified by the applicant and staff – such as flood plain requirements, to include 6-to-8 foot of fill upon which to construct the road, encroachment into

the RPA, mitigations of disturbances to an Environmental Quality Corridor, and the presence of heritage resources – I agree with staff's and MCA's position and do not support the Karen Drive extent option...extension option. Regarding Arlington Boulevard access and egress impacts, consideration is given to extending the service road west, which currently terminates at Bear Branch, in order to access the light at Covington Street. The cost estimate to build a bridge to cross the Branch and connect to the service road on the other side is \$1.3 million. While attractive, this option appears to have been forsaken by not requiring a cost share from the Woodson Park/former Craven Nursery Site development. The impact of the proposed 22 houses does not generate the need for this connection and as such, we cannot expect the applicant to pay the full cost. Finally, regarding the Arlington Boulevard /Barkley intersection east of the development, both VDOT and Fairfax County transportation staff find that the developer's proposed transportation improvements are sufficient to mitigate the impact of traffic generated by the development. This noted, the site walk, which included a discussion of this intersection with VDOT representative, identified a number of opportunities to add improvements that will enhance safety and traffic flow. These include modifying the turn radius onto Barkley from Arlington Blvd, embedding road sensors in the service road to inform the traffic signal, modifying...modifying stop bar placement, and adding signage and lane markings. Since the service road will be upgraded to meet VDOT acceptance standards, my belief is that these types of improvements can be accomplished at that time. With regard to the right-out from the property, it is my intent to follow-on...to offer a follow-on motion calling upon the Commonwealth Transportation Board (CTB) to approve this addition to the limited access control points at...to Arlington Boulevard. I note that County staff and the applicant have met with VDOT and the proposed change in the limited access control is currently being processed and has been well-received to date. I will also offer a motion calling upon VDOT to review the intersection of the Arlington Boulevard/Barkley Drive to improve its safety and functionality, with enhancements to be accomplished in tandem with the service road improvements. So, with these lengthy comments, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE RZ 2016-PR-012, KENA TEMPLE RESIDENTIAL, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE NOW DATED MAY 23RD, 2017, WITH THE REVISIONS AGREED TO BY THE APPLICANT ON THE RECORD TONIGHT.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? Ms. Hurley.

Commissioner Hurley: Thank you, Mr. Chairman. As I pointed out at the public hearing, the creek at this point...that's at this point feeds into the Accotink, which flows through my Braddock District. Since my daughters attended Frost and Woodson and had many friends and teammates from the Mantua area, I am very familiar with this area and with Barkley and 50. Overall, this is a good proposal and I will support it tonight, but there are a couple of details I'd still like to see further considered before we send this case to the Board of Supervisors. First, while I understand using Karen Drive as a main entrance would be a bad idea that would require considerable widening and upgrading of the old road through an RPA, I would like staff and especially park and water authorities and emergency services to evaluate if that road that still has pavement – although broken up – if they would evaluate it to see if it should be left as it is to be an emergency access path for fire, park, and stormwater personnel. And secondly, about the service

road main entrance and exit, one thing I learned at the walk-around was that the applicant already owns the lot between the proposed development and Barkley. That being so, perhaps they could incorporate that lot into this proposal and shift the service road further south away from Route 50. Reducing the congestion right at that intersection might be an acceptable trade-off for this privilege of building the additional houses over what they have by-right. Thank you.

Chairman Murphy: Further discussion? Mr. Flanagan.

Commissioner Flanagan: Yes, thank you, Mr. Chairman. At the public hearing, it was disclosed that the open space on the east side of this application will not contain some trees because the adjacent property owner cut them down, thinking – basically, using property that they didn't own, which is now part of the lot of the current development. And on the rest of the open space next to the east side is really razor-thin and so, consequently, there was concern by myself and other Commissioners about the homeowner's ability to cut down those trees in the future because they just have got a – need a place for, maybe, a vegetable garden or whatever. And so we asked that there be something in the proffers that would – to be considered for the proffers – that would preclude or require them to make restitution if they did cut down trees improperly in the open space that is owned by the homeowners association. Now my...in talking with Mister...with the Commissioner...I raised this issue with him and he's assured me that there is language in this proffer that addresses this. So consequently, I'd like to ask staff tonight...there is a Proffer Number 6, Dedication to the HOA, that says, "At the time of record plat of recordation, the open space and common features, as further described in Proffer 6, shall be dedicated to the homeowners association and maintained by the same." So I take that as meaning that if a purchaser of a lot cuts those trees down on homeowner property...association property...that they will be restored by the homeowner association. Is that correct?

Stephen Gardner, Zoning Evaluation Division, Department of Planning and Zoning: So the area behind – I believe it's Lots 8 through 13 – is HOA property now. And that would be maintained...controlled. And if there are issues with trees that are cut down, whether it be by the HOA – which, I suspect, they wouldn't do that – or by homeowners...yes, the HOA would be responsible. I would probably refer you to Proffer Number 5...

Commissioner Flanagan: Right.

Mr. Gardner: ...in addition to number 6.

Commissioner Flanagan: Right, I do remember that.

Mr. Gardner: And I would also refer to Proffer Number 26. Now, that is addressing, predominately, preservation. I will say that there is not a specific replanting – or it's not explicitly stated as a replanting or replacement after the property is off of its bond. If that's something the Commission is so inclined, we can probably make that more explicitly stated within the proffer.

Commissioner Flanagan: I think it...I would like to see that replanting strengthened by Proffer Number 26 myself. I would urge that to be considered between and the approval by the Board. I intend to vote in favor of this motion. But in there, it says that – under tree preservation – the

trees shall be...that replace those removed will be a comparable size or comparable...something of that sort. So I take that that means that they will...these will not be just seedlings that will replace a tree that's providing, pretty much, a lot of acceptable shade at the present time. Is that correct? Number 26?

Mr. Gardner: You may be, also, referring to Proffer 27, where it's the tree appraisal. And that is the provision if trees are damaged during the construction process, those are the trees that are bonded. They would be replaced. Again, that...that would be by the applicant. I think what you're specifically asking for is language for the HOA...

Commissioner Flanagan: Right.

Mr. Gardner: ...would be responsible after it's off-bond.

Commissioner Flanagan: Yes.

Mr. Gardner: I'd...if that's...the Commission is so inclined, I would suggest that that be strengthened.

Commissioner Flanagan: Right. Thank you.

Chairman Murphy: Are we doing that now? Are we changing the proffers now?

Commissioner Niedzielski-Eichner: No sir. What I...I have a recommendation on this.

Chairman Murphy: Okay, fine. I just wanted to make sure. Further discussion?

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes, Mr. Hart.

