

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, JUNE 21, 2018**

PRESENT: Peter F. Murphy, Chairman, Springfield District
James R. Hart, Commissioner At-Large
James T. Migliaccio, Lee District
Timothy J. Sargeant, Commissioner At-Large
Ellen J. Hurley, Braddock District
John C. Ulfelder, Dranesville District
John A. Carter, Hunter Mill District
Julie M. Strandlie, Mason District
Walter C. Clarke, Mount Vernon District
Phillip A. Niedzielski-Eichner, Providence District
Donté Tanner, Sully District
Mary D. Cortina, Commissioner At-Large

ABSENT: None

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The meeting was called to order at 7:36 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

MINUTES APPROVAL – MARCH 2018

(Start Verbatim Transcript)

Commissioner Migliaccio: Thank you, Mr. Chairman. Tonight, I would like to move the minutes from March 2018. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION AGREE TO THE MINUTES AND MOVE THAT THE – WE APPROVE FOR MARCH 2018.

Commissioner Hart: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Clarke abstains.

The motion carried by a vote of 11-0-1. Commissioner Clarke abstained.

(End Verbatim Transcript)

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Commissioner Sargeant announced the Schools Committee would meet on Wednesday, June 27, 2018 at 7:30 p.m., in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035. The Committee will continue its assignment reviewing the Implementation of the Work Program.

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Chairman Murphy announced the Telecommunication Committee would meet on Wednesday, June 27, 2018 at 8:30 p.m., in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035. The topic of discussion would be the Zoning Ordinance Amendment, Wireless Communications Infrastructure.

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PCA/CDPA/FDPA 2017-DR-014 – STANLEY MARTIN COMPANIES, LLC
(Decision Only) (Public Hearing on these applications was held on June 14, 2018)

(Start Verbatim Transcript)

Commissioner Ulfelder: Thank you, Mr. Chairman. We have a decision only this evening in a case, Dranesville District case that was heard at a public hearing last week. I think one of the Commissioners has a question and before I go into a statement, I would like to...

Chairman Murphy: Yes.

Commissioner Tanner: So, just wanted to clarify and thank you, Commissioner Ulfelder. So, last week we talked a lot about the road that was gonna go through that property and concern between two lanes and four lanes. So, make sure I'm understanding this correctly. Right now, the intention is just two lanes only, at most three, but the Plan Amendment says four up to that bridge. Is that correct?

Commissioner Ulfelder: The – the plan says four but at this time it comes across the Park Authority land is four lanes on the bridge, but then it goes down to two lanes and all – and two lanes will be on the Stanley Martin property all the way over to the connection with Dulles Technology Drive.

Commissioner Tanner: Awesome, thank you very much.

Commissioner Ulfelder: Right. Anyone? I'll wait. Let me go ahead with my statement. I think there may be another Commissioner who wants to speak. This evening we have a decision only for an application in the western part of the County within the Innovation Station TSA that was the subject of a public hearing last week. Despite all the "Sturm und Drang" at the public hearing, this is a fairly straightforward and simple amendment to the comprehensive rezoning for the site, that was approved less than one year ago. At that time the Planning Commission recommended and the Board of Supervisors approved rezoning the property from the I-4 District to PRM, with plans for two multi-tenant buildings with up to four hundred and sixty units. The applicant in the current application is asking for approval of a second residential option for the

development of one hundred and seventy-two, two-over-two multi-family stacked townhomes with a commensurate reduction in the FAR. The previously approved multi-family plan would remain as a possible development option for the property. Similarly, the current applicant has agreed to be responsible for the construction of the extension of the McNair Farms Drive from Centreville Road to Dulles Technology Drive, a major transportation improvement needed for the continuing development and redevelopment of this area. This road connection was thoroughly discussed and vetted as part of the 2017 rezoning application and is now in the final stages of plan review and design based on that rezoning. The road's location is due, in part, to requests by County staff in order to improve circulation on and through the site and to deal with some of the constraints on the site such as the resource protection area along the southern portion of the property and the stormwater management pond and park land along the southwestern property boundary. For these reasons and the fact that the previously approved residential option is still an option, I do not see any basis at this time for modifying the location of the proposed extension of McNair Farms Drive across the applicant's property. The applicant has also agreed to carry forward the majority of the previous proffers in the event that they proceed with the new option and the proposed layout includes a significant amount of open space and onsite recreational space. For these reasons and those discussed in the May 31st, 2018 staff report, I will move that the Planning Commission recommend approval of this application. And, I would like to first ask that the applicant's representative confirm for the record - would you please identify yourself.

Mark C. Looney, Applicant's Agent, Cooley, LLP: Thank you, Mr. – Commissioner Ulfelder. Mark Looney with Cooley, on behalf of the applicant and we agree with the development conditions dated June 8, 2018.

Commissioner Ulfelder: And proffers now dated June 18th, 2018.

Mr. Looney: Correct.

Commissioner Ulfelder: Okay, so both of those. Thank you. I will make a motion. I know there may be someone who wishes to speak to the motion after I make. I'll make the initial motion first which is I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS, APPROVAL OF PCA 2017-DR-014 AND CDPA 2017-DR-014, SUBJECT TO THE PROFFERS CONSISTENT WITH THOSE DATED JUNE 18TH, 2018.

Commissioner Migliaccio: Second.

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

Commissioner Cortina: Yes, Mr. Chairman. Discussion.

Chairman Murphy: I'm sorry?

Commissioner Cortina: Discussion.

Chairman Murphy: Discussion?

Commissioner Cortina: Yes. Thank you, Mr. Chairman and Commissioner Ulfelder. I feel I cannot support this application because they have separated the linear development as they call it, which is the roadway from the onsite development, which has allowed them to reduce the amount of stormwater calculations. And therefore, this development does not adequately address the water quality on the entire development, which is required by the Stormwater Ordinance. The other item of objection is the transit oriented development being downsized. I think when we have decided as a community that smart growth is a place where we can do a strategy, rather where we can place our development in areas near transit that will maximize the use of the property and protect our environmental resources and our stable neighborhoods, that is the strategy for growing our economy and growing this region, while protecting our quality of life. And, while this may not be a big property, I think it sets a bad precedent of downsizing in a transit oriented development area, as well as relaxing the stormwater requirements and therefore, I cannot support this application. Thank you.

Chairman Murphy: Further discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve PCA 2017-DR-014, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Cortina votes "no."

Commissioner Niedzielski-Eichner: And Niedzielski-Eichner votes "no."

Commissioner Clarke: I'll abstain Sir.

Chairman Murphy: Mr. Carter abstains. I mean Mr. Clarke abstains.

Commissioner Niedzielski-Eichner: And Niedzielski-Eichner votes "no."

Chairman Murphy: Mr. Niedzielski-Eichner votes "no." Mr. Ulfelder.

Commissioner Ulfelder: I have a further motion. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVERS AND MODIFICATIONS CONTAINED IN THE HANDOUT DISTRIBUTED TO YOU THIS EVENING, DATED JUNE 14TH, 2018, WHICH WILL BE MADE PART OF THE RECORD.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve CDPA 2017-Z-DR-014 [sic]...

Commissioner Ulfelder: Yeah, okay. We have to do that, yes, go ahead...

Chairman Murphy: Say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Niedzielski-Eichner: No.

Chairman Murphy: Mr. Cortina [sic] and Mr. Niedzielski-Eichner vote "no." Mr. Clarke abstains. Okay?

Commissioner Ulfelder: Okay, my next motion which I jumped into because is that we... THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE WAIVERS AND MODIFICATIONS CONTAINED IN THE HANDOUT DISTRIBUTED THIS EVENING DATED JUNE 14TH, 2018 WHICH WILL BE MADE PART OF THE RECORD.

Chairman Murphy: Okay.

Commissioner Migliaccio: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Division. Same division. Okay.

Commissioner Ulfelder: One more. I MOVE THAT THE PLANNING COMMISSION APPROVE FDAPA – FDPA 2017-DR-014, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JUNE 8TH, 2018 AND SUBJECT TO THE BOARD OF SUPERVISORS' APPROVAL OF THE CONCURRENT PCA APPLICATION.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion? All those in favor of the motion to recommend to the Board of Supervisors that – oh I'm sorry – that we approve FDPA 2017-DR-014, subject to the Board's approval of the PCA and CDPA, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same division. Mr. Migliaccio.

Commissioner Migliaccio: Thank you, Mr. Chairman. I do have one "feature shown" this evening.

Commissioner Ulfelder: Can I just – wait and take one more...

Commissioner Migliaccio: Oh, I'm sorry.

Commissioner Ulfelder: I'm sorry. I wanna thank staff who've put a lot of time in this and the applicant. We've been dealing with a lot of issues floating here and I really appreciate getting this along – moving this along. This is the third time we've looked at this particular piece of property in three years and hopefully it's the last time. And, they'll now have two options, two choices as to how to proceed if the Board approves this second – this PCA. And that should be enough.

Chairman Murphy: Okay. Thank you very much.

The motion carried by a vote of 9-2-1. Commissioners Niedzielski-Eichner and Cortina voted against the motion. Commissioner Clarke abstained from the vote.

(End Verbatim Transcript)

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2232-L18-5 – T-MOBILE, 7740 RICHMOND HIGHWAY, ALEXANDRIA, VA 21075

(Start Verbatim Transcript)

Commissioner Migliaccio: Thank you, Mr. Chairman. Apologize for jumping the gun. I do have a "feature shown." I MOVE THAT THE PLANNING COMMISSION FIND THAT 2232-L18-5, LOCATED AT 7740 RICHMOND HIGHWAY, A "FEATURE SHOWN" PURSUANT TO VIRGINIA CODE 15.2-2232 AS AMENDED.

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-L18-5, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Mr. Chairman, abstain.

Chairman Murphy: Mr. Sargeant abstains.

The motion carried by a vote of 11-0-1. Commissioner Sargeant abstained.

(End Verbatim Transcript)

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SITE-SPECIFIC PLAN AMENDMENTS – 2017 NORTH COUNTY
PC17-PR-006 – 2817 & 2832 DORR AVENUE
PC17-PR-007 – VALO PARK

(Start Verbatim Transcript)

Commissioner Niedzielski-Eichner: Thank you, Mr. Chairman. Mr. Chairman, the – later this evening we will conduct a public hearing on proposed site-specific amendments to the Comprehensive Plan. The nominators of Site-Specific Plan Amendment – Amendment PC17-PR-06 [sic] and PC17-PR-007 have requested their nominations be withdrawn. Both of these items are located in the Providence District. PC17-PR-006 proposes that the subject areas located at 2817 and 2832 Dorr Avenue, be re-planned for residential mixed-use development, with additional retail and or office uses at an intensity up to 1.35 FAR. PC17-PR-007, proposes that the subject area known as Valo Park, located at 7950 James Branch Drive [sic] within the north central office sub-district, Subarea One, DAAR Office Area of the Tysons Urban Center, be re-planned for mixed-use development and an intensity up to 1.75 FAR. Since the nominations were previously advertised for public hearing, the acceptance of a withdrawal needs the concurrence of the Planning Commission. Therefore, I MOVE THAT THE PLANNING COMMISSION ACCEPT THE WITHDRAWAL OF THE SSPA NOMINATIONS, PC17-PR-006 AND PC17-PR-007, BOTH LOCATIONS BEING WITHIN PROVIDENCE DISTRICT.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of that motion? All those in favor of the motion to accept the withdrawals of those two application, PC17-PR-006 and PC17-PR-007, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Niedzielski-Eichner: Thank you, Mr. Chairman.

