

**County of Fairfax, Virginia
Planning Commission Meeting
May 26, 2021
Verbatim Excerpt**

PCA 74-8-126/FDPA 74-8-126 – YOSHI HOLDINGS, LLC – Appls. to amend the proffers, conceptual, and final development plan for RZ 74-8-126 (concurrent with RZ 74-8-125) previously approved for 212 dwelling units (du) at a density of 2.5 du/ac to permit development of 6 single family detached dwellings and associated modifications to proffers and site design at a density of 2.26 du/ac. Located on the E. side of Hooes Rd. and S. side of Southern Oaks Pl. on approx. 2.65 ac. of land zoned PDH-3. Comp. Plan Rec: Residential, 2-3 du/ac. Tax Map 98-3 ((14)) B. (Mount Vernon District)

After Close of the Public Hearing

Commissioner Clarke: Commissioner Clarke. Thank you, Commission and Chairman Sargeant. I wanna thank all those that participated here tonight and callers on the line. And special thanks to Ms. Cathy Lewis and Ms. Tracy Strunk for picking up the pieces here from Ms. Wanda Suder, who has worked hard to put this staff report together. And Mr. Chairman, I thank the applicant and the developer as well for their hard work in diligently being accommodating and working with the immediate neighboring community, Southern Oaks and Newington Commons, as stated in the resolution for unanimous support of this project, both by the South County Federation and Newington Commons HOA Board of Directors. And so, thank you to [inaudible] the land use chair of the South County Federation and Mr. Keith Shovlin, the President of Newington Commons with – there were many work sessions that were coordinated and held that helped us get to this point to fully satisfy the development and to win the approval of the staff report that we received tonight. And appreciate Commissioner Cortina for looking into the history of this and helping bring more clarity so in the future we have a great understanding as we have these type of infill lots. But Mr. Chairman, we and the community have worked long and hard on this development so I – I don't see further delaying this action will help prove anything. So I do and will like to offer a – a motion here tonight. So, if I could request the applicant to confirm for the record their agreement of the proffer conditions and the proposed development conditions dated May 13th, 2021.

Lori R. Greenlief, Applicant's Agent, McGuire Woods LLP: Yes. On behalf of the applicant, we are in agreement with the FDP conditions.

Commissioner Clarke: Okay. Thank you very much. Mr. Chairman, motion to approve. ONE IS THAT STAFF RECOMMENDS THAT TO THE BOARD OF SUPERVISORS APPROVE PCA 74-8-126, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE CONTAINED IN THE APPENDIX 1 OF THE STAFF REPORT.

Secretary Sargeant: Is there a second?

Commissioner Cortina: Second.

Secretary Sargeant: Okay, the motion has been – the public hearing is closed. There is a second to the motion. All in favor of the motion, say aye.

Commissioners: Aye.

Secretary Sargeant: Any opposed? Hearing none, the motion passes.

Commissioner Clarke: Okay Mr. Chairman and secondly, STAFF RECOMMENDS THAT THE PLANNING COMMISSION APPROVE FDPA 74-8-126, SUBJECT TO THE PROPOSED FINAL DEVELOPMENT PLANNED AMENDMENT CONDITIONS CONTAINED IN APPENDIX 2 OF THE STAFF REPORT. And I do have a follow-on motion as well, sir.

Secretary Sargeant: Is there...

Commissioner Cortina: Second.

Secretary Sargeant: Seconded by Commissioner Cortina.

Commissioner Strandlie: Mr. – Mr. Chairman?

Secretary Sargeant: Go ahead.

Commissioner Strandlie: I just have a question on – on the format of that? I – I think should say that the Planning Commission recommends that the Board of Supervisors approve.

Catherine Lewis, Zoning Evaluation Department, Department of Planning and Development: The Planning Commission approves the FDPA.

Commissioner Strandlie: I'm sorry. I'm sorry the first – okay, never mind. I can't hear. It's raining outside my window.

Secretary Sargeant: Got it. Did – we had a second from Commissioner Cortina?

Commissioner Cortina: Yes.

Secretary Sargeant: On the second motion? All in favor of the motion, say aye.