Commissioner Hart: I think the Commission will agree that, as we approach build-out, the remaining sites that come in, particularly anything approaching this size, are increasingly difficult. That those...the remaining sites have challenges and if they didn't, they probably would've come in before now. And this site certainly fit that pattern, with transportation and environmental issues, among others. I think, though, that the case improved significantly since the public hearing and the changes that were made, subject to the staff report, generally resolved the concerns that the Commission had. The traffic resolution may not be perfect, but I think with the motion that Commissioner Niedzielski-Eichner has suggested, we're heading in the right direction. I think, also, the resolution that staff and the applicant and Commissioner Niedzielski-Eichner have come up with is the best we can do at this point in time. And that, given the two alternatives between the service and Karen Drive, the service road is the appropriate orientation for the access to the development. The biggest factor for me, and I want to make specific notice of this, is that the County will be obtaining with this approval over 13 acres of parkland adjacent to and contiguous with an existing Fairfax County Park, which we don't generally see in a site of this size in 2017. I think that's a permanent benefit to the County, which we wouldn't be getting with a by-right development, which we don't have with the current use. And it's a big positive

that's come out of this application and I'm going to support the...therefore, I'm going to support the motion. Thank you.

Chairman Murphy: Further discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve...

Commissioner Niedzielski-Eichner: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Niedzielski-Eichner: If I could just ask the applicant to...

Chairman Murphy: Go ahead. Sure.

Commissioner Niedzielski-Eichner: ...just a couple quick questions. One, to address Mr. Flanagan's and one to address a small matter.

Chairman Murphy: Mr. Sekas.

Commissioner Niedzielski-Eichner: Mr. Sekas, thanks. You heard the discussion, relative to the tree-save and replacement and the HOA responsibility. Do you see any problem with working with staff to...

Mr. Sekas: No, we can strengthen those proffers, number 26, between now and the Board and we will.

Commissioner Niedzielski-Eichner: Thank you. The last point would be that there's a Proffer 41, which is the recreation contribution. And we've had a conversation about the...working to ensure that that contribution benefits those who are most proximate to the development. And one would ask that you agree to modify the...41, the Proffer 41, to insert the phrase, "in Providence District and within the new subdivision's service area." This language is proposed after consulting with the Park Authority.

Mr. Sekas: We're happy to do that as well.

Commissioner Niedzielski-Eichner: Okay, thank you, Mr. Chairman.

Mr. Seaks: Thank you.

Chairman Murphy: Okay.

Commissioner Niedzielski-Eichner: All right. Thank you, Mr. Sekas. Mr. Chairman, I'm ready to vote.

Chairman Murphy: All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2016-PR-012, consistent with the proffers dated...I'm not sure what the date is...

Commissioner Niedzielski-Eichner: 23rd.

Chairman Murphy: ...but as amended here this evening.

Commissioner Hart: May 23rd.

Chairman Murphy: May 23rd, as amended here this evening, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Niedzielski-Eichner: Mr. Chairman, I have two additional follow-on motions and then some subsequent motions.

Mr. Gardner: Mr. Chairman, I'm sorry to interrupt, but we may need a motion on the FDP.

Chairman Murphy: We're going to do that right?

Commissioner Niedzielski-Eichner: Yeah, we're doing that right now.

Mr. Gardner: Oh, I apologize.

Commissioner Niedzielski-Eichner: So I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2016-PR-012, KENA TEMPLE RESIDENTIAL, SUBJECT TO THE DEVELOPMENT CONDITIONS CONTAINED IN ATTACHMENT 3 OF THE STAFF REPORT ADDENDUM, DATED JUNE 6TH, 2017, AND SUBJECT TO THE BOARD'S APPROVAL OF RZ 2016-PR-012.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion? All those in favor of the motion to approve FDP 2016-PR-012, subject to the Board's approval of the rezoning, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Niedzielski-Eichner: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A WAIVER MODIFICATION OF SECTION 7-014.1 OF THE PUBLIC FACILITIES MANUAL TO WAIVE THE DRIVEWAY REQUIREMENT ALONG THE PORTION OF THE ARLINGTON BOULEVARD FRONTAGE.

Commissioner Sargeant: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Niedzielski-Eichner: Mr. Chairman, two follow-on motions.

Chairman Murphy: May I interrupt for just one second...

Commissioner Niedzielski-Eichner: Yes.

Chairman Murphy: ...and ask Mr. Sekas to come back and reaffirm the fact that you agree with the development conditions in the FDP, please?

Mr. Sekas: I reaffirm that I agree with the development conditions in the FDP.

Chairman Murphy: Thank you very much. Please.

Commissioner Niedzielski-Eichner: Given the language contained within the Comprehensive Plan, and in an effort to limit any potential impacts of the proposed development on the Arlington Boulevard/Barkley Drive intersection, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE COUNTY EXECUTIVE TO PREPARE A LETTER TO THE CTB SUPPORTING THE PROPOSED CHANGE TO THE LIMITED ACCESS ADJACENT TO ARLINGTON BOULEVARD PROPOSED WITH RZ 2016-PR-012, KENA TEMPLE RESIDENTIAL. FURTHER, THIS MOTION SHALL NOT BE CONSTRUED AS A FAVORABLE RECOMMENDATION BY THE BOARD OF SUPERVISORS ON THE PROPOSED REZONING APPLICATION AND DOES NOT RELIEVE THE APPLICANTS FROM COMPLIANCE WITH THE PROVISIONS OF ALL APPLICABLE ORDINANCES, REGULATIONS, OR ADOPTIVE STANDARDS.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion?

Commissioner Migliaccio: Mr. Chairman?

Chairman Murphy: Yes, Mr. Migliaccio.

Commissioner Migliaccio: I'm not going to support this motion, only because of the time limit that's found in Proffer 17 that staff still has an issue with and I don't think we need to go down this route if the applicant actually took that time limit out. Thank you.

Chairman Murphy: All those in favor of the motion say, aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Flanagan: Nay.

Chairman Murphy: Mr. Migliaccio votes no.

Commissioner Flanagan: I'll vote no.

Chairman Murphy: And Mr. Flanagan votes no.

Commissioner Hurley: I'll abstain.

Chairman Murphy: And Ms. Hurley abstains.

Commissioner Niedzielski-Eichner: Finally, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT VDOT BE URGED TO REVIEW THE INTERSECTION OF BARKLEY DRIVE/ARLINGTON BOULEVARD AND THE SERVICE DRIVE TO IMPROVE ITS SAFETY AND FUNCTIONALITY, INCLUDING MODIFYING THE TURN RADIUS ONTO BARKLEY DRIVE FROM ARLINGTON BOULEVARD, EMBEDDING ROAD SENSORS IN THE SERVICE ROAD TO INFORM THE TRAFFIC SIGNAL, MODIFYING STOP BAR PLACEMENT, AND ADDING SIGNAGE AND LANE MARKINGS. THIS REVIEW SHOULD BE ACCOMPLISHED IN TIME FOR ANY SUCH IMPROVEMENTS TO BE ACCOMPLISHED IN TANDEM WITH THE SERVICE ROAD IMPROVEMENTS TO BE COMPLETED UNDER RZ 2016-PR-012, KENA TEMPLE RESIDENTIAL.

Commissioner Sargeant: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Niedzielski-Eichner: Thank you.

Chairman Murphy: Thank you very much. Thank you, Mr. Sekas. Thank you, staff.

The first three motions carried by a vote of 11-0. Commissioner Keys-Gamarra was absent from the meeting.

The fourth motion carried by a vote of 8-2-1. Commissioners Flanagan and Migliaccio voted in opposition. Commissioner Hurley abstained. Commissioner Keys-Gamarra was absent from the meeting.

