

**MINUTES OF  
FAIRFAX COUNTY PLANNING COMMISSION  
THURSDAY, SEPTEMBER 20, 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  
Walter C. Clarke, Mount Vernon District  
Phillip A. Niedzielski-Eichner, Providence District  
Donté Tanner, Sully District  
Mary D. Cortina, Commissioner At-Large

**ABSENT:** Julie M. Strandlie, Mason District

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The meeting was called to order at 7:34 p.m., by Chairman Peter F. Murphy, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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**COMMISSION MATTERS**

Chairman Murphy announced that Frank de la Fe, former Planning Commissioner from the Hunter Mill District, passed away earlier that week. He stated that Mr. de la Fe was appointed to the Commission in 2001 by Hunter Mill Supervisor Catherine Hudgins and retired in 2017. He added that Mr. de la Fe had also served as Parliamentarian and Vice Chairman during his tenure with the Commission. Chairman Murphy gave a brief history of Mr. de la Fe's public service and his various contributions to the Reston community, noting that he had been designated as the Citizen of the Year in 2001 by the Fairfax County Federation of Citizens Associations.

On behalf of the Planning Commission, Chairman Murphy expressed condolences to Mr. de la Fe's family. He stated that there would be a viewing for Mr. de la Fe on Sunday, September 23, 2018 from 3:00 p.m. to 5:00 p.m. at the Adams Green Funeral Home in Herndon. He then indicated that Mr. de la Fe's funeral was scheduled for Monday, September 24, 2018 at 11:00 p.m. at St. Thomas à Becket Catholic Church.

Chairman Murphy asked that the Planning Commission stand in a moment of silence to honor Mr. de la Fe.

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ZONING ORDINANCE AMENDMENT – WIRELESS TELECOMMUNICATIONS  
INFRASTRUCTURE

*(Start Verbatim Transcript)*

Commissioner Cortina: I MOVE TO DEFER THE PUBLIC HEARING ON THE ZONING FOR WIRELESS TELECOMMUNICATION INFRASTRUCTURE ZONING ORDINANCE AMENDMENT TO A DATE CERTAIN OF OCTOBER 18, 2018 because the Federal Communications Commission is expected to issue a declaratory ruling and report an order on September 26, 2018, which may impact the amendment. This deferral will allow time for the FCC to act and for staff to consider the impacts of the FCC's action on the amendment.

Commissioners Hart and Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Sargeant [sic]. No, no Mr. Sargeant tonight – Mr. Ulfelder and Mr. Hart. Is there a discussion of the motion? Yes.

Commissioner Ulfelder: Mr. Chairman, I just wanted to say the fact that we – the reasons we are deferring this, I think, is indicative of what's going on both with actions by the General Assembly and by the federal government, in connection with the telecommunications world – and the fact that there are lots of changes going on, regularly, that affect Fairfax County and other local jurisdictions' ability to address what telecom facilities – as they progress. And I just think it's important to remind people to pay attention to these changes at the federal level and at the state level and how it affects us because I – I know in both McLean and Great Falls they've always been concerned about telecom facilities of various types and sizes. And I think that people will need to know exactly what's coming down the pike, so to speak – and that they should – one way to do that is to keep an eye on and keep track of some of these amendments. That's all I wanted to say.

Chairman Murphy: Thank you very much. And that motion was seconded by Mr. Ulfelder and Mr. Hart.

Commissioner Niedzielski-Eichner: Mr. Chairman?

Chairman Murphy: And this is discussion. Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Yeah, just – I wanted to commend Commissioner Ulfelder for his request to staff to put that historical package together because it showed dramatically, I thought, the evolution of this technology and the implications for us. And I appreciate staff putting that together. I appreciate your requests.

Chairman Murphy: Okay, all those in favor of the motion, as articulated by Ms. Cortina, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.



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

*(End Verbatim Transcript)*

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Commissioner Migliaccio announced his intent to defer SEA 2006-LE-030, PMIG 1009, LLC, from September 27, 2018 to a date to be determined. He added that he would be absent from the meeting and Commissioner Hart would make the motion to defer the case on his behalf.

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Commissioner Carter announced his intent to further defer the decision only for RZ/FDP 2016-HM-024 from September 27, 2018 to a date to be determined.

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Commissioner Hart announced his intent to defer the public hearing for RZ 2018-MV-007 from September 27, 2018 to a date certain of October 11, 2018. He added that he would not be present at the Planning Commission meeting on October 4, 2018 and stated that Commissioner Ulfelder would make the motion to defer the case on his behalf.

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RZ 2017-DR-023 – TRADITION HOMES, LLC (Decision Only)  
(The public hearing on this application was held on June 28, 2018.)

*(Start Verbatim Transcript)*

Commissioner Ulfelder: Thank you, Mr. Chairman. This evening, we are scheduled to make a recommendation on an application from Tradition Homes to rezone the 5.76 acre McMillen Farm parcel on Dranesville Road from R-1 to the R-3 Residential District to permit the development of 13 single family lots. The Planning Commission held its public hearing on this application on June 28<sup>th</sup>. In light of the fact that there was a second staff report addendum that was published today, I would just like to ask the representative of the applicant to come forward, for a moment, and identify yourself for the record.

Shane Murphy, Applicant's Agent, Reed Smith, LLP: Mr. Chairman, Commissioner Ulfelder, and members of the Planning Commission, my name is Shane Murphy with the firm of Reed Smith. And I represent Tradition Homes, the applicant.

Commissioner Ulfelder: The staff report addendum – while the staff is still recommending approval – did raise a couple of questions and concerns about some of the wording in Proffer 19. Is the applicant planning to consider possible further revisions prior to the Board hearing in connection with those questions and concerns that were raised?



Mr. Murphy: Yes, sir. Without any prompting and without any request from anyone, we are planning to – to tighten up these proffers. We believe the comments are fairly easy to respond to, on our part. My client has already looked at all four of them and we already have some – some corrective language in mind – again, of our own volition for these on-site proffers.

