

**MINUTES OF  
FAIRFAX COUNTY PLANNING COMMISSION  
THURSDAY, OCTOBER 25, 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  
Julie M. Strandlie, Mason District  
Walter C. Clarke, Mount Vernon District  
Phillip A. Niedzielski-Eichner, Providence District  
Mary D. Cortina, Commissioner At-Large

ABSENT: John A. Carter, Hunter Mill District  
Donté Tanner, Sully District

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The meeting was called to order at 7:32 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

RZ 2018-MV-007 – LAFAYETTE BUILDING, LLC

(Decision Only) (Public Hearing on this application was held on October 11, 2018)

*(Start Verbatim Transcript)*

Commissioner Clarke: Yes. Good evening and thank you, Mr. Chairman. The applicant's...

Chairman Murphy: I think your mic is off, Walter.

Commissioner Niedzielski-Eichner: Mic is off.

Commissioner Clarke: Alright. Is that better?

Chairman Murphy: There you go.

Commissioner Clarke: Thank you.

Chairman Murphy: Alright.

Commissioner Clarke: Apologize for that. Thank you, Mr. Chairman. The applicant's request for the rezoning of RZ 2018-MV-007, Lafayette Building, LLC from a C-2 office use to a C-5 use – the intent was to allow for greater options of tenants in this use and was met with great

opposition from the community and, more importantly, the neighbors living in the immediate neighborhood. The opposition was mainly due to a potential increase in traffic and the type of business that a C-5 may attract to this quaint and well-established neighborhood. There were many community meetings held with and without the applicant in search for a solution that could agree – that we could all agree upon and with no reflection on the applicant and to no avail an agreeable solution did not present itself. So, the motion, Mr. Chairman; therefore, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS DENIAL OF RZ 2018-MV-007.

Commissioner Hart: Second.

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

Commissioner Migliaccio: Mr. Chairman?

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Thank you, Mr. Chairman. I will not be supporting this motion this evening. I – I do appreciate all of the work Mr. Clarke has done with the community. I think that this is a simple rezoning. In essence, what it is a repurposing of an office building and that's what we're trying to do moving forward in Fairfax County. I think the applicant, through the proffers, captured many of the concerns that the community had and took care of them. I understand the community may not feel that completely, but because of that, I'll be abstaining this evening, Mr. Chairman.

Commissioner Niedzielski-Eichner: Abstaining or no?

Commissioner Migliaccio: Abstaining this evening.

Chairman Murphy: Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. I will be abstaining as well. I agree with Commissioner Migliaccio. But I – it's – to me, it was a very modest change that would have minimal impact, despite what some people thought and they – was a good list of restricted uses under the C-5 zoning that were included in the proposed proffers. And the reality is I think, in the long run, that the neighbors would be happier having a viable – economically viable building and – and businesses on that site rather than one that's having trouble competing in the changing commercial real estate environment in Fairfax County. And it needed – I think – to me, it needs the flexibility for – able to – in order – able to continue to operate viably. And I – and I think that that would be a benefit to the neighborhood. So, for those reasons, I'm gonna abstain.

Chairman Murphy: Mr. Clarke:

Commissioner Clarke: Mr. Chair, I just wanna say, Mr. Ulfelder, thank you very much for that. But it's not so much that there aren't businesses there. This building is fully leased out and I can appreciate that. But when it's exactly in your neighborhood, I think you have to kind of rely on



the neighbors. This isn't something that's a distant solve. This is in the middle of this quaint little neighborhood. So, I just wanna make sure that we are respecting the people that live there in that community and them having their say in this. And so, it's not about someone that's miles away making a decision for them.

Chairman Murphy: Further discussion of the motion? Ms. Hurley.

Commissioner Hurley: I align myself with the comments of Commissioners Migliaccio and Ulfelder. We are trying to repurpose these older buildings. However, I'm not convinced in this case that the applicant has done as much as possible to possibly find different entrances to the adjacent shopping center etcetera. I will also abstain for this case.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Yes. Thank you, Mr. Chairman. It's a difficult case and I – I agree largely with a lot of what I've heard so far. However, my conclusion, ultimately, was the site is too small for a use that is oriented toward the neighborhood. If this were oriented more to the shopping center, it would make more sense. It still stands alone. The traffic conflicts with the incoming traffic and – and exiting traffic and the neighborhood have not really been resolved and I will be supporting the motion. Thank you.

Chairman Murphy: Alright further discussion? All those in favor of the motion to recommend to the Board of Supervisors not to approve RZ 2018-MV-007, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries with four abstentions.

Commissioner Sargeant: Mr. Chairman, I abstain.

Commissioner Strandlie: I'm abstaining as well. I was...

Chairman Murphy: Alright. Ms. Strandlie abstains, not present for the public hearing. Mr. Ulfelder abstains, Mr. Sargeant abstains...

Commissioner Migliaccio: Mr. Chairman, I abstain also.

Chairman Murphy: Mr. Migliaccio abstains. Ms. Hurley abstains. It's like a world series score, but that's the way it goes. Okay.

Commissioner Hart: Did anyone vote?

Chairman Murphy: Alright. Thank you very much.

The motion carried by a vote of 5-0-5. Commissioners Carter and Tanner were absent from the meeting. Commissioners Migliaccio, Ulfelder, Hurley, Sargeant and Strandlie abstained from the vote.