Chairman Murphy: Thank you very much.

The motion carried by a vote of 12-0.

(End Verbatim Transcript)

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Chairman Murphy announced the passing of the grandmother of Jacob Caporaletti, Deputy Clerk to the Planning Commission, and extended sympathies on behalf of the Planning Commission.

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ZONING ORDINANCE AMENDMENT – SHORT TERM LODGING

(Decision Only) (Public Hearing held on May 3, 2018; Decision only from May 17, 2018; Decision only from May 24, 2018; Decision only from June 14, 2018)

(Start Verbatim Transcript)

Commissioner Hart: Thank you, Mr. Chairman. On May 3rd, the Commission held a public hearing on the Short-Term Lodging Zoning Ordinance Amendment and deferred decision three

times. Tonight, we make our recommendations to the Board of Supervisors. We may not have reached complete agreement and we may not necessarily be finished with this topic, but I believe we've reached a point where we can pass the item along to the Board with several constructive suggestions. I've circulated this week two proposed motions to the Commission which went through several iterations. And tonight, I intend to move the first scenario, adoption in part, of a limited by-right use, coupled with a recommendation for advertisement of additional changes and follow-on motions. I intend to elaborate on some of the rationale for this motion. First, I wanna thank all the citizens who participated in this process over the past several months, responding to the online surveys, speaking at public meetings or public hearing and submitting correspondence. We generally want to engage the community in the Zoning Ordinance Work Program discussions and on this topic, we have received a great deal of input from a variety of perspectives. I also want to thank our staff team, and many of them are here tonight, particularly the Zoning Administrator, Leslie Johnson, also Donna Pesto, Lily Yegazu, Sara Morgan, Charles Fitzhugh and also Sarah Hensley in the County Attorney's office. Many of them worked very late hours on the various stages of this project. Staff did an unprecedented amount of citizen outreach, including meetings around the County. We also received responses and comments from over seven thousand residents. This was an extraordinary complicated project and to me it seemed to get more difficult the further we progressed. I wanna thank also my colleagues on the Commission for their comments and suggestions which are added much to the level of review. I think all eleven of my colleagues have weighed in each adding something different to the discussion. And we certainly have a wide array of opinions and questions to consider. This amendment has also generated considerable opposition, and there may not be a consensus in the community either to allow a short-term rental use, or even if we allow it, what constraints on the use may be admissible or appropriate. The Commission's skepticism with this topic, to some extent, mirrors the division in the community and the difficulty with identifying appropriate or permissible language that would satisfactorily mitigate impacts on residential neighborhoods. I sympathize with many of the observations about protecting residential communities, and agree that we ought not simply introduce a boarding house use or motel use by-right across the board. At the same time, I agree that many County residents have successfully utilized and enjoyed short-term lodging elsewhere, and other communities have allowed them without destroying the character of residential districts. Many County residents will act responsibly, if allowed the opportunity to serve as STL hosts here, without bothering their neighbors. STLs also may allow some of our residents the opportunity to earn supplemental income and interact with interesting guests from all over the world, promote Fairfax County as a tourist destination among other benefits. With that in mind, the Board directed staff to evaluate this use and make appropriate recommendations. Identifying how a conceptual short-term lodging use should be specifically defined; however, has proven difficult. We have at least two groups of opposition. One group opposed to the use by-right in residential districts and another extreme opposed to any regulation of rentals at all. In the middle, we have other folks who either support the use or support it subject to certain limitations, some of which we've learned are impermissible from beyond the scope of the advertising. In my view, part of the difficulty with the proposed amendment is that we are attempting to craft a "one-size fits all" approach, allowing the same use with the same numbers for every type of residential unit, from studio apartments to five-acre lots. But the impacts of a short-term lodging unit on a five-acre lot with plenty of room for parking and separation from neighbors may be very different, compared to a townhouse community with party walls and limited parking, or a condominium with many neighbors in close proximity. I believe that through this process, the Commission has generally reached a consensus that the

numbers that were advertised may be too high for a by-right use everywhere and that more modest numbers might help mitigate the impacts. Above this baseline, I believe a case-by-case review may be more appropriate to allow for a public hearing and imposition of development conditions, with a specific evaluation of the context. This approach would allow more flexibility for going above these base-line numbers on appropriate properties, without severely impacting neighborhoods. We also handled other analogous uses in residential neighborhoods, such as home child care or home professional office, for example a dentist or an accountant, through these procedures now. And that seems to me to be an appropriate methodology for evaluating the impacts, how they should be mitigated case by case. Some uses will work in some houses, but if the application property is a townhouse with limited parking, or house at the end of a court, all mailboxes and driveways with no parking and pie-shaped front yards, the impacts of comings and goings in a small space may be magnified, and neighbors may have more concerns. I will have a follow-on motion on that topic. I had hoped tonight to make an elegant motion neatly resolving all the loose ends which may be impossible, but; in a legislative process, perfection may be impossible to achieve. A number of years ago, in what might be described as a – a spirited discussion with our former Chairman, now Congressman Connolly, I felt compelled to point out, correctly, the numerous deficiencies in whatever the proposal on the table was. Nevertheless, paraphrasing Voltaire, the Chairman reminded me that we cannot let the perfect be the enemy of the good. That lesson may apply here. We may not have a perfect solution, but I think we can go forward to the Board with what we have at this point, monitor it, and make adjustments if appropriate. Ultimately, I have concluded, with staff's guidance, that a limited by-right use across the board, could be implemented, coupled with several follow-on motions proposing additional options. My motion will propose limiting the by-right short-term lodging use to forty-five days, with a maximum of fifteen without the operator present, limiting the use to four adults with one contract only and requiring one parking space. I believe this an appropriate range for an initial by-right use at this time. I recognize the package is a compromise, but based on a logical vetting of the proposal. We may not all agree on these numbers, but if this baseline use can be adopted, we can evaluate it for twelve or eighteen months and make appropriate adjustments. I recognize also enforcement is a very difficult aspect of this amendment. At the outset, I wanna try and separate the issues of home – homeowner association covenants from zoning. We've been repeatedly urged to consider homeowners associations and their covenants or rules in some fashion, including specific requests that these permits be denied in any community, where the homeowners association rules prohibit short-term rentals. But the topic of covenants has come up many times before on Zoning Ordinance amendments, and we have never gone there. Fairfax County cannot get in the middle of private agreements between private parties, and cannot consider homeowners association covenants or rules in this context. The Commission, the Board of Supervisors and staff, are in no position to make any binding determinations whatsoever about the existence, validity, meaning or enforceability of purported covenants or rules. We leave those decisions to courts and judges where they belong. The County has no idea whether for a given community there are covenants or HOA rules, whether they've been amended, whether they were properly adopted, whether they applied to some or all of the lots. We have no idea whether any required procedures were followed, whether paperwork was properly prepared and signed. If there was a meeting, we don't know if there was a quorum, proper notice sent out in advance; whether the votes were properly conducted or how the arithmetic was handled. We don't know the number of votes required in a subdivision, whether you count the sections separately or together; whether both the husband and wife have to vote or sign; whether any of the original lots were subdivided and whether that changes the arithmetic.

It would be highly inappropriate for us to wade into those issues, or even worse let staff at the counter try and puzzle through those questions. If the language of a restriction is disputed, a judge needs to make a ruling as to what means. And more importantly, the homeowners association or an affected resident needs to take the initiative on their own dime. It would be highly inappropriate for the County to spend taxpayer money taking sides in any homeowners association enforcement dispute. Nevertheless, this proposed ordinance in no way diminishes the right of any homeowners association or any individual resident to seek appropriate judicial relief, whether a binding determination about the existence, meaning or enforceability of a purported restriction or to enforce any such restriction. Nor does the ordinance limit in any way the ability of an association to modify its existing rules or adopt new ones in accordance with their procedures and existing laws. Homeowners associations and citizens remain free to exercise their rights in that regard and the County is not going to impair those rights. With respect to enforcement generally, there are limitations on what we can do. There will not be additional employees or funds budgeted in this Zoning Ordinance amendment. There will not be a weekend SWAT team or instant enforcement. Complaints will be handled according to our established procedures like any other zoning violation. If a complaint is received, staff will investigate and follow the existing protocol. If a complaint is determined to be founded, ordinarily a letter goes out and that starts the appeal deadlines running, like any other zoning violation. Our zoning enforcement team is very conscientious and works very hard to stay on top of the complaints that come in. We will continue to monitor the effectiveness of our enforcement. I do believe that consideration of a shorter appeal period, ten days rather than thirty days, analogous to what we do on boarding houses, may be more appropriate and I will have a follow-on motion on that topic as well. Staff also has indicated, that through a contract with Host Compliance, Fairfax County now will have more helpful information to assist with enforcement in this regard. I do believe that Fairfax County probably can do more to facilitate effective enforcement and one of my follow-on motions also addresses that project. In addition, the execution of the application form under oath will assist staff and the County Attorney's office with enforcement. While this package as expressed in the first motion may not be a perfect solution and may not please everyone, I believe the Commission has done its job and given the topic a thorough vetting. I think this is a logical and appropriate recommendation to the Board at this time. Therefore, Mr. Chairman, I MOVE, FIRST, THAT THE PLANNING COMMISSION RECOMMEND ADOPTION OF STAFF'S RECOMMENDATION FOR THE ZONING ORDINANCE AMENDMENT TITLED "SHORT-TERM LODGING FOR RESIDENTIAL OWNER/RENTER OPERATED DWELLINGS ONLY," AS SET FORTH IN THE STAFF REPORT DATED MARCH 20, 2018, WITH THE FOLLOWING CHANGES TO PROPOSED SECTION 10-105:

1. IN PARAGRAPH 2 WHICH READS "A DWELLING OR MOBILE HOME USED FOR SHORT-TERM LODGING MUST" AND CONTINUES – ADD A NEW PARAGRAPH 2. E TO READ AS FOLLOWS:
 - E. HAVE ONE DESIGNATED PARKING SPACE AVAILABLE FOR LODGERS, WHICH THE OPERATOR HAS THE AUTHORITY TO RESERVE FOR SHORT-TERM LODGING PURPOSES.
2. REVISE PARAGRAPH 4. A TO READ AS FOLLOWS: A. A DWELLING OR MOBILE HOME MAY BE USED FOR SHORT-TERM LODGING FOR NO

MORE THAN FIFTEEN NIGHTS PER YEAR DURING WHICH THE OPERATOR IS NOT PRESENT. SHORT-TERM LODGING MAY ALSO BE CONDUCTED FOR AN ADDITIONAL THIRTY NIGHTS, FOR A POTENTIAL TOTAL OF FORTY-FIVE NIGHTS, IF THE OPERATOR IS PRESENT FOR ALL SHORT-TERM LODGING STAYS EXCEEDING FIFTEEN.