Commissioner Ulfelder: Thank you. Before I discuss the application and propose my motion, I'd like to make a preliminary comment. This application is subject to restrictions contained in *Virginia Code* Section 15.2-2303.4, which was enacted by the General Assembly in 2016. This law restricts the ability of a locality to discuss certain proffers in residential rezonings, such as this. Any such discussion could violate the statute and subject the County to significant liability. Therefore, in an abundance of caution, and even though the Planning Commission is not the locality, I and my fellow Commissioners have considered only what the applicant has proposed in this application. The applicant has volunteered a number of proffers and has affirmed that neither the locality or anyone acting on its behalf has suggested, requested, or required those or any other proffers. And nothing we discuss here should be considered a request, suggestion, or requirement for any proffer, reasonable or otherwise. The historic significance of McMillen Farm is well-documented. The property, including the existing residence and the original hay barn built sometime in the 1850s, has been listed on the Fairfax County Inventory of Historic Resources since 1996. A great deal of time was spent at the June hearing discussing the status of these historic structures and the – the steps initially proposed by the applicant to protect and preserve them. As a result of that discussion, the applicant has proposed significant revisions to its original proffer and expanded them to include the 1850s hay barn. While the Staff Report Addendum II dated September 20<sup>th</sup>, 2018 raises some questions and concerns about the revised proffer concerning the cultural resources preservation, in my view the overall revisions are appropriate and important steps addressing the historic preservation concerns raised by the Planning Commission. It is now my understanding that those questions and concerns that were raised in the addendum will be addressed by the applicant, prior to consideration of this application by the Board of Supervisors. In addition, as proposed at the time of our hearing, the wording of Proffer 21, involving school contributions, was ambiguous and could have been read to allow the funds to be spent on capital improvements not related to the expansion of needed school capacity. If this was to – if this were to occur, even inadvertently, it could have opened the County to costly litigation, as well as have an impact on its land use decision. Fortunately, it has been revised and, as the applicant acknowledges, made consistent with the narrow requirements of *Virginia Code* Section 15.2-2303.4. In response to the public testimony, the applicant has added a proffer to help remove and relocate wildlife on the site, if feasible and permitted, prior to the development of the site. Concerns were also raised at the hearing about the non-tidal jurisdictional wetland/water feature on the property that is subject to the requirements of Section 404 of the Clean Water Act and the Joint Permit Application Process and the future of the existing channel on the site. Piping of the channel will require the approval of the Army Corps of Engineers, the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission. The applicant expressed confidence, based on the opinion of his engineer, that it would receive the necessary approvals to pipe the channel and proceed with the 13 lot subdivision, as currently proposed. The applicant also recognized that if the Joint Permit Application is not approved, it will be necessary to revise the plans for the subdivision, including the number of lots and seek new approvals from the County for those revisions. Overall, I believe that the issues of primary concern have been adequately addressed. With that, I would ask the applicant's representative to come forward again. Thank you. At the close of the June 28<sup>th</sup>



public hearing on this rezoning application, you affirm that neither the locality nor anyone acting on its behalf at any time suggested, requested, or required any proffer. Since that previous affirmation, has the locality or anyone acting on its behalf suggested, requested, or required any proffer with regard to this application?

Mr. Murphy: No, they have not.

Commissioner Ulfelder: Thank you. And do you affirm that all the proffers conform to the requirements of *Virginia Code* Section 15.2-2303.4?

Mr. Murphy: I do affirm. Yes, sir.

Commissioner Ulfelder: Okay. Thank you. Therefore Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE RZ 2017-DR-023.

Commissioner Sargeant: Second.

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

Commissioner Niedzielski-Eichner: Mr. Chairman?

Chairman Murphy: Yes, Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Thank you, Mr. Chairman. I plan to abstain from voting on this application. The norms and practices of this Commission are to freely, openly, and transparently ask questions of the staff, applicant, and speakers at public hearings. For me, this is an essential dynamic that helps me make an informed decision on whether or not to recommend approval. As Mr. Ulfelder has effectively explained why, I was not confident in the midst of the June 28<sup>th</sup>, 2018 public hearing on this application that I could craft questions here at the dais without potentially running afoul of the new proffer law's restrictions on our ability to communicate with residential rezoning applicants. Further, I was disturbed that staff and one of my colleagues both referenced the proffer law as constraining our ability to engage the applicant on land use matters important to the County. For example, staff expressed reluctance to engage the applicant on heritage-related questions, noting that, and I quote, "given the proffer law we are operating under, those conversations were extremely difficult to have." In my time on the Commission, I have come to value and appreciate the synergy that results from the engagement together of the applicant, staff, Planning Commissioners, and Supervisors. In my mind and experience, both the community and the applicant are the ultimate beneficiary of this essential dynamic. I do commend our colleague Commissioner Ulfelder for his diligence in working within the constraints imposed by this law, but in the absence of my own ability to freely engage in the deliberations, I cannot decide whether to support or not support the application and, therefore, must abstain. Now let me close, Mr. Chairman, with this. The barriers to our effective conduct of our business are fixable and I encourage our General Assembly to take up this task in its upcoming 2019 session. Thank you Mr. Chairman.

Chairman Murphy: Thank you. Mr. Ulfelder?

Commissioner Ulfelder: I just want to add to my motion that the fact that the approval I'm moving for this rezoning, RZ 2017-DR-023 IS SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE NOW DATED SEPTEMBER 10<sup>TH</sup>, 2018.

Chairman Murphy: Okay, thank you. So noted.

Commissioner Sargeant: Mr. Chairman, I once again second.

Chairman Murphy: Mr. Sargeant seconds the motion? Okay. All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Oppose? Motion carries. Mr. Niedzielski-Eichner abstains.

The motion carried by a vote of 10-0-1. Commissioner Niedzielski-Eichner abstained from the vote. Commissioner Strandlie was absent from the meeting.

*(End Verbatim Transcript)*

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#### ORDER OF THE AGENDA

Secretary Migliaccio established the following order of the agenda:

1. FDPA B-715-04 – WILLIAM AND VALERIE BOCK (Mount Vernon)
2. RZ/FDP 2018-MV-006 – NRP HUNTINGTON, LLC
3. RZ/FDP 2018-SU-008/PCA 2009-SU-020-03 – K. HOVNANIAN HOMES AT PENDER OAKS, LLC

This order was accepted without objection.

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FDPA B-715-04 – WILLIAM AND VALERIE BOCK – Appl. to amend the final development plans for RZ -B-715 to permit three residential lots. Located on the W. side of Parker's Ln., S. of Hinson Farm Rd. on approx. 7.12 ac. of land zoned PDH-5. Tax Map 102-1 ((1)) 3C and 3D (pt.). MOUNT VERNON DISTRICT. PUBLIC HEARING.

Lori Greenlief, Applicant's Agent, McGuireWoods, LLP, reaffirmed the affidavit dated September 11, 2018.

There were no disclosures by Commission members.



Jay Rodenbeck, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of application FDPA B-715-04.

When Commissioner Hurley asked whether the five-foot width for the sidewalk along Parkers Lane was feasible, Mr. Rodenbeck indicated that the proposed dimensions were adequate and added that the sidewalk would integrate into the pedestrian path network throughout the area. A discussion ensued between Commissioner Hurley and Catherine Lewis, ZED, DPZ, regarding the extent to which students attending Whitman Middle School would utilize the proposed sidewalk along Parkers Lane and the potential safety concerns for those students.

Commissioner Hart indicated that staff had expressed concern regarding the potential gaps in the sidewalk network throughout the surrounding area and asked whether that issue had been resolved. Mr. Rodenbeck explained that there was a gap between Lots 2 and 3 on the site, but implementing a sidewalk connection between those lots required extending portions of it off-site that were beyond the purview of the subject applications. He added that the applicant's proposed sidewalk network would not cross Parcel 3A.

Ms. Greenlief addressed Commissioner Hurley's concerns regarding the usage of the proposed sidewalk along Parkers Lane by students from Whitman Middle School, pointing out that no students from that school would utilize that sidewalk and students residing to the south of the subject property attended a different school. She added that there was a sidewalk on the other side of Parkers Lane.