*(End Verbatim Transcript)*

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CSPA 2010-PR-021 – CAPITAL ONE BANK (USA), NATIONAL ASSOCIATION  
(Decision Only) (Public Hearing on this application was held on October 18, 2018)

*(Start Verbatim Transcript)*

Commissioner Niedzielski-Eichner: Thank you, Mr. Chairman. We held a public hearing last week on the Capital One Comprehensive Sign Plan Amendment and had a good discussion. And as a result of that discussion, there was extensive work undertaken over the past few days to address the concerns that were heard at the hearing and I feel that we have an outcome that's satisfactory that will likely lead to my being able to recommend approval. But I wanted to give my colleagues a chance to – to study this more if there's a – it's a large package. It's intimidating in a sense, but the basic changes are to those issues we spoke to last week, particularly relative to the screens in – that have been proposed by the applicant. With that, though, I want to give you more time to make sure you're comfortable. You can ask any questions you may have. So therefore, I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR CSPA 2010-PR-021, CAPITAL ONE COMPREHENSIVE SIGN PLAN AMENDMENT, TO A DATE CERTAIN OF NOVEMBER 1<sup>ST</sup>, 2018 WITH THE PUBLIC RECORD REMAINING OPEN FOR WRITTEN COMMENTS.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of the motion? All those in favor of the motion to continue the decision only deferred to CSPA 2010-PR-021 to a date certain of November 1<sup>st</sup>, with the record remaining open for comments, say aye.

Commissioners: Aye.

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

The motion carried by a vote of 10-0. Commissioners Carter and Tanner were absent from the meeting.

*(End Verbatim Transcript)*

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PFM AMENDMENT – FLEX PROJECT UPDATES RELATED TO THE FAIRFAX FIRST INITIATIVE (Decision Only) (Public Hearing on this application was held on October 18, 2018)



*(Start Verbatim Transcript)*

Commissioner Hart: Thank you, Mr. Chairman. On October 18, the Commission held a public hearing on proposed amendments to the Public Facilities Manual, Subdivision Ordinance, and the Tree Conservation Ordinance – the first installment of what will be called the PFM Flex Project – and deferred decision to tonight. I want to thank the citizens and industry representatives who submitted comments and participated in outreach activities. I also wanted very much to thank our staff team for their fine work on a complicated project. I hope I don't leave somebody out. There's several people still here this evening. David Stoner from the County Attorney's office, Beth Iannetta from the Office of Transportation, Chief Walser from Fire & Rescue, Keith Klein from the Department of Public Works and Environmental Services, many folks from Land Development Services – Danielle Badra, Behzad Amir-Faryar, Matt Hansen, Jan Leavitt, Ellie Coddington, and the Director, Bill Hicks, and Don Lacquement, the staff coordinator, for pulling this all together. I wanna also thank the Zoning Administrator, Leslie Johnson, Barbara Byron, and John Friedman for their assistance with some of the citizen questions. We will have more work ahead of us, but I hope the next phase of the process will proceed as smoothly. Staff has recommended approval of the changes, as contained in the staff report, which will facilitate the County's modernization and streamlining of land development processes and I concur with their recommendations. Therefore, Mr. Chairman, I will have two motions. First, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE BOARD ADOPT THE PROPOSED AMENDMENTS TO THE PUBLIC FACILITIES MANUAL AND CHAPTERS 101 AND 122 OF THE COUNTY CODE, AS SET FORTH IN THE STAFF REPORT DATED SEPTEMBER 25, 2018, TO TAKE EFFECT AT 12:01 A.M. ON THE DAY FOLLOWING ADOPTION BY THE BOARD OF SUPERVISORS.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt Public Facilities Manual Amendment Flex Project Updates related to Fairfax One – Fairfax First Initiative, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Secondly, Mr. Chairman, I FURTHER MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD AUTHORIZE THE DIRECTOR OF LAND DEVELOPMENT SERVICES (LDS) TO MAINTAIN THE PUBLIC FACILITIES MANUAL AND MAKE ADMINISTRATIVE CHANGES WITH RESPECT TO PROCEDURES, PROCESS IMPROVEMENTS, SUBMISSION REQUIREMENTS, COUNTY POLICIES, AND REFERENCES TO ADOPTED CODES.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Discussion of that motion? All those in favor of the motion as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Each motion carried by a vote of 10-0. Commissioners Carter and Tanner were absent from the meeting.

*(End Verbatim Transcript)*

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PA 2017-III-P1 – COMPREHENSIVE PLAN AMENDMENT (NOVA TRAINING CENTER SITE AND STATE POLICE SITE)

(Decision Only) (Public Hearing on this application was held on October 18, 2018)