3. REVISE PARAGRAPH 4. B TO READ AS FOLLOWS:

B. THE MAXIMUM NUMBER OF LODGERS PER NIGHT MAY NOT EXCEED FOUR ADULTS EXCEPT WHERE THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE PROVIDES FOR A LOWER MAXIMUM OCCUPANCY.

4. REVISE PARAGRAPH 4. E TO READ AS FOLLOWS:

E. ALL ADVERTISEMENTS FOR SHORT-TERM LODGING POSTED ON ANY PLATFORM ONLINE OR IN ANY OTHER FORMAT MUST (1) INCLUDE THE SHORT-TERM LODGING PERMIT NUMBER AND (2) IDENTIFY THE LODGING – excuse me – IDENTIFY THE LOCATION OF THE PARKING SPACE REQUIRED BY PARAGRAPH 2. E AND ANY OTHER AVAILABLE PARKING OR PUBLIC TRANSPORTATION OPTIONS.

I MOVE THAT THE PLANNING COMMISSION SUPPORT THE STAFF RECOMMENDATION FOR THE OTHER OPTIONS INCLUDING:

- LIMITING THE NUMBER OF RENTAL CONTRACTS TO ONE;
- PROVIDING THAT A SHORT-TERM LODGING PERMIT FEE IS \$200 FOR A TWO-YEAR PERMIT; AND
- REDUCING THE FEE FOR A BED AND BREAKFAST SPECIAL EXCEPTION APPLICATION FROM \$16,375 TO \$8,180.

I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD THAT THE ZONING ORDINANCE AMENDMENT HAVE AN EFFECTIVE DATE OF 12:01 A.M., OCTOBER 1, 2018. THIS DELAYED EFFECTIVE DATE WILL GIVE STAFF TIME TO NOTIFY THE PUBLIC ABOUT THESE NEW AMENDMENTS, AND GIVE THE PUBLIC TIME TO COME INTO COMPLIANCE.

Commissioner Hurley: Second.

Commissioner Hart: And then I will have some follow-on motions also.

Commissioners Hurley and Ulfelder: Second.

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

Commissioner Migliaccio: Thank you, Mr. Chairman. As with many of our fellow Commissioners, we've been struggling with this and I want to get to a "yes" and I'm still at this point struggling. I understand that this is a very complicated issue to – I mean it's very obvious after that lengthy discussion by Mr. Hart – motion. But what we have in place right now with the County is not workable. It penalizes good citizens who are simply trying to supplement their income and abide by the rules that right now do not exist so we need to get something in place. My concern is not with the good actors, is with the bad actors and how they impact our stable neighborhoods and how we can achieve – how we can enforce our rules. We're not able to do that right now – we never seem to be able to do that. Therefore, I have one simple amendment that I would like to add on to Commissioner Hart's is – I think will help with the enforcement especially during the twelve to eighteen-month period when we're starting out with this. And if we're starting out and we start out too big, we never can reign it back in, we can only go up that's the easier way to go. So, I think we should start out small and move up. Therefore, after discussing with some other Commissioners including Commissioner Strandlie, I would like to make an amendment to Mr. Hart's motion and it's regarding the onsite operator days from thirty to zero – fifteen days offsite. I would like to make that to zero and thirty days onsite, make that to forty-five. Therefore, Mr. Chairman, I MOVE TO AMEND PARAGRAPH 4. A TO STRIKE "FIFTEEN" AND REPLACE WITH "ZERO" AND TO STRIKE "THIRTY" AND REPLACE WITH "FORTY-FIVE." This effectively will allow somebody to come in to code compliance to come to a house and easily know if they're in compliance. It's not about noise, it's not about parking, it's not about lighting, it's not about some other quality of life issue that can be nebulous. It is something that they can look at either the operator is onsite or the operator is not onsite. And normally if the operator is onsite they're not having all of these issues in the neighborhood.

Commissioner Niedzielski-Eichner: Second.

Chairman Murphy: Seconded by Mr. Niedzielski-Eichner.

Commissioner Strandlie: Second.

Chairman Murphy: Is there a discussion? And Ms. Strandlie.

Commissioner Tanner: Mr. Chairman.

Chairman Murphy: Yes.

Commissioner Tanner: Just a quick question to make sure I understand the motion. Are you stating that there should be a requirement for onsite – the owner of the property to be onsite during all – all contracts so to speak. Is that what you're saying.

Commissioner Migliaccio: They're under contract? Yes.

Commissioner Tanner: Okay.

Commissioner Migliaccio: Forty-five days. I don't want to upset the apple cart. I would go higher with days, but I understand it's been crafted to get to forty-five right now. I think if

they're onsite we can go up to ninety at some point but, as I said earlier, I'd like to start out small and move up.

Commissioner Ulfelder: Quick clarification.

Chairman Murphy: And then Ms. Strandlie first and then Mr. Ulfelder.

Commissioner Strandlie: [Inaudible]

Chairman Murphy: Okay, Mr. Ulfelder.

Commissioner Ulfelder: I – I – what I heard Commissioner Tanner say was the owner has to be onsite. It's the operator. Because the – the owner can be the operator, but somebody who is a long-term leasing the property can be the operator as well, so long as they have owner's permission in order to have – to get the permit in order to proceed with STLs. So – so it's not always the owner but it's somebody who is – is an operator and under this proposed ordinance they would have to have the owner's permission in order to be in that position.

Commissioner Tanner: Thank you for the clarification. So – so if somebody were to step outside – or step out of town a while and wanted to lease their property while they were out of town, that would not be allowed according to your amendment. Is that correct?

Commissioner Migliaccio: What do you mean by out of town? Are they going out for a cup of coffee or are they leaving town for three weeks?

Commissioner Tanner: Three weeks.

Commissioner Migliaccio: Then no.

Commissioner Tanner: Got you. Thank you for clarify.

Chairman Murphy: Ms. Strandlie.

Commissioner Strandlie: Thank – Thank you. I firmly support Commissioner Migliaccio's motion. This has been a very important issue in the Mason District. We've heard a lot from our constituents. One of the main things that we're concerned about is that our – our neighborhoods are residential and they're not a tourist destination. We've already seen real estate agents advertising for clients who are looking for investment properties to short-term – to rent out as short-term rentals. It's one thing. And we heard from a lot of constituents who were having good experiences by renting out a bedroom. In particular, I'm thinking about a woman from Reston who told us her story. I strongly believe that we should start with very restricted low numbers, see how that goes. The current situation is not working that well. We don't have any recourse to effectively enforce. So, having some rules will – should be a step forward. So, I would urge my fellow Commissioners to support this motion.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: I will vote against this amendment. It is unreasonable. If you're renting your place out for forty-five days that you can never leave home? You – it's just totally unreasonable. You've defined always present that means you can't go down the street to get a carton of milk. And if it hasn't been defined, can't they go way for a weekend, for a night on the town or whatever. It's – it's unreasonable to demand that the operator has to be always be present. I think along a couple of weeks that the operator and spouse can go have a weekend together someplace else, whatever, go to the beach. And in addition, you say you're concerned about the people with investment properties. But there are other protections that are set up in this that the operator has to be present for a hundred and eighty-five days a year. You can't – that means over half the year. You can't have more than one house that you can have a permit on because you can't be in more than one house more than a hundred and eighty-five days a year. So, we already have that protection. They can only have one house and they have to live in it for majority of the year. So, I think that's already protected and I don't see how that's at all would be improved by not allowing the operator ever to leave their house while they have a guest present. Including the case you mentioned in Reston.

Chairman Murphy: Mr. Migliaccio then Mr. Tanner.

Commissioner Migliaccio: Thank you, Mr. Chairman. I don't see how it's enforceable when you say forty-five days and there's a subset, be it one day or a thirty-eight days or twenty-three days how do you – how do you know that there are not there or they are there. So, if we're trying to get to a point where we are trying to keep the residential stable neighborhoods what we want them to be, stable residential neighborhoods, I think this is something that we can start off with and if there's no issues, and we're always complaint-driven for our – on the code compliance, it should not be an issue. I'm not saying that they can't go down and go out. But if you're running essentially a motel in your neighborhood, then you probably should be onsite. Thank you.

Chairman Murphy: Ms. Strandlie. Oh, I'm sorry. Mr. Tanner then Ms. Strandlie. Go ahead.

Commissioner Strandlie: I just wanted to respond to that. There are – there are surely loopholes that people will be looking for. And to say that it would be against the ordinance to go out and get milk or coffee, that's just not the way this is written. It certainly envisions that you are there, you're not leaving your house to go stay in a hotel while you're renting out your own house for this purpose. That's the distinction and I think that's something that we have to look at.

Chairman Murphy: Mr. Tanner...

Commissioner Tanner: And...

Chairman Murphy: And then Mr. Hart.

Commissioner Tanner: Thank you, Commissioner Strandlie. I understand that – it's not for the cup of coffee or even going out for dinner that night. I understand that's not the case. But I agree with Commissioner Hurley with – that for a home owner, it's their – their prerogative. It's their right to choose how they want to rent out their property. And I should say I'm concerned in terms of enforcement, which is why we change the number of days. the number of times. That was – you know and thank you Commissioner Hart for really championing this and driving this

forward. But when you start looking at number of days and enforcement that's always gonna be the question when it comes to short-term lodging. And I agree that with a shorter number of days, fifteen is what we agreed upon, forty-five is the – we came up with as well. That – that will start to answer the that question and we can still look forward going future. Personally, I don't think there should be an owner present at any point in time if they chose to rent out their property so long as it was in line with the rules we set in place. However, the compromise, being the understanding is that, when we start looking at the enforcement aspect of it and what we're really trying to do. Having the owner present for the majority of the time, still meets that need and that's gonna drive it forward. So, I am personally also against this amendment, as it's currently stated.