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

(End Verbatim Transcript)

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ORDER OF THE AGENDA

Secretary Hart established the following order of the agenda:

1. PCA 86-L-056-04/SP 2017-MA-004 – SPA FOREST, INC.
2. PA 2017-I-B1 – COMPREHENSIVE PLAN AMENDMENT (6060 ARLINGTON BOULEVARD)
3. ZONING ORDINANCE AMENDMENT – SMALL CELL FACILITIES ZONING ORDINANCE
4. ZONING ORDINANCE AMENDMENT – PUBLIC FACILITIES AND MODIFICATIONS TO EXISTING WIRELESS TOWERS OR BASE STATIONS

This order was accepted without objection.

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PCA 86-L-056-04/SP 2017-MA-004 – SPA FOREST, INC. –
Appl. to amend the proffers for RZ 86-L-056 previously approved for an office to permit a Health Club and associated modifications to proffers and site design with an overall Floor Area Ratio (FAR) of 0.29. Located at the terminus of General Green Way, Alexandria, 22312 approx. 1,200 ft. E. of its intersection with General Washington Dr. on approx. 12.13 ac. of land zoned I-4. Comp. Plan Rec: Industrial. Tax Map 81-1 ((1)) 8B. MASON DISTRICT. PUBLIC HEARING.

David Gill, Applicant's Agent, McGuireWoods, LLP, reaffirmed the affidavit dated June 1, 2017.

There were no disclosures by Commission members.

Brent Krasner, Zoning Evaluation Division, Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of PCA 86-L-056-04.

When Commissioner Hurley asked for additional information on the design of the third floor area of the proposed health club and the potential visual impact of the facility on surrounding residential communities, Mr. Krasner stated that there would be development conditions incorporated into the pending special permit for the site that would mitigate the visual impact of the facility. He noted that such conditions included limits on the hours of operation of the third floor and outdoor areas of the health club to ensure that the impact on residential areas was

minimized. Mr. Krasner also pointed out that there was an existing buffer of distance and mature trees located between the subject property and the nearest residential development. He then said that staff had concluded that such provisions adequately addressed concerns regarding the impact of the facility on nearby residential communities.

A discussion followed between Commission Strandlie and Mr. Krasner regarding the prevalence of health clubs within the County that operated on a 24/7 schedule wherein Mr. Krasner indicated that while there were existing facilities that operated in such a manner, there were no such clubs on the scale of the one that would be permitted by the proposal.

Commissioner Hart described the operation of similar health clubs within the County, but noted that such facilities did not utilize outdoor areas. He then expressed concern that the hours of operation for the outdoor pool area for the proposed health club would generate significant noise during events at late hours of the night, which would incur a significant impact on the surrounding residential neighborhood. Mr. Krasner deferred to the applicant for more information on that issue, but stated that staff did not object to revising the hours of operation for the outdoor activities for the facility, which could also be addressed through the concurrent special permit application that would be reviewed by the Fairfax County Board of Zoning Appeals (BZA).

Commissioner Flanagan pointed out that General Standard 3 of the special permit requirements listed in Section 8-0006 of the Zoning Ordinance stated that the proposal was required to be harmonious with and not adversely affect the use or development of neighboring properties, in accordance with the applicable zoning district regulations and the Comprehensive Plan. He stated that staff had concluded that the proposed health club would not negatively impact or discourage development of the neighboring residential properties, but that conclusion had not addressed the overall use of those neighboring properties. Commissioner Flanagan aligned himself with the concerns articulated by Commissioner Hart regarding the potential noise impact generated by the facility during evening hours. He also said that he supported modifying the hours of operation of the outdoor area of the proposed health club to mitigate the impact of the facility on nearby residential neighborhoods.

A discussion arose between Commissioner Strandlie and Mr. Krasner regarding the proximity of the proposed health club to the existing residential neighborhoods to the north, the extent of the existing trees that buffered the site from these residential neighborhoods, the proposal's compliance with General Standard 3 in Section 8-0006 of the Zoning Ordinance, the noise impact of the facility on existing residential neighborhoods, and the features of the outdoor pool area within the facility. Mr. Krasner reiterated that staff had concluded that the applicant's provisions were sufficient to mitigate the proposed health club's noise impact on nearby residential communities.

Commissioner Niedzielski-Eichner commended staff's analysis on the impact the proposed health club would incur on the nearby residential development, but aligned himself with the concerns articulated by other Commissioners regarding the facility's noise impact on such development. He also supported Commissioner Flanagan's suggestion that the hours of operation for the outdoor area be modified to minimize the noise generated by that area.

Mr. Gill gave to the Commission the applicant's presentation and stated the following:

- The applicant had purchased the subject property from the previous property owner for approximately \$10 million;
- The proposal would permit the renovation and repurpose an existing office building that had been previously utilized by the Securities and Exchange Commission (SEC);
- The operation of the proposed health club would be governed by the provisions of the concurrent special permit application, which was subject to the approval of the BZA;
- The purpose of the proffered condition amendment application was to include a health club as a permissible use for the subject property;
- The concerns raised by multiple Commissioners regarding the noise generated by the proposed health club would be addressed by the provisions of the concurrent special permit application, which included a development condition requiring that the applicant comply with the noise-mitigation measures prescribed by the Zoning Ordinance;
- The operation of the proposed health club would not involve activities that utilized amplified noise;
- The proposed health club would operate in a manner consistent with the use of similar spa facilities, such as the existing Spa World facility in Centreville;
- The amenities included in the proposed health club included various types of saunas, indoor and outdoor bade pools, and water recreation areas for children;
- The area around the subject property included industrial and commercial development to the south, west, and east;
- The area to the north of the site included an existing buffer of trees, which would screen the subject property from the residential development to the north;
- The subject property would be accessed by General Green Way;
- The proposed health club would comply with the applicable health and safety requirements prescribed by the Fairfax County Department of Health and Human Services (FCHHS);
- The proposed health club would include an on-site restaurant;
- The applicant intended to apply for a license to serve alcoholic beverages at the facility; and

- The applicant did not object to the revised provisions regarding the prohibition of amplified noise, but favored retaining the hours of operation for the outdoor area that permitted operation up to 12:00 a.m.

A discussion followed between Commissioner Hurley and Mr. Gill regarding the kinds of alcoholic beverages that would be served at the proposed health club and the operation of the children's play area within the club and wherein Mr. Gill stated the following:

- The facility would serve a variety of alcoholic beverages;
- The children's play area would have lifeguards present; and
- The inclusion of additional on-site childcare services would be considered by the applicant in accord with consumer demand.

Mr. Gill confirmed that the outdoor pool on the third-floor roof of the proposed health club would be a bade pool. He also indicated that such a pool was intended for relaxation and not swimming. A discussion follow on between Commissioner Ulfelder and Mr. Gill regarding the operation of the facility, the services that would be offered to patrons, and the costs associated with such services.

A discussion followed between Commissioner Strandlie and Mr. Gill regarding the operation of the on-site restaurant facility for the proposed health club, the types of pools that would be utilized within the club, the extent to which the facility would be utilized during evening hours, and the possibility of modifying the hours of operation for certain portions of the facility wherein Mr. Gill explained the following:

- The restaurant would not include a swim-up aqua bar;
- The pools within the facility would be bade pools and would not be gender-restricted;
- The usage of the facility during evening hours would be consistent with that of other facilities located within suburban areas, such as the one located in Dallas, Texas;
- The applicant did not object to modifying the hours of operation for certain uses within the facility, such as the outdoor pool; and
- The outdoor pool for the proposed facility would open at 7:00 a.m.