*(Start Verbatim Transcript)*

Commissioner Hurley: Thank you, Mr. Chairman. I began with a reminder that we are here for a decision only on a proposed Comprehensive Plan Amendment. Because this amendment involves possible residential use, it could implicate *Virginia Code* Section 15.2-2303.4, which the Virginia General Assembly enacted in 2016. That statute restricts local authority regarding proffers in certain residential rezonings. Although this discussion does not involve a rezoning application, we want to be certain that nothing is said or done here that could in any way raise an issue under that statute in a future rezoning application. Thus, in an abundance of caution, even though the Planning Commission is not the locality and we are not considering the – a residential rezoning application tonight, we will discuss and consider only the impacts of any potential development of the subject property, not any proffers that a future rezoning applicant might make to address those impacts. Nothing in our discussion here should be construed as a request, suggestion, or requirement for any proffer. Due to the statute and the uncertainty over its application, our discussion of certain issues may be more constrained than has been the case historically. In the past, we've had open, collaborative discussions not only about the impacts of proposed development, but also about how those impacts might be addressed. Unfortunately, the new statute doesn't encourage such an open dialogue. We are here to discuss a planning – Plan Amendment PA 2017-III-P1. This is the former Northern Virginia Training Center plus a small piece of land about four acres currently designed to be – come under the Department of Motor Vehicles, plus another nine-plus acres that's currently used by the State Police and there are no – again no changes, no possible changes recommended for the State Police. We're just doing a Comprehensive Plan Amendment for all three of these properties. I again, as I did last week, thank Clara Johnson, who is not here tonight, but has spent a great deal of time on this. Marianne Gardner, who is here, and has spent even more time on it. The Braddock District Task Force, which has spent a year looking at this project and the – and Nancy Mercer, who is the Chairman of that task force. The Braddock Land Use Committee, who looked at this four or five times, as



well as Marcia Pape, the Land Use Aide for Braddock Supervisor John Cook. And the amendments that have been made – you have copies in front of you. Some changes to the original staff report. Are there any questions about that? The first one is to delete the words “inclusive of bonus intensity” because bonus is exclusive of the – this is for – the affordable housing rent units would be in addition to any intensity. The other additions is, as requested by the Planning Commission last week, that there would be no non-emergency vehicular access to or from the communities to the south. And the third – the Commission asked for “feet” instead of number of stories for the height limits. And it now says, “including the above – any above ground parking structures, the building heights should be limited to a maximum of 65 feet with some flexibility for a maximum of 75 feet towards the center of the site.” The other change – another change requested by the Land Use Committee to preserve the existing mature tree canopy instead of saying to “to the extent feasible,” it now says, “in consultation with the Fairfax County Urban Forest Management Division.” And the last change to the original staff language is that the “affordable accommodations should be provided consistent with adopted Policy Plan guidance relating to Continuing Care Facilities, as may be adopted by the Board of Supervisors.” Are there any questions?

Chairman Murphy: Okay.

Commissioner Hurley: Well, with that, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE STAFF RECOMMENDATION FOR COMPREHENSIVE PLAN AMENDMENT 2017-III-P1 ON PAGE 20 OF THE STAFF REPORT DATED OCTOBER 4, 2018 TO THE BOARD OF SUPERVISORS, WITH THE MODIFICATIONS SHOWN IN MY HANDOUT DATED TONIGHT, 25 OCTOBER, 2018.

Commissioner Migliaccio: Second.

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

Commissioner Niedzielski-Eichner: Mr. Chairman?

Chairman Murphy: Yes. Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Yeah. 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. This is an essential dynamic that helps me make an informed decision on whether or not to recommend approval. Unfortunately, as we just heard, the Commission and the public had – has to be advised by Commissioner – had to be advised by Commissioner Hurley, under the advisement of the County Attorney, at the start of last week’s public hearing and tonight on this proposed Comprehensive Plan Amendment involving possible residential use that, and here I quote, “due to the statute, meaning the proffer bill, and the uncertainty over its application, our discussion of certain issues may be more constrained than has been the case historically.” Mr. Chairman, as you and my colleagues are well aware, I am strongly against the constraints imposed by this statute. I am now further concerned that the proffer bill constrains us in the exercise of our most fundamental responsibility, as uniquely assigned by the *Code of Virginia* to the Planning

Commission to and quote – here I quote, “prepare and recommend a Comprehensive Plan for the physical development” of the County. In the absence of my inability to freely engage in the deliberations, I cannot decide whether to support or not support the proposed Comprehensive Plan Amendment and must, therefore, abstain. Thank you, Mr. Chairman.

Chairman Murphy: Further discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt PA 2017-III-P1 regarding the NOVA Training Center site and State Police site, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Niedzielski-Eichner abstains.  
Commissioner Hurley: Thank you, Mr. Chairman.

The motion carried by a vote of 9-0-1. Commissioners Carter and Tanner were absent from the Public Hearing. Commissioner Niedzielski-Eichner abstained from the vote.

*(End Verbatim Transcript)*

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#### ORDER OF THE AGENDA

Commissioner Migliaccio established the following order of the agenda:

1. Z.O. AMENDMENT – EDITORIAL AND MINOR REVISIONS
2. SEA 2006-LE-030 – PMIG 1009, LLC
3. Z.O. AMENDMENT – SMALL SCALE PRODUCTIONS FACILITIES
4. Z.O. AMENDMENT – OLDER ADULT ACCOMMODATIONS AND SERVICES  
– CONTINUING CARE FACILITIES, ADULT DAY HEALTH CARE CENTERS,  
AND RELATED PROVISIONS
5. PA 2018-II-F1 – COMPREHENSIVE PLAN AMENDMENT (ROBERTS ROAD)

The order was accepted without objection.

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#### Z.O. AMENDMENT – EDITORIAL AND MINOR REVISIONS COUNTYWIDE. PUBLIC HEARING.

Sara Morgan, Zoning Administration Division (ZAD), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She stated that staff recommended adoption of Z.O. Amendment, Editorial and Minor Revisions.



There was a discussion between Ms. Morgan; Donna Pesto, ZAD, DPZ; and multiple Commissioners on recommendations for roosters, guidelines for landowners and renters for membership on the Planning Commission, and oriel provisions description and intent.