Commissioners: Aye.

Secretary Sargeant: Any opposed? Okay. The motion passes. Commissioner Clarke.

Commissioner Clarke: And – yes, Mr. Chairman. And finally follow-on motion here. PRIOR TO SUBDIVISION PLAN APPROVAL, THE APPLICANT WILL SHOW EVIDENCE OF THE REQUEST TO THE NORTHERN VIRGINIA SOIL AND WATER CONSERVATION DISTRICT FOR INFORMATION ON A PROPER MAINTENANCE OF THE PROPOSED POLLINATOR GARDEN, WHICH WILL THEN BE SHARED WITH THE HOMEOWNERS ASSOCIATION.

Commissioner Cortina: Second.

Secretary Sargeant: Seconded by Commissioner Cortina. All in favor of the motion, say aye.

Commissioners: Aye.

Secretary Sargeant: Any opposition? Hearing none, the motion passes.

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

SL

Proffered Conditions
Yoshi Holdings , LLC
PCA 74-8-126
January 22, 2021
March 31, 2021
April 30, 2021
May 5, 2021

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, the undersigned Owner/Applicant, in this proffered condition amendment application proffers that the development of the parcel under consideration and shown on the Fairfax County Tax Map as Tax Map Reference 98-3((14))B (the “Property”) will be in accordance with the following conditions (the “Proffered Conditions”), if and only if, said proffered condition amendment application is granted. In the event said application is denied, these Proffered Conditions will be null and void. The Owner/Applicant, for themselves, their successors and assigns hereby agree that these Proffered Conditions will be binding on the future development of the Property unless modified, waived or rescinded in the future by the Board of Supervisors of Fairfax County, Virginia, in accordance with applicable County and State statutory procedures. Upon approval, these Proffers will supersede any and all previously approved proffers which apply to the Property, including those proffers approved as part of RZ 74-8-126. The Proffered Conditions are:

I. GENERAL

1. Substantial Conformance. Development of the Property will be in substantial conformance with the Final Development Plan Amendment (the “FDPA”), prepared by Urban, Ltd., dated September 12, 2020, revised through April 30, 2021.
2. Maximum Lot Yield. The development will consist of a maximum of six (6) single family detached units.
3. Minor Modifications. Pursuant to Paragraph 5 of Section 16-403 of the Zoning Ordinance, minor modifications to the FDPA may be permitted as determined by the Zoning Administrator.
4. Establishment of Homeowners Association (HOA). Prior to record plat approval, the Applicant will provide the Department of Land Development Services (LDS) with documentation that the Applicant has established an HOA in accordance with Sect. 2-700 of the Zoning Ordinance or has joined an established HOA in the area. The purpose of the HOA will be, among other things, establishing the necessary residential covenants governing the use and operation of common open space and other facilities of the approved development and maintenance of the private streets, stormwater management/best management practice (SWM/BMP) facilities and any open space elements such as trails.
5. Disclosure. Prior to entering into a contract of sale, prospective purchasers will be notified in writing by the Applicant of the maintenance responsibility of the HOA for the

stormwater management facilities, retaining walls, common area landscaping and any other open space amenities and the garage usage restriction detailed in Proffer 11.