Chairman Murphy: Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Thank you, Mr. Chairman. I just wanted to add my voice in support of Commissioner Migliaccio and Strandlie's position on this. I think they articulated rationale well. The – particularly concerned about is we'll talk some more probably but – particularly concerned about the enforcement side of this. What I like about with Commissioner Migliaccio's proposing is that two things. One is – it will be easy – more easily enforced to have the – ensure that the operator is home – is – in on the premises. And second that we start slowly. This is a new initiative. We're not sure how it's gonna evolve. We in fact get learned through many other communities that have had these – this capability, that there've been problems. And so much with staff's good work was is to help ensure that we are minimizing or mitigating against the problems that have arisen in other communities. But it doesn't mean that we should go full bore. It means that we should take our – not baby steps, this not a baby step, but take reasonable first steps, do some assessment, evaluation and then come back and see where we are. In particular, to ensure that the bad actors are under some constraints and within control. Thank you.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. In the last couple of weeks, I've come to appreciate more how Congress never can get anything done. I made the motion with the thirty plus fifteen and I recognize those numbers are somewhat arbitrary. And that we have a range of disagreements about what those numbers should be. But the fifteen days, what I was thinking, fifteen days out of three hundred and sixty-five isn't very much. It's two weeks. And there may be reasonable situations where a family wants to rent a whole house for a wedding or a funeral or a family reunion or something like that. And an Airbnb might be an appropriate use for that. I think with fifteen days if we can – if we can handle it and also if we can see how it is for these twelve or eighteen months we can adjust those numbers. I think personally most of the people will be responsible and we can handle fifteen days of something like that. A use like that is probably a situation where somebody isn't going to be in their house. It's more difficult if they're just renting out a bedroom or a couple bedrooms, then it – the owner is not there for the whole house. I think we are starting small. I think this is a – it's a fairly compartmentalized and discrete number and we can try it. And if it's a flop, we'll find out or if there's problems and complaints resulting from that, I think we'll understand that better having a little bit of experience under our belt. The fifteen number isn't magic, but I think we can handle – I think fifteen is small enough that we can handle.

Chairman Murphy: Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. The – the assumption seems to be that if the operator, whether it's the owner or someone who has the right to be an operator in this situation, is present meaning that they haven't left town, that they're probably gonna be staying in a bedroom somewhere in the house overnight. That the – that somehow, if we don't have that situation, then it's gonna be situations where the short-term leasing or the guest are gonna get out of hand. That the – that you want the operator there to – to make sure that people don't go out on the lawn and through beer cans at the fence or whatever they do, or might do, excuse me. However, I think there are a group of people who are doing short-term leasing, who do it in part while they are out of town and I think that's a legitimate situation. I guess the enforcement question is how do you after the fact determine whether they were – if they leased only for forty-five days, which is the restriction on an annual basis, that they were there for thirty of them and they were only away for fifteen. Well I agree that's gonna be difficult to prove one way or the other. But that's not the real issue. The real issue is how do people who are leasing the property act. How do they conduct themselves and is this designed to – this particular proposed amendment designed to add an extra layer to – of assurance that we're gonna have people leasing these properties who are behaving themselves and aren't doing anything that they shouldn't be doing and disturbing the neighbors in the neighborhood. So, I'm a little torn but at this point I would vote against the amendment and retain the current fifteen days and thirty days situation as proposed in the original amendment.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Just on that point Mr. Ulfelder, I agree on what you were saying but when you have fifteen days out of forty-five days, might as well make it forty-five. Because as you stated, how do we tell. So it's not zero, it's not one, it's forty-five is how I read it. Because that's what the people – and I'm not talking about the people that – looking at the rules and abiding by it, I'm talking about the bad actors that we can't seem to reign in. Be it the boarding house or other things, and this gets Code Compliance something that easily sink their teeth into, either the operator, the permittee is onsite or the are not. Not trying to determine were they here fourteen days, twenty-three days, what happened. So that's why I wanted to give it something so that Code Compliance has something to look at, rather than just parking or some other thing that we have to have the police call that night because there's a party and they're not coming out at – there's no task force at midnight coming out but this is something that the police can say, the permittee is not there on the report, therefore, we just move on.

Commissioner Ulfelder: Mr. Chairman.

Chairman Murphy: Mr. Ulfelder.

Commissioner Ulfelder: I understand but, I don't think it's any easier after the fact for us to determine whether the operator was present on the property the particular night or not. The only we we're gonna find out is if there's a complaint. The police arrive because of a noise complaint or something like that. Find out that it's the group of people who are there under an Airbnb listing on a short-term rental and they start looking around for the operator, and they say – the people who are leasing it say, "oh they're out of town." I mean that would be the way you catch

it. I – I agree, you know, you go back and look at everybody, you know, they're gonna have a little box to say, "I was present – I was present," besides each short-term rental that they have, that they list in their log. So, for me it's either way, it's still an enforcement issue. It's still an enforcement problem, it's still a matter of putting together sufficient evidence to support a notice of violation. And if you – and God forbid you end up having to go to court with it and so on. So, I think – I mean I think that the enforcement problems exist either way and – but this way we have a class of people who feel for part of the time at least, they can go away for a weekend while they lease out their house and not be "in violation of their burden."

Chairman Murphy: Mr. Carter.

Commissioner Carter: I think the key word there is "operator." So, it doesn't necessarily have to be the owner. But I think what the motion is after is to have somebody onsite at all times who is responsible. When that code enforcement person comes, and responds to a complaint, somebody needs to be there that is responsible. And if the word "operator," I suppose could have a couple of different meanings but not necessarily the owner. So, I'm gonna support that motion because I think that we need somebody onsite at all times who is responsible for taking care.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: I agree with Commissioner Ulfelder that there's an enforcement issue. If you're saying they have to be onsite at all times, that means if the police happen to come and the guy when out to dinner, he's in violation. You're saying they have to be onsite at every moment, when the police show up they better darn well be standing there at the door, that is unreasonable. I really think that's totally unreasonable.

Commissioner Carter: I think you're right. I said all times but that's not exactly what was meant, so. [Inaudible] Going out for dinner and things like that are not covered. We want somebody there responsible.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Mr. Chairman, then I mean – I understand that and that's not the intent of the motion – the amendment. If it was, then it's a very poorly worded motion and I will change it but, I'm just looking what we're going off of in Paragraph 4. A. Well if you have fifteen nights, where they're not there but thirty nights they have to be there, so we already have that in there so we already have this discussion going on. It's not about did they go out to dinner, did they go out to get a cup of coffee, did they go across town to babysit during the day, it's about are they physically there at night are they there to oversee the operator they're essentially bed and breakfast. Thank you.

Chairman Murphy: Further discussion of the motion put forth by Mr. Migliaccio. If not, all those in favor of the motion, say aye.

Commissioners Niedzielski-Eichner and Migliaccio: Aye.

Commissioner Hurley: Are we voting on the amendment?

Chairman Murphy: That's the amendment.

Commissioner Hurley: Not the motion.

Commissioner Sargeant: We're voting on the amendment.

Chairman Murphy: The amendment. Yeah.

Commissioner Migliaccio: The amendment

Chairman Murphy: The amendment. Yeah, yeah, Mr. Migliaccio. Say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners: No

Commissioner Hart: Division.

Chairman Murphy: Division.

Chairman Murphy: Mr. Clarke.

Commissioner Clarke: No.

Chairman Murphy: Ms. Cortina.

Commissioner Cortina: No.

Chairman Murphy: Ms. Strandlie.

Commissioner Strandlie: Yes.

Chairman Murphy: Mr. Ulfelder.

Commissioner Ulfelder: No.

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: No.

Chairman Murphy: Mr. Hart.

Commissioner Hart: No.

Chairman Murphy: Mr. Tanner.

Commissioner Tanner: No.

Chairman Murphy: Mr. Carter.

Commissioner Carter: Yes.

Chairman Murphy: Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Yes.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: No.

Chairman Murphy: And the Chair votes yes. Mr. Migliaccio, I ...

Commissioner Migliaccio: I vote yes. But the motion failed.

Chairman Murphy: Motion fails.

Commissioner Hart: After five to seven, it failed.

Chairman Murphy: Five to seven.

Commissioner Hart: Go back to the main motion.

Chairman Murphy: Go back to the main motion. Is there further discussion of the main motion?

Commissioner Ulfelder: Sure.

Chairman Murphy: Okay. I wasn't encouraging it, I was just asking a question. Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. You know, I support this. My – my neck is too short to – to stick in the ground. And this is a problem and Fairfax County is too large, too diverse with too much of a large housing base – residential base to ignore this. So, I'm in favor of this particular proposed motion because I think it represents an appropriate first step. And, it will give people who are planning – who are planning on leasing out space to visitors. I mean we have people who come for business and who use short-term rentals in Fairfax County for conventions, for other meetings, for recreation, for tourism, for the entire area. I mean we've seen a lot of these applications around our TSAs near Metro stations, where people have easy access to downtown or other places outside of Fairfax County as well. And I think that this is what I call more of a minimalist approach. An approach that's designed to get us going and give us a platform in which to work with people who are doing short-term leasing or planning to do short-term leasing in a beneficial way. And to at the same time keep people who do what I would call industrial strength short-term leasing from buying up houses and doing – taking other steps to go into a wider scale business of short-term leasing with properties that they may own and be able to set up in Fairfax County. And, I think that we need some time and experience with an

ordinance that has – that allows some level of short-term leasing in order for us to make some of the decisions we are – have been thinking about, have been sort of agonizing over but don't have answers for at this point. So, that we can look at this Zoning Ordinance Amendment in twelve to eighteen months and determine to what extent enforcement turned out to be a really big problem and to what extent people ignore the ordinance, and the extent of which short-term leasing actually results in problems within the neighborhoods. And, what type of neighborhoods and what situations are the ones where it turns out to be a bigger problem. So, I support the motion as an appropriate first step and hopefully we can then find out as we progress as to how further we might address this. And I know there is a follow-on motion to help starting to address some of those.

Chairman Murphy: Further discussion? Yes. Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Thank you, Mr. Chairman. I am – have been reluctant, as Mr. Hart – Commissioner Hart knows, I've been a reluctant Commissioner to come to this table. But after Commissioner Hart's extensive work and interaction with the staff, I'm taken to heart the admonition that good is – perfect is the enemy of good. And, I think this is a good first step. But it's not a sufficient step for the longer run. And the only way to get to a sufficient step, I think is to do – have some experience under our belt. And – so, with the follow-on motion that Mr. Hart is going to be presenting later, I will – I'll be supportive of this particular motion. I want to emphasize my concern for two points. One is the matter of enforcement. And if I have understood the – the – Commissioner Hart's point of view on this, we should not expect any further – any additional enforcement effort beyond current practice. And I would recommend that the Board of Supervisors take this on as a challenge. I'm – I've always kind of been – the Chairman Bulova's concept of a booster shot has resonated with me. Particularly in this context of this major new effort is to bring into some regulatory control, a new concept – a new approach to lodging. When we have something new of so such significance, and when we're trying to protect our neighborhoods while we roll this out, it makes sense to me to make sure that there is enforcement capability that we jump start or we put additional enforcement capability into play to ensure that this regulatory construct that we're creating is – is effectively implemented. So enforcement is critical. The second thing I'd note is that a twelve-to-eighteen-months study period is not gonna be valuable to us, unless we know our priority what it is we're studying. What are the variables that will be collecting data on, that will allow us then after twelve to eighteen months have sufficient data before us that will allow an effective evaluation of our progress or lack of progress. But I will be supporting this and I wanna express my appreciation to Commissioner Hart for his hard effort.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Thank you, Mr. Chairman. As I mentioned earlier, what we have in place right now is not workable and we need something. My amendment got a hearing, it lost, so we move on. I will be supporting Commissioner Hart's main motion, just because we need something to look at, something to evaluate. I don't think the enforcement mechanism is strong enough, I don't think that it will be – I think in twelve to eighteen months, we may be revisiting if not sooner, the enforcement mechanism in it. But I'll be voting in favor of it.

