

4:30 P.M. Item - RZ-2000-MV-019 - WASHINGTON HOMES INC.
Mount Vernon District

On Thursday, March 29, 2001, the Planning Commission voted 9-1-1 (*Commissioner Wilson opposed; Commissioner Koch abstaining; and Commissioner Harsel not present for the votes*) to recommend the following actions to the Board of Supervisors:

Approval of RZ-2000-MV-019, subject to execution of the draft proffers dated March 29, 2001 and approval of the conceptual development plan; and

Waiver of the limitation on the length of private streets.

The Commission then voted 10-0-1 (*Commissioner Koch abstaining and Commissioner Harsel not present for the votes*) to recommend the following additional actions to the Board:

Modification of the transitional screening yard requirements along the southern boundary and abutting parcel 33;

Waiver of the barrier requirements along the southern boundary in favor of a wall enclosing the privacy yards for the single family attached dwelling units along that boundary and referenced in the proffers;

Waiver of the requirement for a minimum 200-foot setback from the edge of an interstate highway right-of-way for only that portion of the parking garage located closer than 200 feet from the I-95 right-of-way.

The Planning Commission also voted 10-0-1 (*Commissioner Koch abstaining and Commissioner Harsel not present for the vote*) to approve FDP-2000-MV-019, subject to the development conditions contained in the staff report.

Planning Commission Meeting
March 29, 2001
Verbatim Excerpts

RZ/FDP-2000-MV-019 - WASHINGTON HOMES, INC.

Decision Only During Commission Matters
(Public Hearing was held on March 22, 2001)

Commissioner Byers: Mr. Chairman, we had a case last week called Washington Homes. After several delays to try to address the differences between the staff and the applicant, over a period of several months, we finally got around to having the hearing. Because there were presentations last week that would impact my recommendation, we deferred the decision until last night and we deferred it again because of a last minute change in the proposal -- in the proffers last night. Hopefully, tonight we can get this thing sorted out. The applicant requests a rezoning of mostly vacant land from R-1 to PDH-12 to build a residential development consisting of 147 single family detached homes, 106 townhouses, and 289 multi-family units, including ADUs for a total of 542 dwelling units on 57 acres. That is a density of 9.51 dwelling units per acre. The area is planned for a density of 8-12, and with the 16 ADUs, the allowed minimum density goes to 9.6. So the actual density will be below the allowed minimum density. The design places the detached homes along the Silverbrook Road area, the multi-family units adjacent to the I-95 corridor, and the townhouses in between them. The application provides 20 percent open space; provides recreation facilities; consolidates the area; improves the Silverbrook Road frontage; and proffers funds both to Lorton transportation and Lorton area school needs. Staff supports the application. At the public hearing we heard some opposition to the application, principally from the Federation of Lorton Communities which was endorsed by the Mount Vernon Council of Civic Associations, and secondly from a representative of Gunston Corners, an adjacent townhouse community. The Lorton Federation opposed the application on only one issue: density. The Federation leadership is generally opposed to any more townhouses, condominiums or multi-family apartments in the Lorton area, but they would accept this application if the density were lowered below eight dwelling units per acre. In a recent message to the Commission, Mr. Linwood Gorham, the President of the Lorton Federation, stated that there were already a number of homes in Lorton that fall within or under the estimated ADU price level, and the people there don't want any more. It might make selling older homes more difficult. However, I believe we should not make land use decisions based on current market fluctuations. If people happen to buy a home at the top of the market and later try to sell it after the market has fallen, that's not a land use issue. It seems to me that the applicant has made a good effort to meet the Lorton Federation more than half-way. The number of units has decreased from 635 initially, according to Neil McBride, to 542. But the Lorton Federation position hasn't changed at all -- not one house. I believe the Federation in this case is being impracticable and unreasonable, particularly in view of the fact that the proposed development would now be below the authorized minimum density. There is no deniable issue here. The other argument came from Gunston Corner. Their representative wants the applicant to close the