6. Zoning Administrator Consideration. Notwithstanding the timing specified in these proffers, upon demonstration by the Applicant that, despite diligent efforts or due to factors beyond the Applicant's control, the required improvements proffered have been delayed (due to, but not limited to, an inability to secure necessary permission from Virginia Department of Transportation (VDOT) or other agencies to facilitate the improvements, etc.) beyond the timeframes specified, the Zoning Administrator may agree to a later date for completion of these improvements.
7. Architectural Design. The primary building materials for the front facades of all dwellings, the west façade of the dwelling on Lot 1 and the east façade of the dwelling on Lot 6 will be limited to high quality materials such as brick, stone, siding, shingles and other similar materials supplemented with trim and detail features made of PVC or better; modifications may be made with final architectural designs. Bay windows, patios, chimneys, areaways, stairs, mechanical equipment, decks, porches (including screened in porches), and other similar appurtenances may encroach into the minimum yards as indicated in the lot typical notes on Sheet 2 of the FDPA. Optional sunrooms/additions may be added to the rear of the dwellings provided the yards indicated on the lot typical on Sheet 2 are honored. Deck modifications including, but not limited to, lattice work, pergolas, trellis, and overhand planter boxes may also be constructed within this area. The specifics of this proffer related to appurtenances will be disclosed as part of the Purchasers' contract and further disclosed in the homeowner's association documents.
8. Reciprocal Easements. As part of the recording of the Record Plat, the Applicant will create reciprocal easements along the common residential property lines, which will provide future homeowners with reasonable rights of access to adjacent lots if needed to perform routine home maintenance functions.
9. Landscaping Maintenance Easement. As part of the recording of the Record Plat, the Applicant will create a landscaping maintenance easement along the frontages of all lot adjacent to Southern Oak Place in the location shown on the FDPA. The purpose of this easement will be to allow the homeowner's association to maintain the vegetation planted in the easement. The easement will contain language which prohibits individual property owners from removing trees or shrubs within the easement.
10. Park Authority Coordination. If any land disturbing activities due to clearing and grading or other construction related activities are proposed on park property, the Applicant will coordinate with the Park Authority's easement coordinator to submit a request for a permit and/or easement, as the situation dictates.

II. TRANSPORTATION

11. Garages. Any conversion or use of garages that will preclude the parking of at least one vehicle within the garage is prohibited. This restriction will not preclude the use of garages as sales offices in the model homes during marketing of the development, with the understanding the sales offices will be converted back to garages upon sale of the models.
12. Dedication of Right-of-way, Hooes Road. At the time of record plat approval, or upon demand by the Virginia Department of Transportation (VDOT) or Fairfax County, whichever occurs first, the Applicant will dedicate, at no cost to Fairfax County and in fee simple, without encumbrances, to the Board, an additional nine (9) feet of right-of-way beyond the existing right-of-way line along the Property's Hooes Road frontage, as shown on the FDPA. Advanced density credit is reserved consistent with the provisions of the Fairfax County Zoning Ordinance for this dedication.
13. Dedication of Right-of-way, Southern Oaks Place. At the time of record plat approval, or upon demand by the Virginia Department of Transportation (VDOT) or Fairfax County, whichever occurs first, the Applicant will dedicate, at no cost to Fairfax County and in fee simple, without encumbrances, to the Board, additional right-of-way to accommodate utility and sidewalk installation, as shown on the FDPA. Advanced density credit is reserved consistent with the provisions of the Fairfax County Zoning Ordinance for this dedication

III. ENVIRONMENTAL

14. Electric Vehicle ("EV") Charging Stations. The Applicant must offer initial purchasers of the units the option, at the purchasers cost, to install an electrical vehicle charging station within the garage.
15. Green Building. One of the following programs will be selected and implemented by the applicant. The applicant must inform the Environment and Development Review Branch of DPD which program the Applicant has chosen as part of the first site plan submission.

A. NGBS (National Green Building Standard). The Applicant must seek certification in accordance with the most current version of NGBS using the Energy Star ® Qualified Homes path for energy performance, as demonstrated through documentation submitted to LDS and the Environment and Development Review Branch of DPD from a home energy rater certified through the Home Innovation Research Labs that demonstrates each dwelling unit has attained certification prior to the issuance of a Residential Use Permit (RUP) for the applicable dwelling unit.

B. EarthCraft. The Applicant must provide documentation to LDS and DPD that the residential building has been awarded certification in accordance with the EarthCraft House Program as demonstrated through documentation submitted to LDS and the

Environment and Development Review Branch of DPD prior to issuance of a RUP for the applicable dwelling unit.

C. The Applicant reserves the right to utilize an equivalent program in consultation with and approved by the Environmental and Development Review Branch of the DPD prior to the issuance of a RUP for the applicable dwelling unit.

16. Landscape Planting Plan. As part of the first and all subsequent plan submissions, the Applicant must include a landscape planting plan and specifications for review and approval by Urban Forest Management Division (UFMD). The landscape planting plan and specifications must incorporate sustainable landscape planting techniques designed to reduce maintenance requirements; and contribute to a cleaner and healthier environment with improved air quality, stormwater management, and resource conservation capabilities that can be provided by trees and other desirable vegetation.