Chairman Murphy: Further discussion. Ms. Strandlie.

Commissioner Strandlie: Thank you, Mr. Chairman. This amendment proposal has come a long way since we started with the very high numbers for possible nights from a hundred and eighty nights per year to the fifteen, with the operator present. And an additional thirty without the operator present. These numbers come in actually lower than some recommendations that we received from our community and are in line with numbers that reluctantly – my preference would be operator present a hundred percent of the time. And unfortunately, that failed. With the follow-on motions and the changes, I'm gonna support this as well, because we do need something in place. And some of the follow-on motions include some enforcement enhancements that will encourage the Board to look at that. The notarization of the application. The - one thing that I think is extremely important and I hope that staff takes this very seriously, to work on agreements. With the hosting platforms to take anyone off that does not have a valid permit. It appears as though this will pass with or without my – my vote, or maybe not, if someone else says something maybe I'll change mind in the meantime.

Chairman Murphy: Please no one else.

Commissioner Strandlie: But, you know, this is – this has been one of the toughest things that we've worked on since I've been on the Planning Commission. This has – will have an impact on neighborhoods. And – but you know, it already is. We have people renting out full house rentals now in our – in our neighborhoods and we don't have any rules in place. So, that's where I'm coming from at this moment. And I look forward to hearing from other Commissioners' positions.

Chairman Murphy: Further discussion? I'll just take a whack at it. I really did not know how I was gonna vote on this and I made no commitment other than, my commitment was I might just abstain. But having said that, the reason I said that was that if notwithstanding the Planning Commission's recommendation to the Board, if the Board of Supervisors in its wisdom approves this concept, this Zoning Ordinance Amendment, we're gonna have this for a very, very long time and it better be as close to right as it can be. I have full faith in our folks who go out and enforce the rules and regulations. And yet I hope this amendment if it goes before the Board and its approved, that work will not become too onerous because right now there is no plan to increase that staff. We may have to do that and that may be something we have to do in the future. But going off this perfect solution that Mr. Hart said, it's never going to be perfect, I don't think. There are still a lot of questions to be answered but I think this particular motion, with the follow-on motions that Mr. Hart is going to make, will get closer to that state where if it is approved by the Board, it will be fairly operational and it will be accepted as far as the procedure is concerned that we – we will look forward to in the future and how we can manage this type of housing in our communities. Because let's face it, this is going to have an impact in our stable residential communities. And that was my biggest concern. But I think we have to give it a shot and let's see what the Board does with it and we'll have a chance to come back and look at it again. So, I'm gonna continue to – I'm not going to continue to abstain, I'm going to support the motion. Further discussion? All those in favor of the motion as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. How about that?

Commissioner Hart: I don't believe my ears.

Chairman Murphy: This is – now this was just the rehearsal. This was the rehearsal dinner; the wedding hasn't happened.

Commissioner Hart: Let me thank everyone for having an open mind. I was not expecting that. I've been counting noses for three weeks. I have another motion, if I may, Mr. Chairman.

Chairman Murphy: Please. Good luck then.

Commissioner Hart: Yeah. This one is a tiny font here so. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD THAT STAFF BE DIRECTED TO PREPARE AN EXPEDITED FOLLOW-UP ZONING ORDINANCE AMENDMENT FOR AUTHORIZATION TO PERMIT THE CONSIDERATION OF THE FOLLOWING ADDITIONAL OPTIONS:

1. ESTABLISHMENT OF A SPECIAL PERMIT PROCESS TO ALLOW AN OPERATOR TO REQUEST ADDITIONAL NIGHTS PER YEAR WITH OR WITHOUT THE OPERATOR PRESENT, AND OR INCREASE THE NUMBER OF ADULT LODGERS PERMITTED PER RENTAL CONTRACT. THE SPECIAL PERMIT OPTION SHOULD BE ADVERTISED TO INCLUDE A REQUIREMENT FOR A FIRE AND SAFETY INSPECTION, INCLUDING AN APPROPRIATE FEE FOR SUCH AN INSPECTION AND A SPECIAL PERMIT FEE OF NOT LESS THAN \$910.
2. IN ACCORDANCE WITH *VIRGINIA CODE* SECTION 15.2-2286 (A) (4), LIMITING TO TEN DAYS THE APPEAL PERIOD FOR A NOTICE OF VIOLATION CITING VIOLATIONS OF THE SHORT-TERM LODGING ORDINANCE, RATHER THAN THE THIRTY DAYS CURRENTLY AUTHORIZED.
I FURTHER MOVE THAT THE BOARD DIRECT STAFF TO:
 - REQUIRE THAT ANY APPLICATION FOR A SHORT-TERM LODGING PERMIT BE NOTARIZED SO THAT EACH OPERATOR AFFIRMS THAT THE ALL OF THE INFORMATION PROVIDED IN THE PERMIT APPLICATION IS TRUE AND CORRECT UNDER PENALTY OF PERJURY;
 - MONITOR THE SHORT-TERM LODGING ACTIVITY AND RECOMMEND ANY NECESSARY CHANGES TO THE BOARD'S CURRENT ENFORCEMENT POLICY INCLUDING, BUT NOT LIMITED TO, EVALUATING WHETHER A SPECIAL STAFF TEAM SHOULD BE TASKED WITH INVESTIGATING COMPLAINTS AND MONITORING COMPLIANCE;
 - REPORT TO THE PLANNING COMMISSION AND BOARD OF SUPERVISORS TWELVE OR EIGHTEEN MONTHS AFTER THE ENACTMENT DATE TO RECOMMEND AMENDMENTS TO THE ORDINANCE OR TO THE BOARD'S ENFORCEMENT POLICY, IF SUCH CHANGES ARE NECESSARY; AND

- EXPLORE THE POSSIBILITY OF ENTERING INTO AN AGREEMENT WITH THE THREE MAJOR HOSTING PLATFORMS, AIRBNB, VRBO, AND FLIP KEY, TO REMOVE NON-COMPLIANT OPERATORS FROM THOSE PLATFORMS.

Commissioners Ulfelder, Tanner and Strandlie: Second.

Chairman Murphy: Seconded by Mr. Ulfelder and Mr. Niedzielski-Eichner. Oh, Mr. Tanner. Did you second too?

Commissioner Niedzielski-Eichner: No.

Chairman Murphy: Oh, just the two. And...

Commissioner Strandlie: I seconded.

Chairman Murphy: You seconded? And, Ms. Strandlie. Ok, Samantha did you get that? Okay.

Commissioner Hart: She's gonna be typing very late.

Chairman Murphy: I was gonna say, we ought to take Samantha out to dinner after this is all over. All right. Is there a discussion of the motion? Yes.

Commissioner Strandlie: Thank you, Mr. Chairman. On the application that will be put together for the permit, we do have an opportunity to provide some input to staff. And I heard from constituents today about some ideas and I have conveyed those and we'll be following up on those items.

Chairman Murphy: Further discussion of the motion. Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Thank you Mr. Chairman. I had in my earlier comments on the main motion, I had made note of the – my interest in having ahead of time, a design of an evaluation plan. So, that when we get to the twelve month or eighteen month in stay, that we have already know ahead of time generally what the staff's approach will be to evaluating the success for the improvements that need to be made. So, I wanted to see if the Mr. Hart would be open to either a friendly amendment or we could do this as a – as a actual amendment. In fact, I'll just put it on the floor for a motion and we can all take it for what it's worth, or not. But my motion would be to – for the third bullet of which is – starts with "report to the Planning Commission and Board of Supervisors" prior to the word "report," I MOVE THAT WE INCLUDE THE LANGUAGE "DESIGNED AND IMPLEMENT A DATA COLLECTION AND EVALUATION PLAN AND THEN REPORT TO THE PLANNING COMMISSION AND THE BOARD OF SUPERVISORS. Basically, it's staff's professional ethic if you're going to

decide to – would like to make sure that we have a plan in place for studies – that knows what we're studying and what the logic – what likely evaluation outcome would look like.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Mr. Chairman, let me if I may jump in. I think it's fair to say that this wording was very heavily vetted with the County Attorney's office prior to tonight. And while I don't know that we can do this at the dais, my suggestion would be that it's appropriate to leave the bullet as flexible as it is. But I think I can get a commitment from the Zoning Administrator and the County Attorney's office that we can have a committee meeting as soon as appropriate. Don't make that face please. I think it's probably Land Use Process. But – excuse me.

Commissioner Niedzielski-Eichner: Don't look at me.

Commissioner Hart: No, no it was him. It was him. He made the face.

Commissioner Migliaccio: I know it's my committee, so....

Chairman Murphy: I haven't said a word.

Commissioner Hart: Where we can discuss with the Zoning Administrator and staff the kinds of things that I think obviously – I mean obviously, it's gonna be statistics. How many of them are there, how many permits have we had, how many people wanna apply for something else, how many violations have we had, how many people are – are asking about doing something else, how many people stop doing it when they get a letter. What are the – how many complaints have we received and I think we are probably on the same sheet of music on that. And I've seen staff here is all nodding and we're gonna have a committee meeting and hash this out. There's no hidden agenda here. I'd prefer not to monkey with the wording or maybe it would take longer if we start asking questions about it. But I hope that with that commitment, to have that discussion, a purposeful and meaningful discussion, about these things we can get there without changing the wording.

Commissioner Hurley: Point of order.

Chairman Murphy: Yeah.

Commissioner Hurley: There was a – an amendment to the motion made. I did not hear a second so...

Chairman Murphy: He asked for a friendly motion. He gets to read...

Commissioner Hart: Oh yeah, no. I wasn't – I was saying not to do it...

Commissioner Niedzielski-Eichner: No, no I withdraw. I withdraw the motion. I recognize the points Commissioner Hart's making. I wanna have it on the record of my interest in assuring that there is a quality evaluation plan put in place before we go down this road. So that the end of this period, we have an outcome – the study outcome that we can all feel is informative and useful for evaluating whether we move forward or how we move forward in the future. Thank you.

Chairman Murphy: All right, is there further discussion of the motion as articulated... Oh, I'm sorry Mr. Ulfelder.

Commissioner Ulfelder: I hate to be the twelfth monkey here. I had a one word change in that same bullet where it says "enactment date." I was thinking of substituting "effective date" because in the main motion we've made the effective date October 1st, which would be beyond the enactment date.

Commissioner Hart: I have a thumbs up on that and I will accept that.