The discussion resulted in no changes to the subject amendment.

There being no listed speakers, further comments or questions from the Commission, Chairman Murphy closed the public hearing and recognized Commissioner Cortina for actions on these items.

*(Start Verbatim Transcript)*

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Commissioner Cortina: Thank you, Mr. Chairman. So, just for clarification, we have settled the oriel. That can be removed. And there're no objections to the roosters...

Commissioner Ulfelder: Being restricted.

Commissioner Cortina: Being restricted. Okay, then I will go ahead and make a motion to approve. Again, I wanna thank the staff. Sara Morgan, good job on your first case. And Donna Pesto, thanks for your help. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF THE PROPOSED ZONING ORDINANCE AMENDMENT ENTITLED EDITORIAL AND MINOR REVISIONS, AS ADVERTISED AND AS SET FORTH IN THE STAFF REPORT DATED SEPTEMBER 25, 2018.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt Zoning Ordinance Amendment Editorial and Minor Revisions, say aye.

Commissioner: Aye.

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

The motion carried by a vote of 10-0. Commissioners Carter and Tanner were absent from the public hearing.

*(End Verbatim Transcript)*

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SEA 2006-LE-030 – PMIG 1009, LLC – Appl. under Sects. 4-604, 7-607 and 9-505 of the Zoning Ordinance to amend SE 2006-LE-030 previously approved for a service station, mini-mart and car wash, to permit a service station, quick-service food store, and car

wash in a Highway Corridor Overlay District. Located at 5500 Franconia Rd., Alexandria, 22310 on approx. 31,776 sq. ft. of land zoned C-6 and HC. Tax Map 81-4 ((1)) 71C. LEE DISTRICT. PUBLIC HEARING.

Keith Martin, Applicant's Agent, Tramonte, Yeonas, Roberts & Martin PLLC, reaffirmed the affidavit dated April 3, 2018.

There were no disclosures by Commission members.

Kelly Posusney, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She stated that staff recommended approval of SEA 2006-LE-030.

There was a discussion between Ms. Posusney; Mr. Martin; Michael Garcia, Transportation Planning Division, Department of Transportation; and multiple Commissioners regarding the following:

- Traffic assessment from Shadowland Family Entertainment Center compared to that of the applicant;
- A corner clearance waiver submitted to the Virginia Department of Transportation;
- Violations of parked cars on the ingress and egress easement;
- The impact from construction activity on neighboring properties;
- Loading activity to and from the proposed site's quick service food store;
- Prohibition of construction vehicles after a certain time along the western boundary of the ingress/egress easement and staging area for construction materials; and
- Outdoor spaces associated with automated carwash service station and designated locations for drying vehicles.

The discussion resulted in language change to Development Condition Number 16 that would designate a location for aeration of vehicles.

Mr. Martin gave a presentation on the subject application.

There was a discussion between Mr. Martin; Ms. Posusney; Mr. Garcia; and Eduardo Intriago, Maser Consulting; and multiple Commissioners on the following issues:

- Anticipated Saturday construction traffic;
- Access to the entrance of Shadowland Family Entertainment Center during construction and after school hours;



- Impact of heavy construction equipment during demolition phase of the existing service station and probable issues with ingress/egress access;
- Potential deliveries after completion of construction and maneuvering of fuel trucks in and out of proposed site; and
- Demolition activity and elimination of half of a parking space referenced on Sheet C-2 of the Special Exception Amendment Plat, and clarification for striping added to western side of canopy area.

The discussion resulted in an additional development condition with language that addressed access for large construction vehicles on weekends. The applicant proposed changing the hours that would prohibit operational construction vehicles on Sundays.

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

Randall Briggs, 5508 Franconia Road, Baltimore, spoke in opposition of the subject application because of parking and queuing issues, impacts on the Franconia parcel and easement issues. (A copy of Mr. Briggs' statement is in the date file).

There was a discussion between Mr. Briggs and multiple Commissioners on the following issues:

- The issues regarding drawbacks of visibility and access of the proposed site;
- Clarification of the location with the only half parking space, the history of the 50-foot easement, encroachment, and curbing that extended into the easement;
- Location on the Plat for drying cars from the existing carwash; and
- Clarification of existing hatched striping yellow area on ingress/egress easement, maintenance of easement and future access to Shadowland Family Entertainment Center.

The discussion resulted in no changes to the subject application.

Mark Jenkins, 8233 Old Courthouse Road, Vienna, attorney representing Shadowland Family Entertainment Center, concurred with Mr. Briggs' testimony. (A copy of Jenkins' statement is in the date file).

There being no more speakers, Chairman Murphy called for a rebuttal statement from Mr. Martin who stated the car wash had the newest state of the art equipment and agreed drying cars in the easement area was not necessary.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Migliaccio for actions on this application.

*(Start Verbatim Transcript)*

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Commissioner Migliaccio: Thank you, Mr. Chairman. I thought this might be, at the beginning, a simple case, but it turned into something more. We have some issues to work out still regarding the ingress/egress easement, the construction vehicles – making certain that there's proper language in there that can be enforced – that they will not block the laser tag business in the background, behind the proposed car wash. Therefore, Mr. Chairman, I will be moving for a deferral for one week. I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR SEA 2006-LE-030 TO A DATE CERTAIN OF NOVEMBER 1<sup>ST</sup>, 2018 WITH THE RECORD REMAINING OPEN FOR PUBLIC COMMENT.