Ms. Greenlief gave a presentation on the subject application wherein she explained the following:

- The proposal would permit a redevelopment of the site with three single-family detached dwelling units;
- The subject property had been previously utilized as a horse farm, but the existing owners had decided to sell the site; and
- The development of three-single family detached dwelling units was consistent with the conceptual development plan and the standard prescribed for the Zoning Ordinance for PDH-5 Districts.

Answering questions from Commissioner Niedzielski-Eichner, Ms. Greenlief indicated that Parcel 3A was owned by the existing property owners, but that parcel was not part of the subject application and had not been part of the previously-approved rezoning for the site. She also confirmed that the installation of a sidewalk connection between Parcel 3A and the sidewalk network of the proposed development was not precluded, adding that such a connection would be included in a future redevelopment of that parcel. Commissioner Niedzielski-Eichner indicated that he favored the installation of a comprehensive sidewalk network for the area.

Commissioner Ulfelder pointed out that staff had suggested that the applicant utilize shared driveways for Lots 1 and 2, but the applicant had opted to not pursue such a feature. A discussion ensued between Commissioner Ulfelder and Ms. Greenlief regarding the possible design for a shared driveway for those lots, the distance from that driveway to the Parkers Lane/Hinson Farm Road intersection to the north, and the reason the applicant had objected to the use of a shared driveway wherein Ms. Greenlief said that the applicant's designs for the driveways for Lots 1 and 2 were consistent with the standards prescribed by the Public Facilities Manual and the Virginia Department of Transportation.

Chairman Murphy called for speakers from the audience.

John Harris, 8123 Chancery Court, Alexandria, spoke in support of the proposal because it would complement the surrounding development and the previously-approved development options for the site. He also said that he and the surrounding community organizations had met with the applicant, adding that the community did not object to the designs of the proposed development.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Ms. Greenlief, who declined. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Clarke for action on this case.

*(Start Verbatim Transcript)*

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Commissioner Clarke: Thank you, Mr. Chairman. And good evening, everybody. I want to thank the applicant and thank Jay for all of his hard work. And we've been working diligently on this – on this application. And I'd like to request that the applicant confirm – if you could come forward please or...and if you could confirm, for the record, their agreement to the proposed development conditions dated September the 5<sup>th</sup>, 2018.

Lori Greenlief, Applicant's Agent, McGuireWoods, LLP: Yes, on behalf of the applicant, we agree with those conditions.

Commissioner Clarke: Thank you. Mr. Chairman, I'D LIKE TO MOVE THAT THE PLANNING COMMISSION APPROVE FDPA B-715-04, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED SEPTEMBER THE 5<sup>TH</sup>, 2018.

Commissioners Cortina and Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant and Ms. Cortina. Is there a discussion of the motion? All those in favor of the motion to approve FDPA B-715-04, say aye.

Commissioner: Aye.

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



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

*(End Verbatim Transcript)*

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RZ/FDP 2018-MV-006 – NRP HUNTINGTON, LLC – Appls. to rezone from C-3 to PDH-12 to permit residential development with an overall density of 9.81 dwelling units per acre (du/ac) and approval of the conceptual and final development plan. Located on the N.E. of intersection of Huntington Ave. and Metroview Pkwy. on approx. 6.32 ac. of land. Comp. Plan Rec: Office with option for Residential. Tax Map 83-1 ((1)) 42 and 49A. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Sara Mariska, Applicant's Agent, Womble Bond Dickenson (US), LLP, reaffirmed the affidavit dated September 12, 2018.

There were no disclosures by Commission members.

Jay Rodenbeck, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of applications RZ/FDP 2018-MV-006.

Referring to Proffer Number 3 in the revised set dated September 19, 2018, Commissioner Sargeant asked whether the applicant could provide a specific maximum/minimum of the amount of parking that would be provided. Catherine Lewis, ZED, DPZ, stated that there no prohibitions that precluded the applicant from establishing a maximum/minimum parking range, but noted that the applicant had retained flexibility for the parking provisions until the time of site plan. She added that the amount of parking provided with the development was contingent on the type of residential development that would be implemented. A discussion ensued between Commissioner Sargeant and Ms. Lewis regarding the impact that certain types of residential development incurred on the applicant's transportation demand management plan and the different parking requirements for various types of residential development wherein Ms. Lewis did not object to specifying the range of the applicant's parking provisions to facilitate the site plan review process. (A copy of the revised set is in the date file.)

Commissioner Sargeant concurred with staff that additional time was necessary for the applicant to comply with the commitment to construct a sidewalk connection on the eastern side of Metroview Parkway, as articulated in Proffer Number 4B, Transportation.

A discussion ensued between Commissioner Sargeant and Ms. Lewis regarding the applicant's school contribution and the possibility that the amount of that contribution could be finalized prior to the time of site plan review wherein Ms. Lewis deferred to the applicant for more information on that issue.



Commissioner Hart pointed out that there was a misspelling in title of Proffer 17 and should have read "Adjustment In Contribution Amounts." Ms. Lewis acknowledged the error and did not object to revising it.

Commissioner Hart pointed out a grammar error in Proffer Number 9D, which should have read, "Prior to site plan approval, the Applicant will dedicate a public access easement to Fairfax County, in a form acceptable to the County Attorney, to allow for an urban park in the northwest portion of the Subject Property as shown on the CDP/FDP." Ms. Lewis and Mr. Rodenbeck did not object to that revision.

When Commissioner Hart requested additional information regarding the ownership of the urban parks within the proposed development, Ms. Lewis explained that the Fairfax County Park Authority (FCPA) did not support dedications of small lots due to the difficulty of maintaining such lots. She then said that the FCPA favored the implementation of public access easements for those urban park areas that a condominium owners association or a homeowners association maintained. A discussion ensued between Commissioner Hart and Ms. Lewis regarding the location of the urban parks that would be implemented under the proposal.

Commissioner Hart stated that the applicant had committed to implementing a public trail easement in Proffer Number 9B, Trail. He then asked for additional information on the maintenance responsibilities of that trail. Ms. Lewis deferred to the applicant for that information.

When Commissioner Hart asked whether residents of the workforce dwelling units (WDU) within the proposed development would be guaranteed a parking space, Ms. Lewis deferred to the applicant for additional information on that issue, but acknowledged that concerns regarding the parking provisions for WDUs had been raised at other developments.

Commissioner Hart expressed concern regarding the limited timeframe between the Planning Commission's public hearing for the subject applications and the Board of Supervisors' public hearing, stating that such a short turn-around limited staff's ability to resolve outstanding issues. A discussion ensued between Commissioner Hart and Ms. Lewis regarding the circumstances and timeframe under which the applications had been processed.

A discussion ensued between Commissioner Ulfelder and Ms. Lewis, with input from Mr. Rodenbeck, regarding the paths pedestrians would utilize to access the Huntington Metrorail Station under both development options in the proposal, the additional sidewalk connections that the applicant would implement, and the distance from the subject property to the Huntington Metrorail Station wherein Ms. Lewis pointed out the locations of trails and Mr. Rodenbeck noted the locations of possible sidewalk connections, noting that certain connections required the approval of adjacent property owners and the pipestem that connected to the southern portion of the site could be utilized to access existing sidewalks along Huntington Avenue.