Chairman Murphy: Life is simple. Further discussion of the motion. All those in favor of the motion to recommend to the Board of Supervisors that it adopt the amendment as submitted – the motion as submitted by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Thank you. Thank you all for having an open mind and a constructive discussion.

The amendment to the main motion as dictated by Commissioner Migliaccio failed by a vote of 5-7. Commissioners Clarke, Cortina, Ulfelder, Sargeant, Hart, Tanner and Hurley voted in opposition.

The main motion carried by a vote of 12-0.

The follow-on motion carried by a vote of 12-0.

(End Verbatim Transcript)

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The Commission went into recess at 8:47 p.m. and reconvened in the Board Auditorium at 9:04 p.m.

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ORDER OF THE AGENDA

Secretary Migliaccio established the following order of the agenda scheduled for the public hearing:

1. SITE-SPECIFIC PLAN AMENDMENTS – 2017 NORTH COUNTY:

- PC17-DR-001 – West Falls Church Metro Station
- PC17-SU-001 – Sully Station Shopping Center
- PC17-PR-001 – INOVA/Exxon-Mobil
- PC17-PR-002 – Fairview Park
- PC17-PR-005 – Merrifield at Dunn Loring Station

The order was accepted without objection.

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Chairman Murphy called the first case.

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SITE-SPECIFIC PLAN AMENDMENTS – 2017 NORTH COUNTY – To consider nominations that propose to revise the Comprehensive Plan Amendment Work Program for Fairfax County, VA. At these public hearings, the PC will screen the following proposed nominations submitted as part of the 2017 North County Site-Specific Plan Amendment (SSPA) process. (Note: AP = Adopted Plan; NP = Nominated Plan; res. = residential; du/ac = dwelling units per acre, FAR = floor area ratio; ac = acres; sf = square feet.): DRANESVILLE, HUNTER MILL, PROVIDENCE AND SULLY DISTRICTS. PUBLIC HEARING.

DRANESVILLE:

PC17-DR-001 – West Falls Church Metro Station: S of I-66, N of Falls Church Dr, W of Haycock Rd on 24 ac. AP: Public facilities, governmental, and institution/mixed-use; option for res. use at a density of 30 du/ac. NP: Mixed-use with office, retail, multifamily, and townhouses up to an intensity of 0.96 FAR.

PROVIDENCE:

PC17-PR-001 – INOVA/Exxon-Mobil: S of Rt 50, E of Gallows Rd, W of I-495 on 116.78 ac. AP: Office use, planned for up to an intensity of 0.35 FAR. NP: Two options for an office/institution/res. mixed-use development up to 1.0 FAR (Option 1) and up to 3.0 FAR (Option 2).

PC17-PR-002 – Fairview Park: S of Rt 29, E of I-495, N and S of Rt 50 on 86.5 ac. AP: Planned for high quality office park. Area N of Rt 50 – majority planned for office, accessory retail, and public park. Area south of Rt 50 – planned for office uses. NP: Mixed-use office, hotel, res., retail, and other uses with an intensity range of 0.80 FAR to 1.0 FAR.

PC17-PR-005 – Merrifield at Dunn Loring Station: S of I-66, W of I-495, E of Gallows Rd, N of Harte Pl on 38.24 ac. AP: Res. use at a density of 16-20 du/ac. Option for res. use at 30-40 du/ac with supporting retail and service uses and limited office use. NP: Res./Mixed-use res up to 1.9 FAR.

PC17-PR-006 – 2817 & 2832 Dorr Avenue: N of Hilltop Rd, E and W of Dorr Av on 2.53 ac. AP: Warehouse and industrial use at current intensities. NP: Mixed-use or res. use up to 1.35 FAR.

PC17-PR-007 – Valo Park: S of Rt 267, N of Jones Branch Dr, W of I-495 on 16.74 ac. AP: Office use up to 1.0 FAR and potential supporting retail and service uses. NP: Office/res. mixed-use with ground-floor retail use up to 1.75 FAR.

SULLY:

PC17-SU-001 – S of Stonecroft BV, E of Westfields BV, N of Sequoia Farms Dr on 17.43 ac. AP: Retail use up to 0.25 FAR. NP: Incorporate into the Dulles Suburban Center, and add an option for mixed-use retail, office, hotel, assisted living, and private recreation uses up to 0.75 FAR.

Bernard Suchicital, Planning Division (PD), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He stated that staff recommend adoption of the Site-Specific Plan Amendments – 2017 North County.

PC17-DR-001 – West Falls Church Metro Station

Natalie Knight, PD, DPZ, presented an overview of the nomination, a copy of which is in the date file. She stated that staff recommended acceptance of the nomination PC17-DR-001.

Commissioner Ulfelder noted the Commission received written comments from the Lemon Road Civic Association (LRCA). He stated that the issues raised by LRCA would be reviewed and addressed, should the nomination be included, and added to the Comprehensive Plan Amendment Work Program. Commissioner Ulfelder also acknowledged a letter received from the Virginia Polytechnic Institute and State University (Virginia Tech), the 9-acre parcel discussed. The 9-acre parcel sat between the Washington Metropolitan Area Transit Authority's (WMATA) application and the City of Falls Church. Virginia Tech requested the referenced parcel be included in the review.

Commissioner Hurley acknowledged the letter received from Virginia Tech. In addition, Commissioner Hurley acknowledged the University of Virginia's (UVA) campus' presence at the proposed site. Commissioner Ulfelder added part of the effort was to review the request from Virginia Tech. He stated UVA jointly owned a portion of the parcel with Virginia Tech and jointly leased the other portion of the parcel owned by the City of Falls Church. Both universities would have the option to purchase the remaining parcel in 2021.

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

Stewart Schwartz, 316 F Street NE, Washington, DC, supported the nomination and stated the following:

- The coalition for Smarter Growth was based in the District of Columbia (DC) and worked throughout the DC region;
- The coalition was founded by leading conservation groups in the DC region and had been in operation for 21 years;
- The coalition partnered with affordable housing, business development, architecture, transit, bicycle and pedestrian advocate groups;
- The coalition promoted and supported a vision of the region tied to the metro system, other high capacity transit, and a network of walkable transit oriented communities;
- The organization supported revitalization and was involved with the Tysons Corner planning process;
- The Coalition supported high demand mixed-use walkable communities;
- The Coalition supported a mixed-use walkable development at the West Falls Metrorail Station;
- The Coalition encouraged the Planning Commission to work with Virginia Tech, UVA, and the Washington Metropolitan Area Transit Authority (WMATA) to develop an integrated mixed-use community;
- The prospect of additional jobs would support reverse commutes on the Metrorail and contribute to Metro's funding;
- The Coalition supported a grid of streets plan in place; and
- The Coalition supported a dedicated lane for bus rapid transit on Route 7.

Stephen Segerlin, Nominator's Agent, WMATA, gave a presentation wherein he stated the following:

- Metro owned approximately 24 acres of land, located adjacent to the West Falls Church Metro Station;
- The property supported a transit ridership and provided park and ride, kiss and ride facilities, bus connections and transfers;
- WMATA prioritized some of the region's development strategies where part of the goals was to maximize the benefit of the system to the public;

- Maximizing the use and benefit of the land and system was captured in the Fairfax County Comprehensive Plan and was designated as part of a Transit Station Area;
- The goal of the Transit Station Area was to provide accessibility to transit and increase employment opportunities;
- WMATA would explore concepts to consolidate its transportation facilities on the site into an expanded garage that would create space for residential and retail development, with the option for potential future office space;
- The WMATA and Metro land developments would provide a more attractive environment and public spaces for the local communities that walk, bike and transfer from local transit or shared vehicles to and from the Metro station;
- The land developments would also increase the ridership by more than 250,000 trips per year;
- Land developments surrounding the West Falls Church Metro Station would enhance the local communities and build a more cohesive community for Fairfax County while preserving the affordability of existing housing and retail; and
- Metro began preliminary assessments of the site which led to a recommendation of increasing the height limits from 65 feet to 85 feet;
- The height limits in other limited areas were increased from 45 feet to 65 feet;
- The height changes would enable Metro to achieve the Comprehensive Plan goals for residential dwelling units on the site;
- The proposed site would also be a high-quality development with public green and open space, and a more attractive environment for cultural and social events.

Carly Aubrey, 300 Park Avenue, Falls Church, supported the nomination. She also stated the following:

- The City of Falls Church supported the transit oriented development at the proposed site and the existing Fairfax County Comprehensive Plan development criteria and recommendations for the Transit Station Area;
- The City of Falls Church would like to explore the opportunity to install a sound barrier wall and landscaping along the east side of the WMATA access road, adjacent to the school site, which would be the primary open space for the school;
- The City of Falls Church amended their Comprehensive Plan and designated the site as parks and open space for the school's portion, and mixed-use for the 10-acre economic development portion;

- A Zoning Ordinance text amendment was submitted to the B-2 Central Business District in relation to the “West Falls Church project (Schools-Related Parcels)” and would provide special exception provisions for areas within a special revitalization district to permit greater heights, appropriate density, mixed-uses, parking and urban design;
- A proposed zoning map amendment would be submitted in the Fall of 2018 to designate the site as B-2;
- A traffic impact analysis would be conducted with coordination of the Virginia Department of Transportation (VDOT) and the Fairfax County Department of Transportation (FCDOT) staff;
- A small area plan would be designed for the school site, Gordon Road Triangle area, the Falls Plaza, and the Giant Foods Center parcels;
- The City of Falls Church received six proposals and selections were narrowed to three;
- The Schools Committee would select a new design team in July, and construction would commence in 2019 with a planned opening in 2021; and
- The City of Falls Church coordinated with WMATA, UVA, and Virginia Tech on the proposed project and planned additional meetings.

Elizabeth Stone, 6990 Falls Reach Drive, #202, Falls Church, supported the nomination. She stated that every year Virginia lost the young population. Ms. Stone stated Fairfax County should see the benefit in being proactive by reducing admissions from a car-based commuting system. In terms of employment, transit oriented employment was in high demand. She added the County should coordinate with the City of Falls Church to obtain additional office space. Ms. Stone concluded the nomination would be a long-term benefit to the County and would have a positive impact on housing and economic growth.

Commissioner Ulfelder stated should the nomination be added to the work program, it would undergo lengthy review process. He stated there was a task force in place and encouraged Ms. Stone to be a participant of the process.

There being no additional speakers, further comments or questions from the Commission, Chairman Murphy closed the public hearing and recognized the subsequent nomination scheduled for the public hearing.

PC17-SU-001 – Sully Station Shopping Center

Roger Dindyal, PD, DPZ, presented an overview of the nomination, a copy of which is in the date file. He stated that staff recommended acceptance of nomination PC17-SU-001.