Commissioners Hart and Niedzielski-Eichner: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Niedzielski-Eichner. Is there a discussion of the motion? All those in favor of the motion to defer decision only on SE (sic) 2006-LE-030 to date certain of November 1<sup>st</sup> with the record remaining – remaining open for comments, say aye. Commissioners: Aye.

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

The motion carried by a vote of 10-0. Commissioners Carter and Tanner were absent from the public hearing.

*(End Verbatim Transcript)*

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Z.O. AMENDMENT – SMALL SCALE PRODUCTIONS FACILITIES  
COUNTYWIDE. PUBLIC HEARING.

Carmen Bishop, Zoning Administration Division (ZAD), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She stated that staff recommended adoption of Zoning Ordinance Amendment, Small Scale Production Facilities.

There was a discussion between Ms. Bishop; Andrew Hushour, ZAD, DPZ; and multiple Commissioners regarding the following issues:

- The differences between staff's recommendation of Option 1 versus Option 3;
- Mitigation of potential odors from small scale production facilities in close proximity of residential uses in Planned Districts, Zoning Ordinance requirements for proper ventilation requirements, resolution for neighboring properties with sensitivity to various odors from small scale production facilities, and Industrial Flex Use requirements for production, processing and office uses;



- Zoning Ordinance requirements for membership based maker spaces with retail use components;
- Types and size of small scale production facilities and accessory component for direct interaction with the public; and
- Probability of small scale production facilities moving to other jurisdictions based on the County's size and scale barrier requirements.

The discussion resulted in no changes to the subject amendment.

There being no listed speakers, further comments or questions from the Commission, Chairman Murphy closed the public hearing and recognized Commissioner Hart for actions on the amendment.

*(Start Verbatim Transcript)*

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Commissioner Hart: Thank you, Mr. Chairman. Before I make the motion – Ms. Bishop or Mr. Hushour, if I move this to November 8<sup>th</sup>, can I still make the Board date?

Chairman Murphy: Has to be to what?

Carmen Bishop, Zoning Administration Division, Department of Planning and Zoning: November 1<sup>st</sup> is the latest that it could be moved to in order to keep our Board date.

Commissioner Hart: Okay then. Mr. Chairman, we've had an interesting discussion this evening and I'm going to – gonna go with my instincts here. I wanna thank staff for their outreach and analysis. This is another project which seemed ambitious at the beginning and it – it's – it's come down to some tricky issues, but not particularly controversial ones. I wanna thank, particularly, Carmen Bishop for her assistance throughout. I also wanna thank Drew Hushour and Laura Gori in the County Attorney's office for their contributions. Staff has made a recommendation, which I think is – is – is pretty close to where I am with one exception and I'll – and I'll get to that. On Commissioner Cortina's issue about the retail sales or this other accessory component – I think, given staff's answers – I think the second half of that first sentence is broad enough to include a variety of activities that don't necessarily encompass or embrace retail sales. And I think that – half of that first sentence is intended to allow flexibility and interpretation and encouraging people to do things – these startup things whatever it is that they're making. I don't think we're shutting those uses down. I think this first sentence probably is broad enough to include that. The issue of odor is a tricky one and I am still a little cautious about P-Districts and the juxtaposition of residential above something that's being cooked or painted or something. But I think I'm gonna hold my nose and go with the staff recommendation on this and we can always revisit it. I don't think there's gonna be a lot of them and I think something that's particularly smelly is probably not going to want to be downstairs in a P-District anyway. I don't think that's the type of space that they're gonna be getting. We don't regulate odor and if we're seeing a new P-District come in we're gonna look at this at the time of the public hearing and hopefully sort that out. That leaves the most difficult question, which was, in my mind, options one and three and

which way we go. And really the only significant difference, as I understand it is, with respect to the C-8 District, which is a pretty intense retail district, some of which is up against older residential – my instinct tells me that we keep our toe in the water a little longer with option three and that maybe we don't need it. Maybe we can change that later. This is something we don't do now and I think we are being quite flexible with it, allow this as a by-right use up to 6,000 square feet. If for some reason somebody really wants to go up to 10,000 in a C-8, we can hear it case-by-case and deal with a development conditions that way. I understand option one, but I think our role is to determine whether uses may have an impact on what's around them and come up with development conditions that would mitigate those impacts. To my mind, that potential is somewhat increased in the C-8 District for a larger use like this above 6,000 square feet adjacent to residential. Maybe we agree. Maybe we don't – maybe we disagree. I think if I had two more weeks I could count noses of – but, you know, we've come this far and I can't be here November 1<sup>st</sup> and I don't know that a further delay is in – delaying the Board hearing is going to – is gonna get anywhere. I think we are where we are and we're gonna vote on this option one or option three. So my conclusion is staff is correct. We can do everything that we're doing we can revisit if there's a problem, but I'm gonna suggest that we recommend to the Board option three, at least for now. Therefore, Mr. Chairman, first, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS ADOPTION OF THE PROPOSED ZONING ORDINANCE AMENDMENT REGARDING SMALL SCALE PRODUCTIONS ESTABLISHMENTS, AS SET FORTH IN THE STAFF REPORT DATED SEPTEMBER 25, 2018 INCLUDING THE FOLLOWING:

1. A MAXIMUM SIZE OF 10,000 SQUARE FEET IN ALL DISTRICTS WHERE THE USE WOULD BE PERMITTED OTHER THAN IN THE C-3 THROUGH C-6 DISTRICTS WHERE A MAXIMUM SIZE OF 6,000 SQUARE FEET WOULD BE PERMITTED; AND
2. APPROVAL OF OPTION THREE WITH RESPECT – EXCUSE ME – WITH REGARD TO THE C-8 DISTRICT.