Commissioner Hart reiterated his previous concerns regarding the noise impact of outdoor pool facilities on nearby residential neighborhoods, noting noise generated by amplified music during certain weather conditions. He then pointed out the importance of including development conditions to mitigate such impacts. Commissioner Hart suggested that the applicant consider limiting or prohibiting the use of amplified music in the outdoor pool area to minimize the noise impact of the facility. A discussion ensued between Commissioner Hart and Mr. Gill regarding the extent to which the noise generated by the proposed health club would impact the nearby

residential development, the distance between the facility and this development, the visibility of the site from the development, and the use of music in the outdoor pool area of the facility.

Commissioner Hart requested additional information regarding the drink services that would be provided by the on-site restaurant. Mr. Gill stated that drinks would be ordered at the restaurant and subsequently delivered to patrons as they utilized the amenities of the facility.

A discussion supervened between Commissioner Ulfelder and Mr. Gill regarding the alcoholic beverage services that would be offered to the patrons of the proposed health club and the frequency with which such services were offered at similar facilities. Mr. Gill indicated that the applicant would provide additional information on such services during the BZA's review of the concurrent special permit for the proposal.

Commissioner Ulfelder described the County's policies for mitigating the impacts of outdoor pools and noted the differences between the pools utilized by swim clubs and those that would be utilized by the proposed health club.

Lorrie Kirst, Zoning Administration Division, DPZ, addressed Commissioner Hart's concerns regarding the noise impact. She explained that the noise-mitigation provisions of the Zoning Ordinance included prohibitions on the use of loud-speakers after 11:00 p.m. during weekdays within residential areas. She also stated that there were varying standards for measuring the noise impact generated by a facility, adding that the standards were different for sites in commercial districts compared to sites located within residential districts.

A discussion followed between Commissioner Migliaccio and Mr. Gill regarding the operation of similar facilities by the applicant and the brand the proposed health facility would operate under, wherein Mr. Gill stated that the facility would operate under the name Spa Forest.

Commissioner Migliaccio echoed concerns from Commissioner Hart regarding the potential noise impact that the proposed health club would incur on nearby residential neighborhoods. He supported limiting the hours of operation of the outdoor pool area of the facility to mitigate the noise impact.

Commissioner Flanagan and Mr. Gill discussed the design of the bade pools within the proposed health club, the location of the on-site restaurant, and the location of various features at the facility wherein Mr. Gill explained the following:

- The facility would include two bade pools, one located outdoors and one located indoors;
- The water recreation area for children would be indoors and could be closed to mitigate any noise generated by that feature;
- The restaurant and bar would be located on the second level; and
- The outdoor pool for the facility would include a seating area, but that area would not contain a bar for serving drinks.

Commissioner Sargeant asked for additional information regarding the history of industrial uses on the subject property. Mr. Krasner and Mr. Gill said the following:

- The existing buildings on the site had been utilized as an office facility for the SEC;
- The previous operation of the site utilized truck traffic and records had been stored at the facility; and
- The facility operated on a 24/7 schedule because it had included a data center.

Commissioner Sargeant asked for additional information regarding the staffing and safety personnel that the proposed health club would utilize, Mr. Gill stated that the applicant intended to comply with the applicable standard prescribed by the Zoning Ordinance and the FCHHS. A discussion ensued between Commissioner Sargeant and Mr. Gill, with input from Chairman Murphy, regarding the potential safety issues that might occur at the facility.

Commissioner Hurley suggested that the applicant revise Development Condition Number 9 of the special permit, which prohibited exterior advertising of accessory food, to preclude the advertisement of alcoholic beverages. Mr. Gill stated that he did not object to such a revision.

Commissioner Strandlie pointed out that a portion of the existing building on the site would be reserved for office use. She then asked for additional information regarding the usage that office space. Mr. Gill explained that the applicant had originally intended to convert a larger portion of the office space to a recreational facility, but indicated that those plans had been revised and there were no outstanding plans to lease that office space. He then stated that the remaining office space on the site would be utilized for storage. A discussion followed between Commissioner Strandlie and Mr. Gill regarding the character of the office use that would be utilized and the possibility of expanding the health club at a future date wherein Mr. Gill stated that the applicant had no outstanding plans for expanding the proposed health club and the office space on the site would primarily be utilized for document storage.

Chairman Murphy called for speakers from the audience, but received no response; therefore, 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 Strandlie for action on these cases.

(Start Verbatim Transcript)

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Commissioner Strandlie: Thank you very...very much, Mr. Chairman. We have a couple of outstanding issues. I did have a question. Is this a concurrent or sequential referral to the BZA?

Brent Krasner, Zoning Evaluation Division, Department of Planning and Zoning: Well, technically, it's associated. There's no formal order with the way it has been done. Typically, when there has been a special permit and a concurrent Board and Planning Commission is –

we've had the Planning Commission go first to act on the zoning issues...the underlying zoning. We've then had the BZA act on the use and then we've had the Board of Supervisors make the final action on the zoning. So the order is not necessarily prescribed, but that's how we've done it. We felt it was...it's the logical way. So you guys are...we're here tonight. The BZA is scheduled later and the Board date...it would be determined in the future beyond that.

Commissioner Strandlie: Okay, thank you. I am going to defer the case to fine-tune a couple of issues. Therefore, I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR PCA 86-L-056-04 TO A DATE CERTAIN OF JUNE 21ST.

Commissioners Hedetniemi and Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a – and Ms. Hedetniemi – is there a discussion of the motion? All those in favor of the motion to defer the decision only PCA 86-L-056-04 to a date certain of June twenty...

Commissioner Strandlie: First.

Chairman Murphy: First, with the record remaining open for comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes, Mr. Hart.

Commissioner Hart: Could I – while Mr. Krasner is here – could I just ask before next Wednesday, in light of Ms. Kirst's comments, could staff take a look at Development Condition 10? Because I think 10 is a little weaker than what Ms. Kirst is describing and that needs to be tightened up a bit.

Mr. Krasner: Yes, I...I agree.

Commissioner Hart: Thank you.

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

(End Verbatim Transcript)

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PA 2017-I-B1 – COMPREHENSIVE PLAN AMENDMENT
(6060 ARLINGTON BOULEVARD) – 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. 3.67 ac. located at 6060 Arlington Blvd., Falls Church, VA, Tax map # 51-4((1)) 5A. The area is planned for office use at an intensity of .20 FAR. The Amendment will consider residential use up to 12 dwelling units per acre. PA 2017-I-B1 is concurrently under review with rezoning application RZ 2017-MA-005. MASON DISTRICT. PUBLIC HEARING.

Katrina Newtonson, Planning Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended adoption of PA 2017-I-B1.