When Commissioner Ulfelder inquired about the topography of the subject property on the northern portion of the site and potential flooding concerns from Cameron Run, Ms. Lewis indicated that the site was flat and located approximately 24 feet above sea level.



A discussion ensued between Commissioner Niedzielski-Eichner and Mr. Rodenbeck, with input from Ms. Lewis, regarding the amount of time the subject property had been under the applicant's ownership, the reason why the applicant had not pursued development at a higher density, and the County's policies towards promoting high-density development at sites located near existing Metrorail Stations wherein Ms. Lewis acknowledged Commissioner Niedzielski-Eichner's concerns about the density of the proposed development, but noted that the Comprehensive Plan recommended that development on the site provide a transition of density that was compatible with the character of the surrounding residential areas.

Commissioner Niedzielski-Eichner expressed concern regarding the extent to which the applicant had effectively responded to staff's concerns on various issues, such as the implementation of sidewalk connections, the utilization of nutrient credits, and stormwater management provisions.

Commissioner Niedzielski-Eichner asked for additional information regarding the applicant's provisions for improving the accessibility from the subject property to the nearby Huntington Metrorail Station, expressing concern that those provisions did not adequately encourage pedestrian access over vehicular access. Mr. Rodenbeck said that staff had coordinated with the applicant to ensure convenient pedestrian access to the Huntington Metrorail Station, noting that the escrow for funding such connections had been increased in the revised set of proffers dated September 19, 2018.

Commissioner Sargeant addressed Commissioner Niedzielski-Eichner's concern regarding the density of the proposed development and the importance of promoting high-density development near Metrorail Stations, pointing out that there had been such developments in the area around the subject property and noted the different circumstances of the region compared to similar sites throughout the County.

Commissioner Sargeant inquired as to the possibility of utilizing a Transportation Demand Management (TDM) Plan with the proposal. Maura Ikaro, Transportation Planner II, Fairfax County Department of Transportation, explained that a TDM Plan was not required for developments that did not utilize rental units, but noted that a TDM Plan for the subject property would require a 25-percent trip reduction.

Ms. Mariska addressed the concerns voiced by various Commissioners wherein she explained the following:

- The applicant had not proffered a specific amount of parking to permit greater flexibility to account for possible modifications to the number of dwelling units at the time of site plan review;
- The amount of parking required for the development was subject to subsequent modifications at the time of site plan review;
- The subject property's proximity to the Huntington Metrorail Station could impact the amount of parking necessary for the development;

- The proposal included opportunities for additional surface parking, as determined to be necessary at the time of site plan review;
- The potential modifications to the overall number of dwelling units within the proposed development would impact the applicant's school contribution and the language of the proffers reflected the need for flexibility in finalizing that amount;
- The applicant would retain ownership of the urban park facilities and the trails that would be implemented under the proposed development;
- The maintenance of the urban park facilities and trail network throughout the site would be conducted by the applicant;
- The applicant did not object to clarifying the maintenance responsibilities for the parks and trail networks throughout the site prior to the Board of Supervisors' public hearing for the subject applications;
- The applicant had committed to providing a parking space for each WDU;
- The Comprehensive Plan permitted a maximum of 360 dwelling units on the site, but a development at such density was not feasible due to the presence of floodplain and resource protection areas; and
- The applicant had coordinated with the community on the proposed development and subsequently determined that a lower-density development was necessary to mitigate the impact on the surrounding residential communities.

Ms. Mariska then gave a brief presentation on the subject applications wherein she explained the following:

- The applicant had coordinated with staff to address the various concerns articulated in the staff report;
- The timeframe for constructing the sidewalk connection along Metroview Parkway was listed as an outstanding concern in the staff report, but the applicant had been coordinating with the neighboring property owners and the Washington Metropolitan Area Transit Authority to implement that sidewalk within the 90-day timeframe articulated in the proffers;
- The applicant had submitted the site plan for the proposed development prior to the public hearing, which included various obligations for the applicant within particular timeframes and constructing the sidewalk connections throughout the site was a part of those obligations;



- The applicant had increased the escrowed contribution towards constructing the sidewalk connection along Metroview Parkway from \$10,000 to \$30,000 to ensure the construction of that connection;
- The applicant's park provisions would complement the existing park facilities throughout the area and implement additional trail connections throughout the area;
- The subject property was located in close proximity to the Huntington Metrorail Station and the applicant was committed to facilitating pedestrian access to that station; and
- The subject applications were supported by the Southeast Fairfax Development Corporation, The Mount Vernon Council of Citizens' Association, and the Huntington Community Association.

In response to questions from Commissioner Migliaccio, Ms. Mariska stated the following:

- The applicant acknowledged the limited timeframe between the Planning Commission's public hearing and the Board of Supervisors' public hearing for the subject application, but that timeframe had been the result of staffing issues and staff had not objected to the extent of that timeframe;
- The applicant intended to construct the sidewalk connection along Metroview Parkway, even in the event that such a connection could not be installed within the 90-day timeframe articulated in Proffer Number 4B;
- The applicant did not object to revising the language of Proffer Number 4B to provide greater clarity on the applicant's intentions to construct the sidewalk connection along Metroview Parkway; and
- The applicant would coordinate with appropriate agencies to install appropriate wayfinding signage throughout the proposed development.

When Commissioner Cortina requested additional information regarding which development option within the subject applications the applicant favored, Ms. Mariska indicated that the applicant supported Option A and had submitted a site plan reflecting that option. Commissioner Cortina expressed support for Option A because it sufficiently mitigated the impact of the proposed development on nearby environmental features.

In reply to questions from Commissioner Hurley, Ms. Mariska said that the homeowners association would conduct the maintenance for the trails throughout the proposed development and indicated that such responsibilities would be articulated within the proffers prior to the Board of Supervisors' public hearing. Commissioner Hurley echoed the concerns previously expressed by Commissioner Hart regarding the narrow timeframe between the Planning Commission's public hearing and the Board's public hearing for the proposal, adding that she did not intend to cast a vote of support.

Commissioner Hart reiterated his concern regarding the limited timeframe between the Planning Commission's public hearing and the Board's public hearing, adding that the applicant's commitments to addressing the concerns raised by the Commission had not been articulated in writing.

When Commissioner Hart requested additional information regarding the features that would be included on the pipestem that ran from the southern portion of the subject property to Huntington Avenue, Ms. Mariska indicated that there would be no significant features installed on that area. She added that the pipestem included an underground stormwater management feature and consisted primarily of green space, which was accessible to pedestrians. She also stated that the surrounding community supported preserving the pipestem as green space, but noted that there would be no paved path within that space.

Commissioner Sargeant pointed out that there were limited opportunities to incorporate the subject property into a consolidated development and indicated that the density of the proposed development was appropriate for the area.

A discussion ensued between Commissioner Ulfelder and Ms. Mariska regarding the features of the pipestem that connected the subject property to Huntington Avenue and the reason why that area had not been paved wherein Ms. Mariska stated that the green space along the pipe stem was utilized for dog walking and there had been concerns that a paved path would encourage unsafe pedestrian crossings across Huntington Avenue.