I FURTHER MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE AMENDMENT BECOME EFFECTIVE AT 12:01 A.M. THE DAY FOLLOWING ADOPTION.

Commissioner Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder. Is there a discussion of the motion? Mr. Niedzielski-Eichner and then Ms. Hurley.

Commissioner Niedzielski-Eichner: Yes. If I could ask the...

Chairman Murphy: Mic.

Commissioner Niedzielski-Eichner: If I could ask Commissioner Hart – explain to me the distinction that the C-8 represents. I'm not as conversant with that. So, C-8 is a district that is what?



Commissioner Hart: It's a little more heavy duty retail than a C-6 would be. It's probably got a few more stores in the shopping center. I think it's probably more likely on a busier road. I should – Ms. Pesto you're – you're sitting here nodding and I'm – I'm winging it here. It's not – C-6 and C-8 are very, very similar. It's just C-8 is, I think, a little more so and a little bigger is how I would say it.

Donna Pesto, Zoning Evaluation Division, Department of Planning and Zoning: Yeah. C-8 is definitely – it's the highway commercial district. Essentially, it's located often times along a busy highway. They're most often strip commercial centers – what you would think of as a strip center. Sometimes there's a big anchor in there and a whole bunch of little stores put together. And often, it's along the highway and directly behind that is where the residential begins. So, in many of the districts that we have that are C-8 today, they're about 200 feet wide from the highway. Sometimes there's a – you know there's a zoning line in between the property where the first 200 feet is C-8 and the rest of it might be R whatever number. So, it is definitely more oriented toward highway commercial. The other retail districts – we have neighborhood retail. We have other things that serve other functions. But that's the kind of heavy duty retail district.

Commissioner Niedzielski-Eichner: Okay. I just wanna say, Mr. Chairman, that I'm gonna support this. I just want to be on record for supporting staff's original recommendation, which is option one. I don't see, even with that explanation, that there's a sufficient basis for requiring the – the small business person come forward for the additional space required.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: Thank you, Mr. Chairman. If I understand it, then we're talking a limit of 6,000 in commercial districts, but 10,000 in the P-Districts? Even though the P-Districts are again right next to houses? That's what you're recommending?

Carmen Bishop, Zoning Administration Division, Department of Planning and Zoning: Yes. The recommendation is for 6,000 in C-3 through C-6 or with option three in C-8. So, then you would have 10,000 in C-7, which is the regional retail and the P-Districts, which would be subject to the public hearing review process and I-3.

Commissioner Hurley: So, the difference for P-Districts is they can go to 10,000, but they would have to go through a public hearing first?

Ms. Bishop: That's right.

Commissioner Hurley: 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 adopt the Zoning Ordinance Amendment on Small Scale Production Facilities, as articulated by Mr. Hart, say aye.

Commissioners: Aye.

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

The motion carried by a vote of 10-0. Commissioners Carter and Tanner were absent from the public hearing.

*(End Verbatim Transcript)*

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The Commission went into recess at 9:54 p.m. and reconvened in the Board Auditorium at 10:11 p.m.

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Z.O AMENDMENT – OLDER ADULT ACCOMMODATIONS  
AND SERVICES – CONTINUING CARE FACILITIES, ADULT  
DAY HEALTH CARE CENTERS, AND RELATED  
PROVISIONS. COUNTYWIDE. PUBLIC HEARING.

Donna Pesto, Zoning Administration Division (ZAD), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She stated that staff recommended adoption of Zoning Ordinance Amendment, Older Adult Accommodations and Services, Continuing Care Facilities, Adult Day Health Care Centers and Related Provisions.

There was a discussion between Ms. Pesto; Marianne Gardner, Planning Division, DPZ; and multiple Commissioners regarding the following:

- The advantages for zoning districts with facilities with no stand-alone uses;
- Floor area ratio calculations for continuing care facilities and reasons for inclusion of cellar space, the building code requirements for entry and exit to cellar spaces and research and analysis conducted with other jurisdictions for proposed use;
- Comprehensive Plan language, guidelines and protections in place for combining continuing care facilities with other uses;
- The age restrictions for continuing care facilities;
- Traditional role of the Health Care Advisory Board (HCAB) and standards in place for care;
- Distinctions between continuing care facilities and independent living facilities;
- Occoquan down zoning and possibilities of rezoning from a Residential Conservation District to a Planned Development Continuing Care District where secondary uses are allowed;



Z.O AMENDMENT—OLDER ADULT ACCOMMODATIONS  
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- Formation of an adult active living category use, services provided, and parking rate assessments;
- The transition process from paper to electronic filing of future applications;
- Suggested language change to proposed Zoning Ordinance Amendment, Page 25, Section 6-606, Use Limitations, Number 6, that would include HCAB as part of the initial review process;
- Zoning Ordinance Amendment provision that addressed spaces identified for storage other than allowable principal uses spaces;
- Planned development zoning districts height limitations;
- The Comprehensive Plan's recommendation for residential uses and specifications for dwelling units per acre;
- Accessible parking for pick-up and drop-off of individuals and deliveries;
- Fairfax Long Term Care Coordinated Council's written testimony regarding access to State funding for the Virginia Housing Development Authority for installation of full kitchens in assisted living units;
- Senior living facilities with adequate access to transit station areas; and
- Use limitations for Planned Continuing Care Facilities.