Kelly Zafar, 3005 Meeting Street, Falls Church, expressed the following concerns regarding the impact of the recommended residential development articulated in the proposed amendment:

- The density of the recommended development was too excessive;
- The site, as well as existing residential development on neighboring sites, had been subject to significant stormwater runoff due to the topography of the area and the proposed amendment did not contain sufficient provisions to address that issue;
- The visual impact generated by the recommended development on the surrounding residential neighborhoods would not be adequately mitigated;
- The proposed amendment did not address the extent to which existing trees, which buffered nearby residential development from the adjacent shopping center, would be preserved; and
- The area around the site had been subject to existing traffic congestion due to the presence of nearby retail development and the proposed amendment did not contain sufficient provisions for mitigating that issue.

In conclusion, Ms. Zafar requested that her concerns be considered in evaluating a possible redevelopment of the site and indicated that she favored a lower-density development.

Richard Dais, 3034 Meeting Street, Falls Church, echoed the concerns articulated by Ms. Zafar regarding the existing traffic congestion around the subject property and the existing residential development in the area. He described the traffic patterns around the service road, which had been subject to significant congestion due to the presence of nearby retail development. Mr. Dais stated that the evaluations on the existing intersections in the area, conducted by the Virginia Department of Transportation (VDOT) were not sufficient and favored additional study on the issue to determine appropriate traffic mitigation measures.

Elizabeth Baker, 2200 Clarendon Boulevard, Suite 1300, Arlington, Walsh, Colucci, Lubeley & Walsh, PC, said that she represented the current property owner of the subject property. She explained that the owner was pursuing a rezoning application for the site and the issues raised by

the residents of the surrounding community would be addressed during the review process. Ms. Baker also stated that the property owner would coordinate with the Mason District Land Use Committee to resolve outstanding concerns regarding the proposed amendment, adding that the committee had expressed support for the amendment. She addressed the concerns raised by previous speakers regarding the density of the recommended development, stating that the owner intended to develop the site at a density of approximately 10.5 dwelling units per acre, which was less than that of the adjacent residential neighborhood. Ms. Baker acknowledged the existing issue with stormwater runoff on the subject, noting that the site had been previously developed with office buildings and that development had not included stormwater management provisions. She indicated that a redevelopment of the site would include such provisions that were consistent with the County's standards, which would subsequently mitigate the stormwater runoff issues in the area. Ms. Baker stated that the property owner would coordinate with residents of the existing residential community to address their concerns. She further noted that additional coordination would be conducted during the review process for the rezoning application. In addition, she supported staff's recommendation for the proposed amendment and the prescribed plan text in the staff report. Ms. Baker also addressed concerns from previous speakers regarding the traffic impact of the recommended development, pointing out that a residential development on the site would generate fewer trips and peak-hour traffic than the office development that was permitted on the site under the existing Comprehensive Plan language. She acknowledged the existing traffic congestion in the area generated by surrounding retail development, but indicated that the applicant would coordinate with Virginia Department of Transportation and the Fairfax County Department of Transportation to address that issue during the rezoning process.

Commissioner Strandlie asked for additional information regarding the operation of the medical facilities within the existing building on the subject property. Ms. Baker explained that while there were some medical facilities operating on the site, the majority of the existing office development on the site was unoccupied. A discussion followed between Commissioner Strandlie and Ms. Baker regarding the past usage of the office development on the site and the hours of operation.

Following up on Commissioner Flanagan questions, Ms. Baker stated the following:

- The recommended development articulated in the proposed amendment would permit approximately 43 dwelling units under the prescribed density of 12 dwelling units per acre;
- The design for the redevelopment of the site within the pending rezoning application being pursued by the applicant included 39 dwelling units, which would incur a density of approximately 10.5 dwelling units per acre on the site; and
- The recommended redevelopment of the site, which was being pursued by the property owner, would reserve approximately 12 percent of the dwelling units for workforce housing.

There being no more speakers, Chairman Murphy called for closing remarks from Ms. Newton, who declined. Having no further comments or questions from the Commission; Chairman Murphy closed the public hearing and recognized Commissioner Strandlie for action on this item.

(Start Verbatim Transcript)

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Commissioner Strandlie: Thank you, Mr. Chairman. For the...just for the update for the community...thank you very much for coming out. The plan is a recommendation for what can happen in the area. The rezoning where the nuts and bolts take place. So I've taken notes and we've heard from everyone at the land use committee as well. So we'll continue to work with you and think of some creative ways, if possible, to address all your concerns or as many as possible. And with that, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE STAFF RECOMMENDATION FOR PLAN AMENDMENT 2017-1-B1 – or I-B1, FOUND ON PAGES 11 AND 12 OF THE STAFF REPORT DATED MAY 18TH, 2017.

Commissioner Hedetniemi: Second.

Chairman Murphy: Seconded by Ms. Hedetniemi. Is there a discussion of the motion? All those in favor of the motion...

Commissioner Strandlie: I...there's a couple more sentences here.

Chairman Murphy: Oh, I'm sorry.

Commissioner Hedetniemi: I'm sorry.

Commissioner Strandlie: AS STAFF MENTIONED, THE AMENDMENT WOULD ADD AN ADDITION FOR THE RESIDENTIAL USE OF UP TO 12 DWELLING UNITS PER ACRE ON THE PROPERTY, PROVIDED THAT THE GUIDANCE FOUND UNDER THE REDEVELOPMENT OPTION FOR OPPORTUNITY AREA IS MET.

Chairman Murphy: She hasn't changed her mind. All those in favor of the motion recommend to the Board of Supervisors that it adopt PA 2017-I-B1, say aye.

Commissioners: Aye.

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

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

(End Verbatim Transcript)

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ZONING ORDINANCE AMENDMENT – SMALL CELL FACILITIES ZONING ORDINANCE – To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: Amend Sect. 20-300 to add new small cell facility and wireless facility definitions to define those terms in accordance with Senate Bill 1282 adopted by the 2017 Virginia General Assembly and revise the telecommunications facility and mobile and land based telecommunication facility definitions to clarify that those facilities are distinct from small cell facilities.

1. Add a new Sect. 2-519 that creates a new zoning permit for the installation of small cell facilities on any existing structure on any lot in any zoning district subject to Zoning Administrator approval and compliance with size limitations identified in Sect. 2-519. Small cell facilities have antennas that are no more than six cubic feet and associated wireless equipment with a cumulative volume of no more than 28 feet, excluding certain types of equipment. A single application may be submitted for up to 35 permit requests for small cell facilities. For each proposed small cell facility, applicants must provide information about the size of antennas and equipment, the proposed location, identification of the existing structure, and a consent statement from the structure owner. Under Senate Bill 1282, there will be a \$100 fee for up to five small cell facilities on a permit application and a \$50 fee for each additional small cell facility on a permit application. The Zoning Administrator must comply with review and decision deadlines upon receipt of each permit application. The Zoning Administrator may deny a small cell facility permit request based on only four grounds pertaining to interference with other facilities, adverse impacts on public safety, the installation would be on public property and there are adverse aesthetic impacts or lack of required approvals, or conflicts with Article 7 of the Zoning Ordinance. Once installed, small cell facilities must be removed within 120 days after the existing structure is removed, the structure owner withdraws consent, or the facility is no longer in use. This provision does not apply to micro-wireless facilities;
2. Amend Article 7 in one of the following four ways for small cell facility permit applications proposing installation on existing structures located in Historic Overlay Districts: (1) OPTION 1: Amend Sect. 7-206 to add a new Par. 6 that requires review and recommended approval from the Architectural Review Board (ARB) before any small cell facility may be installed on any