A discussion ensued between Commissioner Carter and Ms. Mariska regarding the area median income tiers that the applicant had utilized for the WDU proffer, the reason why the applicant had decided to not utilize income tiers lower than those prescribed by the Policy Plan, and the possibility of reserving additional WDUs for lower income tiers wherein Ms. Mariska said that the applicant had determined that the 80/100/120 income tiers were appropriate for the WDU proffer because the density of the proposed development was on the lower end of the range recommended by the Comprehensive Plan.

Chairman Murphy called for speakers from the audience, but received no response; therefore, he noted that a rebuttal statement was not necessary.

Commissioner Clarke commended the Commissioners for voicing multiple concerns. He then stated that he had coordinated with staff and the applicant to address the outstanding issues associated with the application and he had determined that those issues had been adequately addressed. In addition, Commissioner Clarke pointed out that the area around the site would be subject to further development. Commissioner Migliaccio recommended that the applicant acknowledge the outstanding issue and state, for the record, a commitment to address them in an appropriate manner. Commissioner Niedzielski-Eichner said that his concerns regarding the density of the proposed development had been sufficiently addressed.

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



Ms. Mariska stated, for the record, the applicant's commitment to address the following issues prior to the Board of Supervisor's public hearing on the proposal:

- The appropriate revisions to Proffer Numbers 17 and 9D;
- The provisions for appropriate wayfinding signage throughout the site;
- The maintenance responsibilities for the park facilities and trails;
- The parking provisions for WDUs; and
- The timeframe for installing a sidewalk along Metroview Parkway.

Commissioner Hurley also requested that the applicant revise the proffer language to articulate the parking provisions for the proposed development, but Ms. Mariska indicated that the applicant favored retaining the existing language to preserve flexibility for modifying those provisions at the time of site plan review.

When Commissioner Hurley asked whether the proposed development included designated spaces to accommodate delivery service vehicles, Ms. Mariska said that the proposal included such areas.

A discussion ensued between Commissioner Hart and Ms. Lewis regarding the issues associated with the limited timeframe between the Planning Commission's public hearing for the subject applications and the Board of Supervisors' public hearing.

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

*(Start Verbatim Transcript)*

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Commissioner Clarke: Thank you, Mr. Chairman. I request that the applicant confirm, for the record, their agreement to the proposed development conditions dated September the 5<sup>th</sup> and with the conditions that we've placed tonight – that have been requested.

Sara Mariska, Applicant's Agent, Womble Bond Dickenson (US), LLP: The conditions...

Commissioner Migliaccio: Perhaps the applicant can recite those...

Commissioner Clarke: Yes.

Commissioner Migliaccio: -on the record.

Ms. Mariska: I confirm that we are in agreement with the conditions dated September 5<sup>th</sup> and I also affirm that we will work on revising proffers to address parking with WDUs, wayfinding signage, maintenance of the park, maintenance of the trail, and the timing associated with the sidewalk – hope that I’ve captured them all.

Commissioner Clarke: Okay.

Ms. Mariska: Thank you.

Chairman Murphy: Okay.

Commissioner Clarke: Thank you very much. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2018-MV-006, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE NOW DATED SEPTEMBER 19<sup>TH</sup>, 2018.

Commissioner Sargeant: Second.

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

Commissioner Migliaccio: With the changes?

Chairman Murphy: With the changes.

Commissioner Clarke: With the changes.

Chairman Murphy: All those in favor of the motion to recommend to the Board of Supervisors to approve RZ 2018-MV-006, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Hurley abstains?

Commissioner Hurley: I abstain because of the numerous corrections that need to be changed in a five-day timeframe. I’m not opposed to the project. I’m opposed to the time crunch.

Commissioner Clarke: I appreciate that. Thank you. Yes. Okay.

Chairman Murphy: Mr. Clarke.

Commissioner Clarke: I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2018-MV-006, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED SEPTEMBER 5<sup>TH</sup>, 2018 AND THE BOARD OF SUPERVISORS’ APPROVAL OF RZ 2018-MV-006 WITH THE CONDITIONS PREPARED TONIGHT.

Commissioner Sargeant: Second.



Chairman Murphy: With the conditions. Okay. Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor of the motion to approve FDP 2018-MV-006, subject to the Board's approval of the rezoning, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries, same abstention. Mr. Clarke.

Commissioner Clarke: Okay. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE FOLLOWING:

- APPROVAL OF A WAIVER FOR – OF THE ZONING ORDINANCE FOR LOADING SPACES;
- APPROVAL OF THE WAIVER OF THE ZONING ORDINANCE FOR THE LENGTH OF PRIVATE STREETS; AND
- APPROVAL FOR THE MODIFICATION OF THE ZONING ORDINANCE TO THE TRANSITIONAL SCREENING REQUIREMENT ALONG THE EASTERN PROPERTY LINE OF THAT SHOWN ON THE CDP/FDP.

Commissioner Sargeant: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstention. No?

Commissioner Hurley: No.

Chairman Murphy: No abstentions.

The first two motions carried by a vote of 10-0-1. Commissioner Hurley abstained from the vote. Commissioner Strandlie was absent from the meeting.

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

*(End Verbatim Transcript)*

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RZ/FDP 2018-SU-008 – K. HOVNANIAN HOMES AT PENDER OAKS, LLC – Appls. to rezone from PDC, WS and HC to PDH-12, WS and HC to permit residential development with an overall

density of 12.12 dwelling units per acre (du/ac) and approval of the conceptual and final development plan. Located N. of Lee Jackson Memorial Hwy. approx. 315 ft. N.W. of Fair Ridge Dr. on approx. 18.07 ac. of land. Comp. Plan Rec: Residential. Tax Map 46-3 ((1)) 15A1 and 15C. (Concurrent with PCA 2009-SU-020-03).  
SULLY DISTRICT. PUBLIC HEARING.

PCA 2009-SU-020-03 – K. HOVNANIAN HOMES AT PENDER OAKS, LLC – Appl. to amend the proffers for RZ 2009-SU-020 to delete land area. Located N. of Lee Jackson Hwy. approx. 315 ft. from N.W. of Fair Ridge Dr. on approx. 18.07 ac. of land zoned PDC, WS and HC. Comp. Plan Rec: Residential. Tax Map 46-3 ((1)) 15A1 and 15C. (Concurrent with RZ/FDP 2018-SU-008).  
SULLY DISTRICT. PUBLIC HEARING.

Andrew Painter, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, PC, reaffirmed the affidavit dated September 7, 2018.

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

Sharon Williams, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of applications RZ/FDP 2018-MV-006 and PCA 2009-SU-020-03.

A discussion ensued between Commissioner Tanner and Ms. Williams regarding the extent to which staff supported the proposal wherein Ms. Williams affirmed that staff did not object to the applicant's requested waivers and modifications.

When Commissioner Tanner inquired about the provisions for the buffer that would be located along the northern and western portions of the subject property, Ms. Williams explained the following:

- The Comprehensive Plan recommended two development options for the site, one of which included language supporting a 125-foot buffer;
- The proposed development would utilize a development option that did not prescribe a specific amount of buffer, but recommended the installation of year-round screening;
- The applicant's buffer provisions included preservation of 85 feet of mature vegetation, 15 feet of supplemental plantings that included year-round evergreen vegetation, and 10 feet of easement reserved for utility features that would consist primarily of green space; and



- The applicant's total buffer commitment amounted to 110 feet, but staff supported those provisions because the character of those provisions was consistent with the recommendations of the Comprehensive Plan.