The discussion resulted in no changes to the subject amendment.

Chairman Murphy called the first listed speaker.

Marlene Blum, 8422 Amanda Place, Vienna, representing Fairfax County Health Care Advisory Board spoke in support of the subject amendment because the amendment addressed a number of proposed uses that included housing for the aging population. The HCAB was satisfied with the County's reexamination of the proposed amendment and supported the establishment of a new zoning district and use for continuing care facilities. Development of a continuing care facility should satisfy the Comprehensive Plan guidelines that addressed affordable accommodations for older adults or adults with a disability. No additional financial accessibility requirements should be imposed if continuing care facilities satisfied the Comprehensive Plan guidelines for affordable accommodations.

There was a discussion between Ms. Pesto and multiple Commissioners regarding HCAB's hearing schedules, recommendation timeframe, and its role in the application review process.

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AND SERVICES - CONTINUING CARE FACILITIES,  
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HCAB's definition of a medical care facility and deletion of italicized language was also discussed.

The discussion resulted in no changes to the subject amendment.

John Neumann, 1921 Poole Lane, McLean, representing McLean Citizens Association (MCA) stated the association had not taken a formal position on the amendment, however discussed a number of concerns. (A copy of MCA's statement is in the date file.)

Lynne Strobel, 2200 Clarendon Blvd., Arlington, commented on the proposed amendment and HCAB's roll in the application process. Ms. Strobel acknowledged the value of HCAB however stated HCAB should not be part of an additional review process. She added the Commonwealth of Virginia regulated the uses' licensing, staffing and care and that the review of HCAB would be duplicative. Ms. Strobel concurred with Commissioner Hurley's suggestion that HCAB should be added to the established land use application review process. No other identified jurisdiction had a health care advisory board that provided an additional review process. Other jurisdictions relied on State licensing. Ms. Strobel discussed requirements for cellar space and calculation of gross floor area. She added supported service uses and not units were considered cellar spaces. Affordable housing versus continuing care facilities with the added component of services was also a concern.

There was a discussion between Ms. Strobel and Commissioner Niedzielski-Eichner regarding the use of cellar space and bridging the gap between continuing care facilities and affordable housing.

The discussion resulted in no changes to the subject amendment.

Scott Sawicki, 6122 Bardu Avenue, Springfield, representing Erickson Living, spoke in support to the subject amendment because the process and resulting ordinance reflected the community's recommendations, as well as the recommendations and experience of local providers. The new Planned Continuing Care District captured all the requirements a continuing care retirement community offered. The new planned district offered a combination of care services which included independent living, assisted living, skilled nursing, onsite primary care practice, home health and home support services, restaurants, pools, fitness centers and transportation. Mr. Sawicki also address the parking ratio per unit, HCAB's process, and recommendation.

There was a discussion between Ms. Pesto; Mr. Sawicki; and multiple Commissioners regarding Erickson Living's transportation system. Ms. Pesto reiterated HCAB's roll, the application review process, the criteria for review, and the standards adopted by the Board of Supervisors. The Zoning Ordinance's definition of a continuing care facility was also discussed.

The discussion resulted in no changes to the subject amendment.



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

*(Start Verbatim Transcript)*

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Commissioner Sargeant: Thank you, Mr. Chairman. Needless to say, we have a little review to do between now and the final decision. I appreciate everyone's testimony tonight and, especially Donna Pesto's, organization of and corralling of the many, many, many facts that are associated with this particular Zoning Ordinance Amendment. And for the extremely helpful questioning and input from my fellow Planning Commissioners and people who came out to testify this evening. All very, very much appreciated. It's extremely important and we appreciate you taking the time and having the patience to see us through in our lengthy review of this application. So, with that Mr. Chairman, I MOVE TO DEFER THE PLANNING COMMISSION'S DECISION ON THE PROPOSED ZONING ORDINANCE AMENDMENT ENTITLED CONTINUING CARE FACILITIES, ADULT DAY CARE CENTERS, AND RELATED PROVISIONS TO A DATE CERTAIN OF NOVEMBER 1<sup>ST</sup>, 2018 WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENTS.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of the motion? All those in favor of the motion to defer decision only on the Zoning Ordinance Amendment to a date certain of November 1<sup>st</sup> with the record remaining open for comments, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 10-0. Commissioners Carter and Tanner were absent from the public hearing.

*(End Verbatim Transcript)*

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PA 2018-II-F1 – COMPREHENSIVE PLAN AMENDMENT  
(ROBERTS ROAD) – To consider proposed revisions to the Comprehensive Plan for Fairfax County, VA, in accordance with the Code of Virginia, Title 15.2, Chapter 22. Plan Amendment 2018-II-F1 concerns approx. 8.94 ac. generally located at the northeast quadrant of the intersection of Braddock Road and

Roberts Road, (Tax map # 68-2 ((1)) 21-25) in the Braddock Supervisor District. The area is planned for residential use at a density of 1-2 dwelling units per acre. The amendment will consider residential use up to 6 dwelling units per acre. PA 2018-II-F1 is associated with Rezoning application RZ 2017-BR-030, which has been indefinitely deferred, pending processing of the Plan Amendment. BRADDOCK DISTRICT. PUBLIC HEARING.