existing structure in a Historic Overlay District. The ARB may request drawings or other materials to facilitate its review. The ARB will render its recommendation not later than 45 days after the zoning permit application is filed or the Zoning Administrator will make a decision without ARB recommendation; (2) OPTION 2: Amend Sect. 7-206 as provided under Option 1, except that the ARB's recommended approval would only be required for small cell facility permit applications for installation on an existing structure located on or adjacent to a contributing or historic property; (3) OPTION 3: Amend Sect. 7-206 as provided under Option 1, except that the ARB's recommended approval would be required before a small cell facility may be installed on any existing structure that is located on, adjacent to, or visible from a major thoroughfare, historic byway, road listed or determined to be eligible for listing in the National Register, or a contributing or historic property; or (4) OPTION 4: Amend Sect. 7-204 as follows: (a) Amend Par. 1 to add small cell facility permits as a type of application referred to the ARB for review and recommendation as further provided below; (b) Amend Par. 3 to add small cell facility permits as a type of permit requiring an ARB recommendation of approval and add a new subparagraph (D) that either (i) OPTION D1: requires ARB recommended approval prior to issuance of a small cell facility permit for installation of such facility on any existing structure located on or adjacent to a contributing or historic property in a Historic Overlay District, and the ARB will render its recommendation within 45 days or the Zoning Administrator will decide on the application without the ARB recommendation; or (ii) OPTION D2: Amend subparagraph (D) in the same manner as stated in Option D1, except that ARB recommended approval would only be required for installation of a small cell facility on an existing structure located on , adjacent to, or visible from a major thoroughfare, historic byway, road listed or determined to be eligible for listing in the National Register, or a contributing or historic property in a Historic Overlay District; (c) Amend Par. 5, first sentence, to include small cell facility permits in the ARB's review procedures and include small cell facility permit applications in subparagraph (A) as a type of application the applicant shall forward to the ARB, include small cell facilities in subparagraphs (C)(2) and (C)(3) to call for ARB consideration of design and architectural compatibility, and amend subparagraph (F) to require the ARB to make its recommendation to the Zoning Administrator, who then decides whether to issue the small cell facility permit application; (d) Amend Par. 6 to add a new subparagraph (K) that authorizes the ARB to request photographic simulations, drawings, or other materials to assist the ARB in small cell facility permit review; (e) Amend Par. (7) to authorize the

ARB to formulate guidelines to facilitate review of small cell facility permit applications; and (f) Amend Par. (8) to provide that approval of a small cell facility permit remains valid unless subject to removal under Sect. 2-519 or as otherwise required by law;

3. Amend the introductory paragraph of Sect. 2-514 to provide that mobile and land based telecommunication facilities located in the right-of-way are subject to review under Section 15.2-2232 of the Virginia Code and to provide that mobile and land based telecommunication facilities are subject to the application fees provided for in Sect. 18-106. Distinguishes mobile and land based telecommunication facilities from small cell facilities. Amends the size of a pole or standard mounted equipment cabinet or structure in Par.2(C) of Sect 2-514 by deleting the 5-foot height limitation and by increasing the maximum allowable volume of the cabinet from 20 cubic feet to [advertised range: 28 cubic feet up to 40 cubic feet];

4. Amend Par. 5 of Sect. 18-106 to provide that fees for small cell facilities shall be as specified in Article 2. COUNTYWIDE.
PUBLIC HEARING.

Commissioner Sargeant disclosed he was employed by Dominion Virginia Power, which was involved in various electric utility services, and since the proposed amendment referred to such services, including utility poles and other assorted structures, recused himself from the public hearing.

Lorrie Kirst, Zoning Administration Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended adoption of the proposed zoning ordinance amendment regarding small facilities.

Commissioner Hart stated that the proposed Zoning Ordinance Amendment had been submitted in response to the passage of the Senate Bill 1282 (SB 1282), which had been adopted by the Virginia General Assembly on April 26, 2017. He then indicated that SB 1282 contained an adoption date of July 1, 2017 and the County was required to approve the amendment prior to that date to articulate the County's review policy for the small cell facilities affected by the legislation. Commissioner Hart added that the Board of Supervisors scheduled to conduct a public hearing on the proposed amendment at its meeting on Tuesday, June 20, 2017. Ms. Kirst concurred with Commissioner Hart's statement. Commissioner Hart stated that if the proposed amendment were not adopted prior to the July 1, 2017 adoption date as stated in SB 1282, then the County would have no applicable policies or guidelines for the regulation of the small cell facilities affected by the bill. Ms. Kirst concurred with Commissioner Hart's statement, adding that such facilities would be permitted by-right in the absence of the regulation prescribed by the proposed amendment.

Commissioner Hart asked for additional information regarding the options preferred by staff, as articulated in the staff report. Ms. Kirst indicated that staff favored Alternative 4, Option 2, which contained the greatest level of review by the Architectural Review Board (ARB) for facilities that would be visible within a Historic Overlay District. She added that the language for the other alternatives depicted in the staff report were limited and the review of small cell facilities at those sites would not be adequate. Ms. Kirst also stated that the provisions of Alternative 4, Option 2, provided appropriate criteria for determining which properties would be subject to the greatest impact by the installation of small cell facilities. A discussion ensued between Commissioner Hart and Ms. Kirst regarding the County's ability to implement the provisions articulated in Alternative 4, Option 2, despite the constrained timeframe associated with the proposed amendment wherein Ms. Kirst said that staff supported the provision and described the criteria that staff would utilize for evaluating a small cell facility.

Commissioner Hart asked for additional information regarding the manner in which the 32 cubic feet maximum had been determined for land based telecommunications facilities or related equipment cabinets located on utility poles. Ms. Kirst explained that the 32 cubic feet maximum had been determined that the provision had been adopted to ensure that the criteria for evaluating land based facilities was similar to those utilized for small cell facilities.

Commissioner Hart pointed out that the complexity of the issues regarding telecommunications facilities and the timeframe for adopting the proposed amendment limited staff's ability to adequately analyze such issues. He then commended staff's work on the proposed amendment despite the time constraints. When Commissioner Hart asked about the possibility of subsequent amendments regarding telecommunications facilities at a later date, Ms. Kirst indicated that additional amendments were likely.

Commissioner Ulfelder noted the impact of SB 1282 on the County's ability to review telecommunications facilities. He then asked for additional information regarding the existing process for evaluating small cell facilities and the role of the Planning Commission in that process. Ms. Kirst said that, under the existing provisions, staff would utilize the guidelines prescribed by Section 2-514 of the Zoning Ordinance to determine whether the facility could be permitted by-right. She also stated that the "feature shown" process prescribed by the 2232 review process could be utilized, which included the possibility of a public hearing to be conducted by the Planning Commission. In addition, Ms. Kirst indicated that SB 1282 removed small cell facilities from the 2232 review process. A discussion ensued between Commissioner Ulfelder and Ms. Kirst regarding the review process for small cell facilities that would be utilized under the provisions articulated by SB 1282, the role the Planning Commission would have in that review process, and the difficulties associated with the revised review process prescribed by the bill. Ms. Kirst confirmed that the Commission would not participate in the review process for facilities that complied with the criteria in SB 1282.