A discussion ensued between Commissioner Sargeant and Ms. Williams regarding the language in Proffer Number 2, Development Scope, and the possibility that the mix of residential dwelling units would fluctuate at the time of site plan review wherein Ms. Williams deferred to the applicant for additional information the mix of residential units, but acknowledged that there was flexibility in the language to permit modifications to the number of dwelling units and the distribution in the types of those units.

Referring to Proffer Number 10, Property Owners Association, in the set dated September 6, 2018 and contained in Appendix 1 of the staff report, Commissioner Sargeant requested additional information regarding the operation of such an association and whether similar associations had operated in other parts of the County. Catherine Lewis, ZED, DPZ, cited other developments, such as those in the Metro West development, that utilized such associations. She added that the intent of such organizations was to delineate the maintenance of the various improvements that had been implemented under those developments. In addition, Ms. Lewis confirmed that the operation of those associations included funding mechanisms. A discussion ensued between Commissioner Sargeant and Ms. Lewis regarding the operation of the property owners association under the proposed development and the extent to which the association would be similar to other organizations, such as the one in operation at the Metro West development.

Commissioner Hart pointed out a formatting error in Proffer 7C, Architectural Design, regarding the numbering sequence for the sub-sections of that proffer.

Referring to Proffer 22B, Parking for Workforce Dwelling Units (WDU), Commissioner Hart expressed concern that the language of the proffer did not adequately specify that a designated parking space would be provided for each WDU was included in the sale price. Ms. Lewis and Ms. Williams acknowledged that the proffer was not sufficiently clear, but Ms. Williams indicated that the applicant had committed to include the cost of parking within the sale price of each WDU. Ms. Williams added that staff would coordinate with the applicant to modify the language of the proffer to accurately articulate that intent.

Commissioner Hart voiced concern that the language in Proffer 40, Severability/Future Applications, was unclear and would grant excessive permission to the applicant to pursue various other modifications without the consent of neighboring property owners. Ms. Williams concurred with Commissioner Hart's concern and supported revising the language to ensure sufficient clarity. A discussion ensued between Commissioner Hart and Ms. Lewis regarding the intent of the proffer and the review procedures the applicant had to utilize in processing such applications.

Commissioner Hart asked whether the turning radius within the driveways of the dwelling units located at the ends of the proposed development were adequate. Ms. Williams indicated that the



Fairfax County Department of Transportation had not voiced concerns about the size or the turning radius of the driveways, but deferred to the applicant for additional information on that issue.

Commissioner Niedzielski-Eichner asked whether the applicant's provisions for the buffer along the northern and western portion of the subject property had been evaluated. Referring to Sheet 30 of the conceptual development plan, as shown in the staff report, Ms. Williams pointed out that the applicant had cataloged each existing tree on the site. She then said that the applicant had coordinated with the Urban Forestry Management Division (UFMD) on the health and preservation of those trees to ensure the adequacy of the buffer. She added that UFMD voiced no objections to the applicant's provisions. A discussion ensued between Commissioner Niedzielski-Eichner and Ms. Williams regarding the extent to which the surrounding community supported the applicant's buffer provisions and the ability of the applicant to modify those provisions wherein Ms. Williams stated that the applicant was not permitted to reduce the length of the buffer without obtaining the necessary approvals from the County.

A discussion ensued between Commissioner Niedzielski-Eichner and Ms. Williams, with input from Ms. Lewis, regarding the architectural treatment of the dwelling units located along the southern portion of the site and the applicant's efforts to ensure that the architecture was compatible with the neighboring commercial development wherein Ms. Williams and Ms. Lewis noted the following:

- The Comprehensive Plan had recommended that the architecture between the site and the neighboring shopping center be architecturally compatible;
- The provisions of Development Condition Number 1, as shown in Appendix 2 of the staff report, required that the proposed development be substantially in accord with the final development plan amendment entitled "Pender Oaks," as revised through September 5, 2018; and
- The applicant's commitment to ensuring such compatibility was articulated in Proffer Number 7, Architectural Design.

A discussion ensued between Commissioner Cortina and Ms. Williams, with input from Ms. Lewis, regarding the existing overcapacity issues associated with the local school system, the amount of additional students the proposed development would generate for the system, and the additional students that would be generated by other planned developments in the area wherein Ms. Williams and Ms. Lewis said the following:

- The existing issues associated with overcapacity at certain schools had been acknowledged by Fairfax County Public Schools; and
- The applicant had included a schools contribution in Proffer Number 31, Fairfax County Public Schools Contribution, and staff did not object to that contribution.



Commissioner Cortina expressed concern regarding the ongoing overcapacity issues of school facilities in the area around the subject property and the impact that further development would incur on those facilities. Commissioner Niedzielski-Eichner added that certain school facilities, such as Oakton High School, were subject to further renovations and modifications to the school boundaries due to population shifts.

Mr. Painter commended staff for their work on the subject applications. He then gave a presentation wherein he explained the following:

- The subject property had been previously rezoned to permit a maximum of 140,000 square feet of office development in 1983;
- The site had also been subject to a previously-approved proffered condition amendment in 2009 to permit a 90,000 square-foot assisted living facility;
- The previously-approved development plans for the site utilized large buildings and parking lots with minimal provisions for tree preservation, open space, and noise attenuation;
- The applicant had coordinated with staff and the surrounding community to finalize an alternative development option for the site that accounted for the existing constraints of the surrounding area;
- The subject applications would permit a residential development that was intended to complement the character of the adjacent shopping center and provided a transition from the commercial areas in the south to the established residential communities to the north;
- The proposal would permit a residential development of approximately 219 residential dwelling units, which would consist multi-family buildings, two-over-two townhouse units, and luxury townhouse units;
- The architecture of the proposed development was consistent with that utilized in the existing commercial development, as articulated in the provisions of Proffer Number 7;
- The existing owner of the adjacent shopping center had expressed support for the proposed architectural design of the proposed residential development;
- The proposal included various amenities such as open space areas, a courtyard, public art, and landscaping features;
- The proposal also included pedestrian connections between the proposed development and the existing shopping center to the south with an emphasis on providing a transition from one area to the other;

- The applicant had committed to providing 100 additional parking spaces for the neighboring shopping center to the south;
- The proposed development included an open lawn area along the northern portion of the site that included a playground, a tot lot, and a pool facility;
- The northwestern portion of the site near the existing resource protection area would include a garden;
- The existing condition of the site included a significant amount of impervious surfaces and a majority of those surfaces would be retained or expanded under the existing development options;
- The proposed development would utilize less impervious surface than the existing development options and the applicant intended to implement stormwater management provisions consistent with those prescribed by the State of Virginia;
- The applicant had committed to installing landscaping and open space provisions that exceeded the requirements prescribed by the County;
- The proposed development would preserve approximately 47 percent of the site as open space and approximately 20 percent would be reserved for tree preservation;
- The applicant's buffer provisions differed from those recommended by the Comprehensive Plan for the existing development options on the site, but emphasized designing a buffer that provided a transition from the subject property to the existing residential communities in the north;
- The applicant's buffer provision included significant tree-preservation, an 85-foot vegetative buffer, a 10-foot easement for utilities that also functioned as an open lawn area, and a 15-foot wide planting strip that would accommodate additional plantings;
- The gap between the dwelling units located on the northern portion of the site and those located within the existing residential community to the north was approximately 125 feet;
- The applicant's buffer provisions included vegetation that provided improved screening compared to the existing trees along the northern portion of the site;
- The applicant had agreed to plant additional trees within the 85-foot buffer to supplement the screening between the subject property and the existing residential community to the north;