Karen Campblin, Sully District Task Force, gave a presentation wherein she stated the following:

- The Sully District Task Force met on May 9, 2018;
- There were several discussions before final recommendations were made;
- The comments expressed during the meeting included potential increase in traffic, benefits of the Poplar Tree Road extension, the timing of the local roadway improvement, the shopping center, and the change in landscape of the shopping center;
- The task force shared an appreciation for the unique village ambiance of the shopping center;
- Visions of the future were expressed during the task force community meeting and suggestions were submitted to the nominator for consideration;
- The task force noted the shopping center should focus on a diverse collection of foods and community oriented services;
- The task force was aware the nomination was in the beginning stages and more detailed evaluations would be conducted; and
- The Sully District Task Force voted unanimously to add the nomination to the Comprehensive Plan Amendment Work Program.

Commissioner Tanner thanked Ms. Campblin and the Sully District Task Force for their contributions.

There being no additional speakers or further comments or questions from the Commission, Chairman Murphy closed the public hearing and recognized the subsequent nomination scheduled for public hearing.

PC17-PR-001 – INOVA/Exxon-Mobil

Bernard Suchicital, PD, DPZ, presented an overview of the nomination, a copy of which is in the date file. He stated that staff recommended acceptance of nomination PC17-PR-001.

Ken Quincy, Providence District Task Force, gave a presentation wherein he stated the following:

- The Providence District Task Force met three times;
- There had been 20 representatives and many citizens attended those meetings;
- The task force concurred with both the nominator and staff's recommendations;
- The nomination was in close proximity, connected to nomination PC17-PR-002 and would add value to the site;

- The nomination was outside the Merrifield area, should not be isolated and should be considered in the context of a broader Merrifield redevelopment;
- There should be a balance of commercial and residential infrastructure; and
- The connectivity among the entire Merrifield redevelopment, density, open space, park and recreational facilities should be considered.

Timothy Sampson, Nominator's Agent, INOVA/Exxon-Mobil, gave a presentation wherein he stated the following:

- INOVA's vision for the site represented a once in a generation opportunity for Fairfax County;
- Planning for the site had not been addressed for more than 40 years;
- The proposal would create a world class biomedical research, academic, and clinical campus on the site;
- The proposed campus would advance health science and delivery of healthcare for the residents of Fairfax County
- The campus would house a number of mixed-uses and would incorporate an urban campus setting
- There had been discussions to include UVA as part of the campus;
- The patients of the proposed campus would be at the center of care;
- There would be problematic elements that served patients and proposed service uses that supported critical assets such as housing, retail, and hotel development;
- At the end of 2019, the proposed campus would be at full capacity and the nomination would encourage future development;
- There would be a grid of streets concept on the western portion of the site;
- The northern portion of the proposed site would house an academic center for UVA and would support the medical, engineering, and business school;
- The rest of the site would be occupied by other supporting uses, primarily research initiatives, office buildings, retail and housing;
- A hotel on the site would support an existing conference center;

- The initial Phase I development could see development that occurred during a 10 to 12-year horizon;
- The Phase II development would become continued development from the momentum and opportunities of Phase I; and
- A recommendation of a 1.0 floor area ratio was accepted and would be added to the work program.

Billy Thompson, 905 Frederick Street, Vienna, supported the nomination. He also stated the following:

- The Greater Merrifield Business Association (GMBA) was organized 32 years ago, when the District of Columbia Washington Metropolitan Area Transit Authority proposed a hub for all buses at the Mosaic District, Merrifield location;
- The success of redevelopments around the Dunn Loring-Merrifield Metro Station and Mosaic District, transformed Merrifield community into a vibrant destination for employers and their families;
- GMBA was the link between the new community and businesses; and
- The INOVA nomination would be a complement to the successes already achieved in the Merrifield community.
- INOVA, UVA and George Mason University would be an added benefit to the surrounding Merrifield areas, Fairfax County, the State of Virginia and the Country; and
- The nomination would incur a positive economic impact on the surrounding area.

Stewart Schwartz, 316 F Street North East, Suite 200, Washington, supported the nomination. He also stated the following:

- The Coalition for Smarter Growth strongly supported a study for the INOVA nomination;
- The Coalition envisioned the important value for the cutting-edge health technology field;
- The Coalition supported a mixed-use development;
- The proposed nomination could be developed into a green urbanism campus with an emphasis on health, green buildings, green town squares, linear green parks, and forest conservation;
- The Coalition supported adequate tree buffering from ozone pollution;

- The absence of a bicycle connection and pedestrian access across the beltway was life-threatening; and
- Gallows Road should become an urban boulevard and have a more humane connection to promote revitalization of the surrounding area.

Kris Unger, 2907 Charing Cross Rd, Falls Church, supported the nomination. He also stated the following:

- The Friends of Accotink Creek was a local environmental non-profit dedicated to protecting, restoring and promoting the Accotink Creek Water Shed;
- The organization worked with local communities and led stream cleanups, basic removals, conservation projects, and educational programs;
- Appreciated the Planning Commission's that reduced negative impacts to watersheds associated with development; and
- The organization was concerned that remaining forested areas were threatened by development
- The organization supported utilizing high standards for reviewing the stormwater impacts with proposed projects.

Ed Feige, 3723 King Arthur Road, Annandale, supported the nomination. He also stated the following:

- The Camelot Civic Association was located adjacent to and south of the INOVA/Exxon proposed site;
- The Camelot community's northern exit points flowed directly on to Gallows Road;
- The proposed development should be implemented in a responsible and environmentally sound manner;
- The community's primary concern was increased traffic flow on Gallows Road in particular, the half-mile stretch that ran between I-495 and Route 50;
- The growth of the INOVA complex on the west side of Gallows Road and continuing development of the Mosaic District, Gallows had become heavily congested;
- INOVA's main campus on Gallows Road increased its population density, which resulted in a new Woodburn Road exit that ran onto Gallows Road with a continuous third lane;
- No documented definitive plan was in place that addressed the anticipated increase in congestion;

- The current site development plan increased the existing entry and exit points on Gallows Road from two entry and exits to four, with the expected additional stop lights; and
- Camelot Civic Association had met with the INOVA community outreach legal team and addressed the community's concerns.

Vicky Carr, 9004 Barb Anne Court, Springfield, supported the nomination. She also stated the following:

- The proposed project would improve healthcare in the Fairfax County area;
- INOVA had many educational cancer treatment programs, support groups, nutrition classes and makeup classes that assisted with professional appearances during the course of treatment.; and
- Families in the Fairfax County community with advanced cancer should not have to travel out of state to get the best treatment. Clinical trials at the proposed INOVA facility would be an added benefit to the Fairfax County area.

Steve Hines, 2112 Helmwood Court, Vienna, supported the nomination. He also stated the following:

- INOVA Center for Personalized Health would make Fairfax County a better place to live and work;
- The nomination would consolidate additional care in a single location and simplify care coordination, and would also reduce the stress levels of patients and families;
- The nomination would increase INOVA's ability to provide personalized care for patients within a campus design, tailored to the needs of those patients;
- The nomination would serve as a magnet to attract additional clinicians and researchers that were needed to ensure every cancer patient within the surrounding Fairfax County area was able to receive exceptional care in their community;
- INOVA Center for Personalized Health would generate more research funding and would create additional opportunities for local businesses directly or indirectly.

Howard Albers, 3210 Winford Drive, Fairfax, supported the nomination. He also stated the following:

- Fairfax Alliance for Better Bicycling (FABB) was a 501(c)(3) organization, with a total of 3,000 participants;

- FABB monitored the implementation of the Fairfax County Master Bicycle Plan and worked with the Department of Transportation;
- FABB recently convinced the Virginia Department of Transportation (VDOT) to add a 15-mile bicycling trail along I-66, outside of the beltway;
- FABB requested staff include two crossovers on I-495. One north of Route 50 and the south of Route 50;
- The beltway created an artificial barrier between communities, which forced residents to use their cars to drive short distances to get to various services;
- In October of 2014, the Board of Supervisors adopted the Master Bicycle Plan that included eight grade separated crossings over I-495;
- VDOT began construction of a lighted bicycle and pedestrian crossing at Tysons Corner Center, which was 418-feet long, 16-feet wide, and had a cost of \$3,900,000;
- There were no bicycle facilities planned for the INOVA and Fairview Park North properties on the I-495 crossings;
- FABB supported a thorough study of the bicycle needs for the surrounding areas; and
- The I-495 crossing north of Route 50 was the desirable link to the proposed Arlington Boulevard trail;
- There were insufficient VDOT right-of-way to add bicycle facilities to Route 50 where it crossed over I-495.

Commissioner Niedzielski-Eichner thanked the contributors for being part of the discussion. He encouraged the speakers to continue their engagement of amendment.

There being no additional speakers, further comments or questions from the Commission, Chairman Murphy closed the public hearing and recognized the subsequent nomination scheduled for the public hearing.

PC17-PR-002 – Fairview Park

Bernard Suchicital, PD, DPZ, presented an overview of the nomination, a copy of which is in the date file. He stated that staff recommended acceptance of nomination PC17-PR-002.

Ken Quincy, Providence District Task Force, stated he concurred with staff's recommendation for nomination PC17-PR-002. Mr. Quincy stated the nomination was in concert with nomination PC17-PR-001.

Elizabeth Baker, Nominator's Agent, Walsh, Colucci, Lubeley & Walsh, P.C., gave a presentation wherein she stated the following:

- Fairview Park was an 86.5-acre property and was rezoned in 1980 to the Planned Development Commercial District;
- Fairview Park was in need of revitalization to include a large undeveloped portion of the site;
- Route 50 had an approved final development plan for a 300,000-square foot office building;
- The property was vacant and located near 1.48 million square feet of previously-approved development, but certain portions of that development remained vacant;
- Standalone office parks struggled to attract and retain high quality tenants and developers began redeveloping those sites with mixed-use centers that provided abundant amenities to attract and retain employees or transit access within close proximity to Transit Station Areas;
- There has been some difficulty due to the Metrorail Silver Line access through Tysons;
- Fairview Park saw a negative downturn due to the economic recession of 2008 and major changes were made to the operation of the workplace and workforce;
- In the first quarter of 2018, Class A office vacancy in Fairview Park was at 29 percent, but Class A rents were stagnant for multiple years;
- New and renewed leases had incentives for free rent and large tenant improvement bonuses;
- Since 2015, five major companies had relocated or announced plans to relocate from Merrifield to submarkets along the Metrorail Silver Line station;
- In 2017 Merrifield experienced 243,000 square feet of negative net absorption;
- There were no office buildings under construction and none broke ground;
- Single use office parks were no longer sustainable;
- Fairfax County adopted a policy that repurposed vacant and underutilized office buildings. Fairfax County should continue to work with office park owners to allow such parks to evolve, survive and thrive;
- Fairview Park had the opportunity to reinvent itself, due to the close proximity to the beltway, Route 50, INOVA's campus, Mosaic Town Center, and Dunn Loring-Merrifield Metrorail Station;

- Fairview Park did not intend to replicate the transit-oriented developments and would not become a large retail center;
- The nomination proposed a number of different mixed-uses and a change in the intensity;
- The proposal suggested office and hotel uses would be at 40 to 50 percent of the overall gross floor area;
- Residential units could comprise of 30 to 45 percent of the use with retail and events space at 5 percent;
- The proposal requested an increase in intensity from 0.8 to 1.0 floor area ratio;
- Fairview Park would bring civic and community benefits;
- One option included the construction of active recreational spaces on top of parking decks and another would be to add a community center or a focal point around the area;
- Fairview Park worked with CallisonRTKL to envision change that included a potential green preservation area, coupled with a series of new streets and buildings; and
- Transportation, schools, parks, and fire and rescue stations infrastructure would be discussed and community outreach and involvement was highly recommended; and
- The nominator also supported a combined study with INOVA.