When Commissioner Ulfelder asked for additional information regarding the purpose of SB 1282, Ms. Kirst indicated that the bill had been submitted in anticipation of significant changes to the telecommunications industry. A discussion ensued between Commissioner Ulfelder and Ms. Kirst regarding the amount of applications involving small cell facilities that would be submitted after the implementation of SB 1282.

Commissioner Ulfelder said that a letter had been submitted by Donohue & Stearns, PLC, on behalf of multiple telecommunications companies that expressed concerns regarding the impact the proposed amendment would incur on the installation of small cell facilities on existing utility poles compared to instances where a utility pole had to be replaced to install such a facility. He then asked whether the provisions of the proposed amendment applied to facilities that were installed on existing structures. Laura Gori, Assistant County Attorney, Office of the County Attorney, explained that the proposed amendment applied exclusively to small cell facilities that were installed on existing structures. She then stated that amendment did not apply to applications involving utility poles that had to be replaced because such applications were outside the purview of SB 1282. A discussion ensued between Commissioner Ulfelder and Ms. Gori regarding the process for applicants seeking to install a small cell facility on an existing utility pole, the instances in which the process applied to poles that had been previously approved for replacement, and the instances where the installation of a telecommunications facility required the approval of a 2232 application wherein Ms. Gori stated the following:

- The procedures articulated by SB 1282 and the zoning ordinance applied exclusively to facilities that had previously been installed or had been previously approved;
- The process for replacing an existing utility pole on a site would utilize the existing 2232 process;
- The Virginia General Assembly had articulated the criteria for what constituted a small cell facility in SB 1282; and
- The definition of “co-location,” as utilized within the language of SB 1282, referred to the small cell facilities themselves and not the overall structures they were mounted on.

(A copy of the letter is in the date file.)

Commissioner Niedzielski-Eichner asked about the impact or consequences if the proposed amendment were not adopted prior to the July 1, 2017 implementation date for SB 1282. Ms. Kirst indicated that in such a scenario, the small cell facilities, as defined by SB 1282, could be approved by-right, provided they complied with the necessary criteria.

When Commissioner Niedzielski-Eichner asked for additional information on the timeframes for processing small cell facility applications, Ms. Kirst indicated that the prescribed timeframe was initiated upon the submission of a complete application. Commissioner Niedzielski-Eichner followed up and asked for additional information regarding the timeframes for application resubmissions. Ms. Kirst stated that the timeframe was reset for such applications.

Commissioner Niedzielski-Eichner asked for additional information regarding the ARB’s role in the review process and the timeframe for approving an application of a small cell facility. Ms. Kirst indicated that an applicant was required to obtain approval from both staff and the ARB within the prescribed timeframe. A discussion ensued between Commissioner Niedzielski-Eichner and Ms. Kirst regarding the feasibility of obtaining such approvals within that timeframe.

wherein Ms. Kirst said that staff had concluded that obtaining approval from the ARB and staff was feasible within those timeframes.

Commissioner Flanagan pointed out that there were approximately 72 utility poles being considered for the installation of small cell facilities in the Mount Vernon District. He then stated in most instances, the pole had to be replaced to accommodate the facility, which subsequently required the approval of a 2232 application, because installing such features necessitated the heightening of the pole.

Commissioner Flanagan pointed out that the ARB favored retaining the authority to assess whether the visibility of a small cell facility was appropriate, adding that certain historic areas of the County were sensitive to the visual impact of such facilities.

Referring to the language in the first sentence of Alternative 4, Paragraph D, Option 2, Commissioner Flanagan expressed concern regarding the use of the word “adjacent” in identifying the location of an existing structure because such verbiage was restrictive. He then suggested that the language be revised to utilize broader verbiage to ensure the amendment had adequate flexibility to evaluate the necessary facilities. In addition, Commissioner Flanagan cited instances in the Mount Vernon District when telecommunications facilities were visible from sites that were a significant distance from the structure.

Addressing Commissioner Ulfelder’s concerns regarding the procedures for reviewing small cell facilities that were located on existing utility poles compared to those that would be installed in conjunction with a replacement pole, Commissioner Hart stated that the process for reviewing replacement poles would not be affected by SB 1282 because the language in the bill specified that the provisions applied to existing structures. Ms. Gori concurred with Commissioner Hart’s statement, adding that the proposed amendment reflected those provisions articulated in SB 1282. A discussion ensued between Commissioner Hart and Ms. Gori regarding the review procedures for replacement utility poles and the permits that would be required for such a structure wherein Ms. Gori stated that the type of permit required for replacement poles was dependent on the zoning of the land in which it was located.

When Commissioner Niedzielski-Eichner asked for clarification on the timeframe for reviewing a small cell facility application, Ms. Gori stated that the 60-day review period prescribed by the County referred to calendar days and not business days.

Commissioner Ulfelder reiterated his concerns regarding the different review process for installing small cell facilities on replacement utility poles compared to existing poles, adding that such discrepancies could create issues for staff and applicants.

Commissioner Ulfelder expressed support for Commissioner Flanagan suggestion to revise the language in the first sentence of Alternative 4, Paragraph D, Option 2 to replace the word “adjacent” with terminology that was broader and emphasized the visual impact of a small cell facility. He then noted the importance of preserving the visual character of sites located in Historic Overlay Districts. Ms. Gori pointed out that there was existing language in the proposed amendment that referenced the visual impact of small cell facilities.

Chairman Murphy called for speakers from the audience.

Edward Donohue, 117 Oronoco Street, Alexandria, representing Donohue & Stearns, PLC, indicated that he was speaking on behalf of Crown Castle and T-Mobile, which were providers of various telecommunications facilities and services. He commended the Commission for their review and discussion of the proposed amendment. Mr. Donohue then aligned himself with remarks from Commissioner Hart regarding the timeframe for adopting the amendment, but suggested that additional revisions to the County's policies for small cell facilities be evaluated. He also recommended that the County's telecommunications task force conduct a meeting to discuss small cell facilities, noting other ongoing changes in the trends surrounding such facilities. Mr. Donohue suggested the inclusion of a follow-on motion to facilitate such a meeting.

A discussion ensued between Commissioner Ulfelder and Mr. Donohue regarding the possibility that the Virginia General Assembly would pass additional legislation that affected telecommunications facilities, the potential changes that such legislation might incur, the trends in the designs of telecommunications facilities, and the advantages associated with small cell facilities wherein Mr. Donohue noted that various issues involving telecommunications policies were under review by the General Assembly and described the benefits of utilizing small cell facilities in certain areas.

There being no more speakers, Chairman Murphy called for closing remarks from Ms. Kirst, who declined. There were no further comments or questions from the Commission; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Hart for action on this item.