Commissioner Hurley made preliminary comments and reminded the Commission, staff and the public of implications under the *Code of Virginia*, Section 15.2-2303.4, regarding provisions applicable to certain conditional rezoning proffers. Noting that the statute's restriction for local authority regarding proffers and certain residential rezoning, Commissioner Hurley said the testimony and comments from the public represented the views of the individuals and not the views of the locality, the Planning Commission nor the individual Commissioners.

Jonathan Buono, Park Planning and Development Division, Park Authority, presented the staff report, a copy of which is in the date file. He stated that staff recommended adoption of PA 2018-II-F1.

There was a discussion between Mr. Buono; Patrick Obrien, Urban Forest Management, Stormwater Management, Department of Public Works and Environmental Services; and multiple Commissioners regarding the following issues:

- Size of and number of units in the Potomac Heights Dormitory and the number of students housed at that location;
- Dedication of land from the Mount Vernon Baptist Association to the Board of Supervisors for construction of a north bound right turn lane into their parcel from Roberts Road;
- The rezoning and density, possible impact on schools and transportations;
- The preservation of stands of trees on the forested area along the eastern property boundary and those at higher density and the review of the site for potential threatened or endangered species around the tree save area;
- The location of stormwater management facilities and possible loss of trees for improvement of stormwater management; and
- Cautionary measures given to staff in drafting plan language and review of the proposed amendment.

The discussion resulted in no changes to the subject amendment.



Frank McDermott, 8405 Greensboro Drive, Suite 140, Tysons, representing the Peterson Companies, spoke in opposition to staff's recommendation of the proposed amendment because of the transition from the high intense multifamily units per acre. Mr. McDermott recommended 5 dwelling units per acre. A rezoning application was filed with a request for 49 residential units; that amount was reduced to 45 units. A site survey was conducted which included the calculation of the land area. A tree survey of the site was also conducted which included an evaluation of tree types, dimension and health status. Two high points of the property drained down to a ravine which in turn drained to the north-east corner of the property. Mr. McDermott recommended a stormwater management facility be in place at the north-east corner of the property. The site would consist of a community garden and would include other open areas. At the intersection of Braddock Road westbound, a public area would be constructed with a combination of tree save and landscaping plantings and a trail that lead to the property.

There was a discussion between Mr. McDermott and multiple Commissioners regarding the staff's recommendation and analysis for the number of units per acre on the proposed parcel versus Mr. McDermott's recommendation.

The discussion resulted in no changes to the subject amendment.

Chris Tacinelli, 3914 Centreville Road, Chantilly, representing the Peterson Companies, conducted a traffic analysis for the proposed site. The analysis highlighted traffic forecast which included volume estimates, queuing, delays and travel time up and down Roberts Road. There were no significant changes to the traffic metrics for the proposed 45 units to that of the existing conditions. The Virginia Department of Transportation would install a right turn lane northbound Roberts Road. Traffic measures showed no perceptible changes to operations nor to daily activity in the area.

There was a discussion between Mr. Obrien and Commissioner Cortina regarding the environmental considerations and services to the site and improvements and benefits to stormwater management as a result of improved tree preservation.

The discussion resulted in no changes to the subject amendment.

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

*(Start Verbatim Transcript)*

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Commissioner Hurley: I'm not sure where the Planning Commission wants to go with this. We do seem to have some questions about trees, et cetera, so I'd like to defer this for one week. Before I make that motion, though, I would like to point out that our representative tonight from the staff, Jonathan Buono, is actually working at the Parks Division. This is his last case under –

of this sort of land use case. So, when he's speaking for the parks and trees and that sort of thing, he's speaking from the heart. And with that, Mr. Chairman, I MOVE THAT WE DEFER FOR DECISION ONLY, WITH THE RECORD TO REMAIN OPEN FOR WRITTEN COMMENTS, PA 2018-II-F1, ROBERTS ROAD, FOR ONE WEEK UNTIL NOVEMBER 1<sup>ST</sup>? THAT ANOTHER ONE WE HAVE?

Commissioner Migliaccio: Second.

Chairman Murphy: A reluctant second from Mr. Migliaccio. Is there a discussion of the motion?

Commissioner Hart: Yes, Mr. Chairman.

Chairman Murphy: Mr. Hart.

Commissioner Hart: I'm gonna be out that night so I'm certainly in support of piling all these up on November the 1<sup>st</sup>.

Chairman Murphy: Further discussion?

Commissioner Ulfelder: I think that means we have eight decision only that night?

Kimberly Bassarab, Assistant Director, Planning Commission: You know I'm not keeping tabs...

Commissioner Sargeant: She lost count.

Ms. Bassarab: Yeah. It's piling up.

Commissioner Ulfelder: And five other hearings?

Commissioner Sargeant: I'm sure it will go very...

Chairman Murphy: All those in favor of the motion to defer decision, with the record remaining open for comment, on PA 2018-II-F1 to a date certain of November 1<sup>st</sup>, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

The motion carried by a vote of 10-0. Commissioners Carter and Tanner were absent from the public hearing.

*(End Verbatim Transcript)*

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CLOSING

October 25, 2018

The meeting was adjourned at 1:01 a.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: April 24, 2019

*Jacob Caporaletti*

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Jacob L. Caporaletti, Clerk to the  
Fairfax County Planning Commission



*Teresa Wang*