- Reduce turf areas to minimize mowing operations and the resulting air pollution. Turf must be no more than (75) percent of the pervious area of the Property. Mulched planting beds incorporating groups of trees and other vegetation must be used to provide a root zone environment favorable for trees and other vegetation.
- Plant trees in common open space areas to contribute to energy conservation for buildings, as depicted in Plate 4-12 of the Public Facilities Manual.
- Provide a diverse selection of native and non-invasive plants to encourage native pollinators and reduce the need for supplemental watering, and the use of chemical fertilizers, herbicides and chemical control of harmful insects and disease.

The Applicant must submit a landscape plan that shows, at a minimum, landscaping as depicted on the FDPA, concurrently with the first submission, and all subsequent submissions, of the site plan for review and approval by the Urban Forest Management Division (UFMD), DPWES. All landscaping must be installed prior to the issuance of the first RUP/Non-RUP on the property, or as determined by UFMD for a particular project, but no later than bond release.

17. Limits of Clearing and Grading: The Applicant will conform to the limits of clearing and grading generally as shown on the FDPA, as may be modified by final engineering and the tree preservation walk-through. Allowances will also be made for the installation of utilities and/or trails as determined necessary by the Director of DPWES. If it is determined necessary to install utilities and/or trails in areas protected by the limits of clearing and grading as shown on the FDPA, they will be located in the least disruptive manner necessary as determined by the UFMD, DPWES.

18. Tree Preservation: The applicant will submit a Tree Preservation Plan and Narrative as part of the first and all subsequent site plan submissions. The preservation plan and narrative must be prepared by a Certified Arborist or a Registered Consulting Arborist, and will be subject to the review and approval of UFMD. The tree preservation plan will include elements of Public Facilities Manual (PFM) 12-0309 deemed appropriate to the project site as determined by UFMD. Specific tree preservation measures must be clearly

identified, labeled, and detailed on the Erosion and Sediment Control sheets and the Tree Preservation Plan. Tree preservation measures may include, but are not limited to: root pruning, crown pruning, mulching, watering, etc. Tree preservation measures must be completed during implementation of Phase 1 of the Erosion and Sediment Control Plan.

19. Project Arborist/Pre-construction Meeting. Prior to the pre-construction meeting the Applicant will have the approved limits of clearing and grading flagged with a continuous line of flagging. The Applicant will retain the services of a Certified Arborist or Registered Consulting Arborist (Project Arborist) to attend the pre-construction meeting to review the limits of clearing and grading with an UFMD representative to determine where adjustments to the clearing limits can be made to increase the area of the tree preservation and/or to increase the survivability of trees at the limits of clearing and grading. Such adjustments will be recorded by the Project Arborist and tree protection fencing will be implemented under the Project Arborist's supervision based on these adjustments.
20. Tree Protection Fencing. The Applicant must provide appropriate tree protection devices, based on site conditions and proposed construction activities as reviewed and approved by UFMD. Tree protection fence must consist of four-foot-high welded wire attached to six-foot steel posts driven 18 inches into the ground and space no further than 10 feet apart; or super silt fence.
21. Site Monitoring: The Applicant's Project Arborist will be present on site during implementation of the Phase 1 Erosion and Sediment Control Plan and monitor any construction activities conducted within or adjacent to areas of trees to be preserved. Construction activities include, but may not be limited to clearing, root pruning, tree protection fence installation, vegetation/tree removal, and demolition activities. During implementation of Phase 2 Erosion and Sediment Control Plan, the Project Arborist will visit the site on a regular basis to continue monitoring tree preservation measures and ensure that all activities are conducted as identified in the Tree Preservation Plan and approved by UFMD. Written reports will be submitted to UFMD and SDID site inspector detailing site visits. A monitoring schedule and Project Arborist reports will be described and detailed in the Tree Preservation Plan.
22. Landscape Planting Pre-Installation Meeting: Prior to installation of plants to meet requirements of the approved landscape plan, the Applicant will coordinate a pre-installation meeting on site with the landscape contractor and UFMD staff. Any proposed changes to the location of planting, size of trees/shrubs, and any proposed plant substitutions for species specified on the approved plan will be reviewed at this time and must be approved prior to planting. The installation of plants not specified on the approved plan, and not previously approved by UFMD, may require submission of a revision to the landscape plan or removal and replacement with approved material prior to bond release.
23. Soil Remediation. Soil in planting areas that contain construction debris and rubble, are compacted or are unsuitable for the establishment and long-term survival of landscape plants, will be the subject of remedial action to restore plantings areas to satisfy cultural requirements of trees, shrubs and ground covers specified in the landscape plantings plan.