- The setbacks between residential dwelling units to the north of the site and those that would be located along the northern portion of the subject property was substantially greater than the minimum length prescribed in the Zoning Ordinance;
- The proposed development did not include a road connection to the existing residential development to the north and would be accessed through Fair Ridge Drive, which connected with Route 50;
- The proposed development would generate fewer peak-hour trips than the previously-approved development options for the site;
- The proposed development provided parking at a level exceeding the minimum requirements prescribed by the Zoning Ordinance;
- The applicant did not object to revising the proffer language for WDUs to articulate that those units were provided with adequate parking;
- The proposed development included four short-term parking space for deliveries and service vehicles;
- The subject applications included a depiction of the garages for the townhome units;
- The garages for the townhome units included sufficient space to accommodate vehicles and trash receptacles;
- The applicant had coordinated with the surrounding Elder Woods and Fair Oaks communities during the review of proposal;
- The applicant had also conducted outreach with residents in the existing communities around the subject property; and
- The applicant would continue coordinating with residents of the surrounding community to address their concerns.

A discussion ensued between Commissioner Tanner and Mr. Painter regarding the applicant's outreach efforts to residents of the surrounding residential communities wherein Mr. Painter described the applicant's interactions with multiple residents, noting that appropriate contact information had been provided to those who had not responded to direct inquiries.

When Commissioner Hart asked whether the turning radius for the end units of the proposed residential development were adequate, Mr. Painter indicated that the applicant had demonstrated that the turning radius for each unit was consistent with the appropriate standards.

A discussion ensued between Commissioner Hart and Mr. Painter regarding the broad nature of the language for Proffer Number 40 and the ability of the applicant to pursue subsequent

modifications for the proposed development wherein Mr. Painter explained that the intent of Proffer Number 40 was to provide greater flexibility for improvements, but did not object to modifying the language to ensure that such intent was clearly articulated.

Commissioner Hart expressed concern regarding the prevalence of popsicle signs throughout the County.

A discussion ensued between Commissioner Hart and Mr. Painter regarding the pricing structure of the dwelling units and the price of similar units throughout the area.

Commissioner Sargeant requested information regarding the height of the trees that would be located within the easement along the northern portion of the site. Mr. Painter stated that the height of those trees would be approximately 25 feet. A discussion ensued between Commissioner Sargeant and Mr. Painter regarding the possibility that existing trees would die during the construction of the proposed development and the applicant's ability to replace those trees during the process wherein Mr. Painter indicated that the trees identified in the site plan with the proposed development were under the appropriate warranties to ensure their preservation.

When Commissioner Sargeant requested additional information regarding the paths pedestrians would utilize to access the existing shopping center to the south, Mr. Painter indicated that the proposed development included pedestrian paths that connected to the shopping center and pointed out the location of those paths. He added that the applicant intended to utilize provisions that enhanced the pedestrian experience for those accessing the shopping center.

A discussion ensued between Commissioner Sargeant and Mr. Painter regarding the operation of the Property Owners Association identified in Proffer Number 10 and the method for determining the fee structure of that association wherein he pointed out that multi-family buildings would also utilize a condominium association and the townhouse units would utilize a homeowners association, but the operation of the Property Owners Association had not been finalized.

A discussion ensued between Commissioner Hurley and Mr. Painter regarding the areas residents of the proposed development would utilize for dog-walking wherein Mr. Painter noted that there was a significant amount of open space throughout the site that could be utilized for dog-walking and Commissioner Hurley recommended that the applicant identify appropriate spaces for residents.

Commissioner Carter asked for additional information regarding the location of the affordable dwelling units (ADU) and the income tiers the applicant would utilize for those units. Mr. Painter said that the ADUs would be included in the two-over-two townhouse units and the multi-family residential building. He then indicated that the applicant would utilize income tiers consistent with those prescribed by the County. He added that the ADUs located within the two-over-two townhouse would accommodate larger family sizes than those within the multifamily building.



A discussion ensued between Commissioner Ulfelder and Mr. Painter, with input from Ms. Lewis, regarding the possible mechanisms for enforcing policies for dog-walking in the proposed development wherein Mr. Painter said that the homeowners associations that would be established for the development did not preclude the adoption of such policies.

Referring to Proffer Number 25, Landscaping, Commissioner Cortina pointed out that the applicant had committed to utilizing native species for landscaping plan and asked whether the provisions of that proffer would be enforced for the trees. Mr. Painter said that the applicant intended to utilize native tree species for the landscaping plan. Commissioner Cortina then suggested that the applicant specify in the plan that the ornamental trees depicted were native.

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

Martin Griggs, 12303 Ox Hill Road, Fairfax, representing the Fair Oaks Estates Homeowners Association, spoke in opposition to the proposal for the following reasons:

- The density of the proposed development was excessive and would negatively impact the neighboring residential communities;
- The buffer provisions proposed by the applicant did not sufficiently mitigate the impact on the neighboring communities;
- The proposed development would generate significant traffic and the applicant's provisions did not adequately mitigate that impact;
- The proposal would incur a negative impact on the local school system, which had been subject to overcrowding at certain facilities;
- The roads that would be utilized to access to the subject property could not accommodate the proposed development;
- The site was not sufficiently accessible by trash trucks and the applicant's request for a waiver of Section 10-0306 of the Fairfax County Public Facilities Manual to allow trash and recycling collection to be picked up curbside for the multifamily stacked units in lieu of an on-site dumpster pad was not warranted;
- The applicant's parking provisions were not adequate and the existing roads surrounding the site were subject to significant overflow parking;
- The applicant's screening provisions for the area between the proposed development and the existing community to the north were inadequate;
- The proposed development would negatively impact the quality of life for the existing residential communities around the subject property; and

- The applicant had not included adequate safety provisions for the electrical sub-station located to the east of the site.

Mr. Griggs recommended that staff re-evaluate the proposal with an emphasis on the impact the proposed development would incur on the surrounding residential communities. In addition, he opposed the applicant's request for the following waivers and modifications:

- A modification of Section 13-305(3) of the Zoning Ordinance to permit the modification of transitional screening and barrier requirements within the property and to adjacent uses in favor of that shown on the CDP/FDP; and
- A modification of Section 6-107.2 to modify the minimum 200 square foot privacy yard for each single-family attached dwelling as shown on the CDP/FDP.

Mr. Griggs stated that he favored a development at a lower density and supported the construction of an elder care facility, which was an existing development option for the site and generated less traffic. He supported requiring the applicant to provide a 125-foot buffer, as recommended by the Comprehensive Plan.