Barry Christopher, 7721 Inversham Drive, Falls Church, opposed the nomination. He also stated the following:

- New Providence Village at Lakeford Condominium Association (NPVDOA) community was concerned about the traffic impact to the community;
- There was an increase in traffic on both sides of Fairview Park Drive and the nominator met with the community to mitigate some of the concerns;
- NPVDOA was concerned about the redevelopment of Fairview Park and the associated impacts;
- NPVDOA attended the final task force meeting before the nomination was recommended to move forward; and
- NPVDOA intended to work with the Planning Commission, Board of Supervisors, Department of Transportation and environmental agencies to reach a fair and equitable type of development that would become neighbor to the community.

Linda Ovenden, 7747 Inversham Drive, Falls Church, opposed the nomination. She also stated the following:

- The area was quiet, serene and offered views of natural greenery and wildlife;
- Development of Fairview Park Drive North would negatively impact the natural views, serenity and security the community now enjoyed;
- The lack of trees would diffuse the pollution caused by the heavy beltway traffic and the increased Fairview Park traffic;
- There would be pollution runoff into Lakeford, which had a direct path to the Chesapeake Bay waterway;
- The proposed development would become a new haven for the increased local gang activity that surrounded the community;
- There would be dangerous vehicular ingress and egress to New Providence Drive off of Fairview Park;
- The community was not in favor of the area becoming an 18-hour active area;
- The vacant buildings should be redeveloped for mixed-use and live work life, and not the construction of new developments;
- The reduction of the few remaining natural areas in Fairfax County would not be a benefit to the community; and
- Fairview Park North should be left in its current undeveloped condition;
- The Fairview Park portion of the plan should be decoupled from the INOVA Fairfax plan.

Commissioner Niedzielski-Eichner thanked the contributors for being part of the public hearing. Margaret Iris, Yarling Court, Falls Church, opposed the nomination. She also stated the following:

- Carr at New Providence was located in the only residential area accessed from Fairview Park Drive and was part of the Lakeford Community;
- The community, contained 565 homes with an assessed property value totaling over \$200,000,000 and generated an annual tax revenue of more than \$2,300,000;
- If approved, the proposal would negatively impact the residents who lived in residential communities in Fairview Park;
- The scope of the proposal was not in conformance with the stated objectives of Fairfax County's Comprehensive Plan;

- Fairview Park Drive was an access road designated as an emergency route because of its close proximity to INOVA hospital;
- There were over 24,000 average weekday trips from Fairview Park Drive westbound to Route 50, and the exit ramp northbound to I-495; and
- Neither one of the Lakefront Community exit points had traffic lights;
- The proposal would generate an increase in the level of traffic and would increase the total capacity of the current zoning allowance by 237 percent after the affordable dwelling unit and workforce dwelling unit bonus space was added.

Commissioner Niedzielski-Eichner confirmed receipt of Ms. Iris' testimony.

Stewart Schwartz, 316 F. Street NE, Washington, DC, supported the nomination. He stated the nomination merited study considering the challenges with office parks. He stated the nomination was the most challenging of the Providence nominations. The site had limitations of past planning and development approaches. Isolated office parks were created which limited their uses. There was a lack of real connectivity between different neighborhoods, uses, highways and large interchanges. Mr. Schwartz stated the interchange took up hundreds of acres of land and created real challenges for the proposed development in the modern era. A mixed-use development would make the office park more competitive, but lacked adequate connections.

There being no additional speakers or further comments or questions from the Commission, Chairman Murphy closed the public hearing and recognized the subsequent nomination scheduled for the public hearing.

PC17-PR-005 – Merrifield at Dunn Loring Station

Aaron Klibaner, PD, DPZ, presented an overview of the nomination, a copy of which is in the date file. He stated that staff recommended denial of nomination PC17-PR-005.

Ken Quincy, Providence District Task Force, concurred with staff's recommendation for nomination PC17-PR-005. He stated the nomination was in close proximity to the core area of the Dunn Loring Metrorail Station. The evaluation of the nomination should be conducted within the framework of a review of the mentioned area.

Commissioner Niedzielski-Eichner stated that the task force recommended approval with a modified floor area ratio of 1.2. In response, Mr. Quince stated there was a difference of the floor area ratio. He reiterated the primary concern was the proximity to the Dunn Loring Metrorail Station area. The nominations would have to be considered together in order to achieve the balance in viable residential and commercial use.

David Gill, Nominator's Agent, McGuireWoods, LLP, gave a presentation wherein he stated the following:

- The site was within a half mile of the Dunn Loring Metrorail Station;
- Since adoption of the plan in 2000, the Planning Commission and the Board of Supervisors took multiple actions to endorse mixed-use transit oriented development focused within the half mile of the Metrorail station;
- The task force endorsed a 1.2 mixed-use recommendation and the nominator supported the task force recommendation;
- The nominator had discussions with Supervisor Linda Q. Smyth, Commissioner Niedzielski-Eichner, and staff to hear and mitigate some of staff's original concerns regarding the nomination;
- The site was the largest single property owner site within a half mile of the Dunn Loring Metrorail Station;
- The site was of the scope and size appropriately considered for a plan amendment; and
- The nominator owned the site since 1969.

Commissioner Niedzielski-Eichner inquired about the site's floor area ratio. In response Mr. Gill stated the floor area ratio went from a recommendation of 20 dwelling units per acre, to 40 dwelling units per acre. This was a solely residential recommendation. The floor area ratio was roughly 0.85. Commissioner Niedzielski-Eichner asked to explain the request for the addition. Mr. Gill stated it was a matter of scale and appropriateness to be equivalent and was treated the same as all the adjacent planned properties. He stated the property across the street from Gallows Road had a 1.8 floor area ratio recommendation, the properties to the south had a 1.35 floor area ratio, the Mosaic had a 1.2 floor area ratio, and the core was 2.25. Commissioner Niedzielski-Eichner asked staff to comment on the question of nominator's authority under the Comprehensive Plan versus the 1.2 floor area ratio recommended by the task force. Mr. Klibaner stated the adopted plan included some limited office, retail and service use, coupled with residential use at 30 to 40 dwelling units per acre. Adding bonus affordable dwelling units would get the nominator to the 1.2 floor area ratio the task force had recommended.

Commissioner Hart asked for clarification of the task force's position on the nomination. Mr. Quincy reiterated the task force recommend the nomination not move forward due to the close proximity of the Dunn Loring Metrorail Station. Meghan Van Dam, PD, DPZ stated the task force voted 10-6 in favor of the nomination. The task force explanation was that it recommended a reduction in density to 1.2 floor area ratio. Some of the comments noted a concentration of the site design at the northern and eastern segments of the parcel, away from the existing low density residential areas. Commissioner Hart asked how long the current plan was in place. Ms. Van Dam stated the study was conducted and adopted in early 2002. The property was subject to the plan amendment.

Fran Wallingford, 3311 Mantua Drive, Fairfax, opposed the nomination. She also stated the following:

- She concurred with staff's recommendation to include nominations PC17-PR-001 and PC17-PR-002 as a joint evaluation;
- She supported staff's recommendation to eliminate nomination PC17-PR-005 and the nomination should be considered as part of the package;
- Nominations PC17-PR-001 and PC17-PR-002 were part of the Holmes Run watershed and not the Accotink Creek watershed; and
- The major concerns were traffic, transportation, and schools.

Philip Latasa, no physical address provided, clarified all the INOVA properties were in the Cameron Run watershed, and three acres of the property were part of the Accotink Creek watershed.

Commissioner Niedzielski-Eichner stated he supported staff's recommendations for the nominations. He asked how the existing conditions and various public facilities analysis would cover the surrounding Merrifield area if nomination PC17-PR-005 was eliminated from the list for consideration. Mr. Suchicital stated the existing conditions analysis would cover all of the boundaries within the Merrifield suburban center. That included the three site-specific nominated areas. Regarding nominations PC17-PR-001 and PC17-PR-002, Commissioner Niedzielski-Eichner stated the two land masses had potential synergies that required exploration. He stated the vision should not be limited to the current use of transportation options. Commissioner Niedzielski-Eichner stated he anticipated there would be an opportunity to consider creative transportation responses to the Gallows Road challenges. He added there were potential creative responses for transit such as circulator options, bicycling, walkability, and pedestrian access. Commissioner Niedzielski-Eichner further stated these options would be considered as the process moved forward.

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

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(Start Verbatim Transcript)

Commissioner Migliaccio: Thank you, Mr. Chairman. First of all, I would like to thank staff for all of their work to get us to this point. And thank all of the speakers that came out this evening. It is our first crack at this new plan amendment process and I'm hoping that it's going smoothly, we'll see as we move forward. We have one more step in the process and that will be next week at the mark-up session. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISIONS ONLY ON SSPA NOMINATIONS PC17-DR-001, PC17-PR-001, PC17-PR-002, PC17-PR-005, PC17-SU-001 AND THE CHANGES TO THE COMPREHENSIVE PLAN AMENDMENT WORK PROGRAM, TO A PLANNING COMMISSION MARK-UP SESSION ON JUNE 28TH, 2018, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENT.

Commissioner Hart: Second.

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

Commissioner Ulfelder: Mr. Chairman.

Chairman Murphy: Yes.

Commissioner Ulfelder: Did you enter the Dranesville...

Chairman Murphy: Yes.

Commissioner Migliaccio: I thought I had DR the first, but, I said PR twice. But.

Commissioner Ulfelder: Yeah. I think you may have said...

Chairman Murphy: Oh. Okay.

Commissioner Migliaccio: PC – PC17-DR-001.

Commissioner Ulfelder: Thank you.

Commissioner Migliaccio: We won't forget you.

Commissioner Ulfelder: [Inaudible].

Chairman Murphy: All those in favor of the motion as articulated by Mr. Migliaccio, almost, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 12-0.

(End Verbatim Transcript)

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The meeting was adjourned at 11:36 p.m.
Peter F. Murphy, Chairman
James T. Migliaccio, Secretary

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

Minutes by: Samantha Lawrence

Approved on: February 6, 2019

Jacob Caporaletti

Jacob Caporaletti, Clerk to the
Fairfax County Planning Commission