The applicant will provide notes and details specifying how the soil will be restored for the establishment and long-term survival of landscape plants for review and approval by UFMD.

24. Invasive Plant Species Management: During the preconstruction meeting, the Applicant, in conjunction with the County Arborist, shall identify invasive plants that are on the subject property. The Applicant will coordinate with the site inspector for the removal of such identified invasive plants. The Applicant reserves the right to use hand tools, machines, and/or chemical means to remove the invasive plants, as determined to be appropriate by UFMD. Applicant acknowledges that trees identified on FDPA are not to be harmed in the removal activity.
25. Delineation of Property Boundaries between Common Open Space and Private Lots. Where private lots share boundaries with common open space in which trees have been preserved, the Applicant must mark all private lot corners with concrete posts or other marker approved by UFMD. Markers must rise 12 inches above grade so that the property lines of private lots adjacent to forested common open space are clearly and accurately delineated on the site. Posts must bear the initials HOA to clearly identify the boundary of the private lot and the common open space. Location of posts must be clearly shown and labeled on the Subdivision Plan.
26. Stormwater Management Facilities and Best Management Practices Stormwater management (SWM) and Best Management Practices (BMPs) will be provided as generally depicted on the FDPA and as approved and determined to be adequate by LDS. The requirements for maintaining non-County maintained SWM/BMP improvements will be in a standard maintenance agreement between the County and the Applicant, its successor and assigns. This agreement will be recorded in the County land records and run with the land. Should future County policy permit all or part of the SWM/BMP facilities on the Property to be eligible for County Maintenance, then the Applicant or the successor association pursuant to Proffer 4 may request County maintenance for eligible facilities. The applicant reserves the right to pursue additional SWM/BMP measures, provided those measures are in substantial conformance with FDPA. Applicant also reserves the right to pursue Nutrient Credits to meet the water quality requirements in accordance with Section 124-4-5-B of the Fairfax County Stormwater Management Ordinance. Furthermore, the Applicant commits that at least 65% of the required phosphorus nutrient reductions will be achieved on-site. Prior to issuance of the first Residential Use Permit, the Applicant will produce an operation manual for the benefit of the HOA that will include a written description of the proper maintenance of the approved stormwater management system in accordance with the Fairfax County Public Facilities Manual.

III. CONTRIBUTIONS

27. Reserve Fund Contribution. At the time of the issuance of the residential use permit for each dwelling unit, the Applicant must contribute \$1,000 for that unit into an HOA Reserve Fund to be utilized by the HOA for maintenance of common elements on the

property. The HOA Reserve Fund will be established by the Applicant at the time of the establishment of the HOA as required by Proffer 4. If the proposed development is annexed into an existing HOA instead as provided for in Proffer 4, then the reserve fund contribution will be made to that HOA's reserve fund.

28. Public Schools. A contribution of \$12,262 per projected student for the total number of units to be constructed, based on methodology for calculating the number of students anticipated for 6 single family detached dwellings as outlined by the Office of Facilities Planning Services, Fairfax County Public Schools, will be made to the Board of Supervisors for transfer to Fairfax County Public Schools (FCPS) and designated for capital improvements at the public schools serving the development. The contribution will be made at the time of, or prior to, the issuance of each Residential Use Permit. Following approval of this Application and prior to the Applicant's payment of the amount set forth in this Proffer, if Fairfax County should increase the ratio of students per unit or the amount of the contribution per student, the Applicant will increase the amount of the contribution for that phase of development to reflect the then-current contribution. In addition, notification will be given to FCPS when construction is anticipated to commence to assist FCPS by allowing for the timely projection of future students as a part of the Capital Improvement Program.