A discussion ensued between Commissioner Hurley and Mr. Griggs regarding the adequacy of the buffer along the northern portion of the site, the possibility that owners of the dwelling units along that portion would construct additions in the back yard, and the impact those modifications would incur on the neighboring communities.

Chairman Murphy called for speakers from the audience.

Richard Kuckel, 12311 Ox Hill Road, Fairfax, voiced opposition to the subject applications, aligning himself with the concerns expressed by Mr. Griggs regarding the proposed development's impact on parking, traffic, and local schools in the area. He added that he favored developing the site with an assisted living facility, noting that such facilities did not significantly impact local school systems. In addition, Mr. Kuckel expressed concern regarding the proposed development's impact on the stormwater management features in the area, noting that his property was subject to significant runoff.

Michal McCartney, 12309 Ox Hill Road, Fairfax, spoke in opposition to the subject applications, aligning himself with concerns voiced by previous speakers regarding the proposed development's impact on traffic, stormwater management features, and the local school system. He added that he had met with the applicant and expressed concern that the types of trees that would be utilized for the buffer were not sufficient. He then said that the screening provided by such trees would not adequately mitigate the visual impact of the development on the neighboring residential communities. Mr. McCartney recommended that the Commission defer the decision only for the subject applications to permit more time to address the community's concerns and obtain written confirmation of the applicant's commitment to adopt provisions that addressed those concerns.



Tarek Azeem, 12108 Green Leaf Court, Unit 302, Fairfax, voiced opposition to the proposal, aligning himself with previous speakers regarding the development's impact on traffic congestion and the local school system. In addition, he expressed concern that the operation of emergency vehicles in the area would further intensify the traffic impact of the proposed development.

Iman Siddiqui, 3804 Greenridge Court, Unit 302, Fairfax, opposed the subject applications, echoing concerns from previous speakers regarding the proposed development's impact on traffic, schools, and the operation of emergency vehicles.

Aly Abuzaukuk, 4120 Brookgreen Drive, Fairfax, spoke in opposition to the subject applications, aligning himself with concerns voiced by previous speakers regarding the proposal's impact on traffic congestion. He also expressed concern about the proposal's overall environmental impact.

Ammar Benguedouar, 4152 Vernoy Hills Road, Fairfax, opposed the subject applications, echoing concerns from previous speakers regarding the proposal's traffic impact.

Mahit Khan, 4241 Fair Lakes Drive, Fairfax, voiced opposition to the subject applications, aligning himself with previous speakers regarding the proposed development's impact on traffic and parking throughout the area. In addition, he recommended that the County re-evaluate the minimum parking requirements prescribed by the Zoning Ordinance. He added that the surrounding area was subject to significant traffic congestion.

Michelle Novotni, 12307 Ox Hill Road, Fairfax, spoke in opposition to the subject applications, aligning herself with concerns expressed by previous speakers regarding the proposed development's traffic impact. In addition, she stated that the applicant's outreach efforts to residents that would be affected by the development had not been adequate, noting that the proposal would significantly impact the operation of an existing daycare facility near the site.

Jameel Siddiqui, 3804 Green Ridge Court, Fairfax, opposed the subject applications due to safety concerns regarding the proposed development's proximity to an existing electrical power sub-station located to the east of the site. In addition, he pointed out that the traffic generated by the development would hinder the ability of emergency vehicles to access that sub-station.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Mr. Painter, who explained the following:

- The density of the proposed development was approximately 10.96 dwelling units per acre, which was below the maximum density of 12 dwelling units per acre that had been recommended by the Comprehensive Plan;
- The applicant's buffer provisions were sufficient to address the concerns voiced by the speakers;

- The proposed development had multiple ingress/egress points, which connected with Fair Ridge Drive and the access roads that serviced the shopping center to the south;
- The applicant had requested a waiver to permit curbside trash pickup for the two-over-two townhouse units because those units operated in a manner akin to traditional townhomes and requiring a dumpster pad was not consistent with such operations;
- The collection of trash at the proposed development would be managed by the Property Owners Association identified in Proffer Number 10, which would occur on a once-per-week basis;
- The proposed development provided 642 parking spaces, which exceeded the 452 spaces required by the Zoning Ordinance;
- The proposed development included 90 parking spaces to accommodate visitors and an additional 100 spaces for the neighboring shopping center to the south;
- The dwelling units located along the northern portion of the site would be a minimum of 125 feet from the property line and approximately 140 feet from the units in the neighboring development to the north;
- The applicant's provisions for buffer and open space were sufficient to mitigate the visual impact of the proposed development from the neighboring community;
- The existing power sub-station located to the west of the site utilized two existing access points;
- The applicant would increase the amount of buffering between the neighboring power substation with landscaping and noise attenuation features;
- The applicant had committed to conducting a noise study, as articulated in Proffer 29, Noise Attenuation, to ensure that the noise generated by the neighboring electric sub-station was mitigated in a manner consistent with the standards prescribed by the County;
- The proposed development would detain the stormwater runoff on-site to alleviate the stormwater impact on neighboring properties; and
- The issues regarding the operation of existing daycare centers located near the subject property would be addressed by the operators of that facility.

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

Commissioner Tanner commended the speakers for their testimony and announced his intent to defer the decision only for the subject applications to provide additional time to finalize the language for the proffers, as articulated by the Commissioners during the public hearing.



Commissioner Hurley requested that the applicant specify the areas of the site that would be utilized for dog-walking during the deferral period.

Commissioner Tanner requested additional information regarding the traffic impact of the proposed development and the concerns voiced by multiple speakers. Mr. Painter explained that the proposed development would generate fewer peak-hour trips than the existing office building located on the southern portion of the site. He added that expected traffic impact of the development was not sufficient to warrant further studies by the Virginia Department of Transportation.

A discussion ensued between Commissioner Hart and Ms. Williams regarding the recommended density for development of the site and the traffic impact of development at that density wherein Ms. Williams concurred that the Comprehensive Plan recommended approximately 2 to 3 dwelling units per acre, which reflected an intent to limit the impact of the peak-hour trips on the surrounding roads.

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

*(Start Verbatim Transcript)*

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Commissioner Tanner: Thank you, Mr. Chairman. I appreciate all the comments that came out tonight. We have some more work to go do. So with that, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR PCA 2009-SU-020-03, RZ 2018-SU-008, AND FDP 2018-SU-008 TO A DATE CERTAIN OF SEPTEMBER 27<sup>TH</sup>, 2018.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Niedzielski-Eichner [sic]. Is there a discussion of the motion? All those in favor of the motion to defer decision on RZ 2018-SU-008, FDP 2018-SU-008, and FDP 2018-SU-008 [sic] to a date certain of 9/27, with the record remaining open for written comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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

*(End Verbatim Transcript)*

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The meeting was adjourned at 10:46 p.m.

Peter F. Murphy, Chairman

James T. Migliaccio, Secretary

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

Minutes by: Jacob Caporaletti

Approved on: April 24, 2019



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Jacob Caporaletti, Clerk to the  
Fairfax County Planning Commission