(Start Verbatim Transcript)

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Commissioner Hart: Thank you Mr. Chairman. First, I want to thank Mr. Donohue for coming out tonight and, also, the citizens and industry representatives who submitted written comments on this amendment. Secondly, I again want to thank staff, particularly Lorrie Kirst, Chris Caperton, and Laura Gori in the County Attorney's office for their excellent analysis on this amendment under very difficult time constraints. As the Commission is aware, our authority to review and regulate telecommunications facilities depends on legislative authority. As the Commission also is aware, telecommunications has been a hot topic, both in the legislator and in the courts. The General Assembly and Governor McAuliffe only finalized the new amendment to the statute very recently, although it goes into effect July 1. Fairfax County, also, does not have much flexibility to make changes, due to the wording of the legislation. In order to meet the July 1 deadline, the Board of Supervisors has to vote next week, meaning that we have to vote on our recommendation tonight. I recognize, however, that the County may not be finished with this topic and that we may have additional items to review, as the legislation and regulation continue to evolve. I don't have a specific follow-on motion this evening, but we will continue to monitor the legislative developments and I think there will be committee meetings or other updates,

as...as progresses. I support staff's recommendation on the amendment, as advertised. We have a number of options regarding small cell facilities within the limitations given by the General Assembly, but based upon staff's recommendation, I believe the Commission should recommend Alternative 4 – which, I think is the greatest level of review – and Option 2 – which, I think, addresses the concern that both Commissioner Flanagan and Commissioner Ulfelder have raised tonight about the view and the view shed. Within the limitations of our authority, I think that would push the needle as far as we can in that direction, within limited statutory authority. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE SMALL CELL FACILITY ZONING ORDINANCE AMENDMENT BE ADOPTED, AS ADVERTISED AND CONTAINED IN THE STAFF REPORT DATED MAY 16, 2017, AND THAT ALTERNATIVE 4, OPTION 2, AS OUTLINED IN THE MAY 16, 2017 STAFF REPORT, BE APPROVED FOR SMALL CELL FACILITIES LOCATED IN HISTORIC OVERLAY DISTRICTS. I FURTHER MOVE THAT THE COMMISSION RECOMMEND THAT THE AMENDMENT BECOME EFFECTIVE AT 12:01 A.M. ON JULY 1, 2017.

Commissioners Migliaccio and Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Migliaccio and Mr. Ulfelder. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt the Zoning Ordinance Amendment regarding Small Cell Facilities zoning, as articulated by Mr. Hart this evening, say aye.

Commissioners: Aye.

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

The motion carried by a vote of 9-0. Commissioner Sargeant recused himself from the vote. Commissioner Strandlie was not present for the vote. Commissioner Keys-Gamarra was absent from the meeting.

(End Verbatim Transcript)

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ZONING ORDINANCE AMENDMENT – PUBLIC FACILITIES
AND MODIFICATIONS TO EXISTING WIRELESS TOWERS
OR BASE STATIONS – To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows:
Add a new Sect. 2-520, Modifications to Existing Wireless Tower or Base Station, that requires any eligible facilities request for a modification of a wireless tower or base station that does not substantially change the physical dimensions of such tower or base station to be submitted to the Zoning Administrator for review and decision under Sect. 6409 of the Spectrum Act (47 U.S.C. § 1455) and any eligible facilities request for a modification that would

substantially change the physical dimensions would be subject to Planning Commission review under Sect. 15.2-2232 of the Code of Virginia. Applications for review under Sect. 2-520 will be subject to the fee provided for in Sect. 18-106. Sect. 2-520 defines the terms eligible facilities request and base station as they are used in the context of Sect. 6409 review.

1. Add a new Sect. 2-521, Public Facilities, which states that a public facility is any use, facility, or other feature that is subject to Planning Commission review under Sect. 15.2-2232 of the *Code of Virginia*. Sect. 2-521 further provides that any application for such review is subject to the fee provided for in Sect. 18-106;

2. Pursuant to authority granted by Section 15.2-2286(A)(6) of the *Code of Virginia*, add the following filing fees to Sect. 18-106:

(a) Reviews required to comply with Sect. 15.2-2232 of the *Code of Virginia*:

- 2232 Review with public hearing: \$1,500
- 2232 Feature Shown without public hearing: \$750
- 2232 Review with other rezoning, special permit or special exception: \$0
- 2232 Feature shown for Distributed Antenna Systems (DAS): \$750.

There will be a \$750 fee for the first DAS node, a \$100 fee for each node thereafter, and a maximum of 20 nodes per single application.

(b) Reviews required under Sect. 6409 of the Spectrum Act - \$500
COUNTYWIDE. PUBLIC HEARING.

Commissioner Sargeant disclosed that he was an employee of Dominion Virginia Power, which was involved in various electric utility services, and since the proposed amendment referred to such services, including utility poles and other assorted structures, he would recuse himself from the public hearing.

Chris Caperton, Planning Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended adoption of the proposed zoning ordinance amendment regarding public facilities and modifications to existing wireless towers or base stations.

When Commissioner Hurley asked whether the provision exempting County facilities from the fee applied to Fairfax County Public Schools, Mr. Caperton confirmed that the provision applied to the County's public school facilities.

Commissioner Ulfelder pointed out that there were instances when a 2232 application was submitted with no intention of incurring a public hearing, but a Commissioner subsequently requested such a hearing. He then asked whether another fee would be charged to an applicant in the event that such an application went to public hearing. Mr. Caperton indicated that a second fee would be charged in such a scenario.

Chairman Murphy called for speakers from the audience, but received no response; therefore, he noted that closing remarks from Mr. Caperton were not necessary. There were no further comments or questions from the Commission; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Hart for action on this item.

(Start Verbatim Transcript)

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Commissioner Hart: Thank you Mr. Chairman. This amendment is...is relatively straightforward and, I assumed, would be easier than the first one. It has staff's favorable recommendation and I support that. I...I THEREFORE MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE PUBLIC FACILITIES AND MODIFICATIONS TO EXISTING WIRELESS TOWERS AND THE BASE STATIONS ZONING ORDINANCE AMENDMENT BE ADOPTED, AS ADVERTISED AND CONTAINED IN THE STAFF REPORT DATED MAY 16, 2017, WITH AN EFFECTIVE DATE OF JULY 1, 2017 AT 12:01 A.M.

Commissioners Hedetniemi and Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder and Ms. Hedetniemi. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt the Public Facilities and Modifications to Existing Wireless Towers and Base Stations Zoning Ordinance Amendment, as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Mr. Hart.

Commissioner Hart: Thank you. I FURTHER MOVE THAT APPLICATIONS FOR PUBLIC FACILITIES UNDER SECTION 15.2-2232 OF THE *CODE OF VIRGINIA* AND APPLICATIONS FOR MODIFICATIONS TO EXISTING WIRELESS FACILITIES SUBMITTED UNDER SECTION 6409 OF THE SPECTRUM ACT, WHICH WERE FILED PRIOR TO THE EFFECTIVE DATE OF THIS AMENDMENT AND ARE IN COMPLIANCE WITH THE APPLICABLE SUBMISSION REQUIREMENTS, SHALL BE GRANDFATHERED FROM THIS AMENDMENT.

ZONING ORDINANCE AMENDMENT – PUBLIC FACILITIES AND
MODIFICATIONS TO EXISTING WIRELESS TOWERS OR BASE STATIONS

June 15, 2017

Commissioner Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder. Is there a 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 10-0. Commissioner Sargeant recused himself from the vote. Commissioner Keys-Gamarra was absent from the meeting.

(End Verbatim Transcript)

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The meeting was adjourned at 10:46 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: October 5, 2017



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