29. Recreational Facilities. Pursuant to Paragraph 2 of Sect. 6-110 and Paragraph 2 of Section 16-404, if a Letter of Intent for a User Agreement or a User Agreement has been executed which allows the future residents of the proposed development to utilize one or all of the recreational facilities located in the Newington Commons subdivision or if the subject property has been annexed into the Newington Commons subdivision, the Applicant will provide the funds necessary to improve the existing basketball court on the Newington Commons HOA property to include resurfacing and remarking the pavement and replacing a basketball hoop and a bench. The expenditure must be a minimum of \$11,400 and the funds must be conveyed to the Newington Commons HOA prior to record plat approval. If this option is implemented, then the development option as shown on the FDPA without an on-site amenity will be the governing layout.

If the above off-site amenity scenario cannot be implemented, then pursuant to Paragraph 2 of Section 6-110 and Paragraph 1 of Section 16-404 of the Zoning Ordinance the Applicant will expend a minimum of \$1,900 per dwelling unit (6 units) for on-site recreational facilities for the future residents of the Property. The specific facilities and amenities to be provided will be determined at the time of subdivision plan approval, but will be as generally shown on the FDPA. Prior to final bond release for the Property, the balance of any funds not expended on-site will be contributed to Fairfax County Park Authority (FCPA) for the provision of recreation facilities located in the service area for the Property based on consultation with the District Supervisor.

30. Housing Trust Fund. At the time of the first building permit issuance, the Applicant will contribute a sum equal to one-half of one percent (0.5%) of the projected sales price for each dwelling unit on the Property to the Fairfax County Housing Trust Fund, as determined by the Department of Housing and Community Development in consultation

with the Applicant to assist the County in its goal to provide affordable dwellings. The projected sales price will be based upon the aggregate sales price of all of the units, as if those units were sold at the time of the issuance of the first building permit and is estimated through comparable sales of similar type units.

31. Escalation. All monetary contributions required by these proffers, with the exception of the proffer relating to the public school contribution, will escalate on a yearly basis from the base year of 2021, and change effective each January 1 thereafter, based on the Consumer Price Index as published by the Bureau of Labor Statistics, the U.S. Department of Labor for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (the "CPI"), as permitted by Virginia State Code Section 15.2-2303.3.

Successors and Assigns

Successors and Assigns. These proffers will bind and inure to the benefit of the Applicant and his/her successors and assigns.

Counterparts. These proffers may be executed in one or more counterparts, each of which when so executed and delivered will be deemed an original document and all of which taken together will constitute but one and the same instrument.

TITLE OWNERS AND APPLICANTS SIGNATURES TO FOLLOW ON THE NEXT PAGE:

Yoshi Holdings, LLC
Applicant/Title Owner of 98-3((14))B

BY: _____

Name: _____

Title: _____

FINAL DEVELOPMENT PLAN AMENDMENT CONDITIONS**FDPA 74-8-126****May 13, 2021**

If it is the intent of the Planning Commission to approve FDPA 74-8-126 for residential development at Tax Map 98-3 ((14)) B, staff recommends that the approval be conditioned by requiring conformance with the following development plan conditions.

1. Development of the property must be in substantial conformance with the Final Development Plan Amendment entitled: "Southern Oaks Reserve," prepared by Urban Ltd, consisting of 16 sheets and dated September 9, 2020, revised through March 31, 2021. Minor modification maybe permitted in accordance with Sect. 16-403 of the Zoning Ordinance.
2. In order to clearly demarcate the boundary between Open Space Parcel "A" and Lots 3 and 4, the applicant will install a decorative fence along the southern boundary of Open Space Parcel "A" abutting Lots 3 and 4. The design of the decorative fence will be determined prior to record plat approval, in consultation with the Environmental and Development Review Branch of the Planning Division in the Department of Planning and Development.

The proposed conditions are staff recommendations and do not reflect the position of the Planning Commission unless and until adopted by the Commission.