access to Plaskett Lane and create another access directly onto Silverbrook Road, just north of the proposed stormwater detention area. This proposal is based on noise and safety considerations. The argument being that cars passing the four townhouses between Silverbrook Road and the access entry will create a noise problem for those homeowners. It would also endanger the children that are walking on the sidewalk or playing in the street. I find the noise issue over-emphasized. Cars that are making two ninety degree turns in some 150 feet are not going to be going fast enough to be making any significant noise. I find the argument that we should reduce traffic on our public streets because children are playing in them to be a specious argument. I acknowledge that Gunston Corner does not have a neighborhood park. Lots of neighborhoods in Fairfax County don't have local parks. But the streets are not playgrounds and our children should not be taught that they are. As to the proposed access onto Silverbrook, midway between Plaskett Lane and the main access road, I would point out that there is no median break either there or planned to be there. That means that all the traffic would be right-in, right-out only. Traffic going south, as most of the traffic will be doing during the morning rush hour, would have to drive north to the median break, make a u-turn in the midst of all the traffic, exiting the development from the main access road, plus the traffic already driving south on Silverbrook Road. Staff recently evaluated this proposal along with several other made by Gunston Corner and noted the safety issues inherent in u-turns on busy thoroughfares like Silverbrook are creating a greater hazard than they would be avoiding. I concur with staff on this issue. I believe the proposed access between Plaskett Lane and the main access road would tend to create a greater safety problem. The day before yesterday I received an email from VDOT which addressed this same issue. The VDOT representative, a Dr. Allen Kalb, a professional engineer, said that if the right turn was expected to have more than 90 vehicles an hour in the rush hour, and it is expected to be well over that, "I would suggest that a connector at this location is not a good idea, because the separation between Plaskett Lane and where the turn bay would start its taper would only be 25-50 feet, and that would be a most unusual feature and one that I personally could not support as a good geometric design." There were some minor issues that have been addressed by revisions to the proffers. Some of those we heard last. Let me just go over them briefly. We discussed them last night and everybody had been given a copy of the revised proffers. If you will look on page 2, there were two proffers added, one of which addresses the access road onto Plaskett Lane and the development of this road will be split by the two property owners. The second one has to do with revising a note on the CDP which would essentially say that the stormwater pond will go on this particular parcel unless there is a waiver. In that case, houses could go on there. There is another change on page 8 which speaks to using money, or putting a cap on the amount of money required for tree preservation in a particular area -- not for all tree preservation, but only that adjacent to the western stormwater management pond. This has been revised now to say: "Applicant shall use all reasonable efforts up to an expenditure of \$10,000 in construction and preservation activities, exclusive of engineering and design costs, to preserve existing trees shown within a tree save area in proximity to the stormwater management pond." I asked that that be put in because engineers can be a little

expensive. You can go through \$10,000 in a big hurry if you have a high-priced engineer. With those changes, Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE RZ-2000-MV-019, SUBJECT TO THE EXECUTION OF THE DRAFT PROFFERS DATED 29 MARCH 2001 AND APPROVAL OF THE CONCEPTUAL DEVELOPMENT PLAN.

Commissioner Hall: Second.

Chairman Murphy: Seconded by Ms. Hall. Is there a discussion of the motion?

Commissioner Wilson: Mr. Chairman?

Chairman Murphy: Ms. Wilson.

Commissioner Wilson: I have a question for the applicant. I'd like to have Ms. Strobel come up. This is an issue that I addressed with Mr. Byers already. There has been some effort made toward resolving my concern about it, but I will say I'm not completely -- my concerns haven't been eliminated. It is with respect to Proffer No. 3.i which is on page 8 of the draft proffers. It is part of the tree preservation proffer. It is the one that Mr. Byers mentioned at the end of his introduction to his motion which is a limitation on expenditures for tree preservation of \$10,000. Right now it states that the applicant will use "reasonable efforts up to an expenditure of \$10,000 in construction and preservation activities." Although there has been an exclusion for engineering and design costs, my question for you, Ms. Strobel, is what construction costs or what preservation cost would you understand go into that because I'm trying to understand how this proffer would work. When would you start the counting? When would you stop the counting? If staff needed to enforce this, how would they go about doing it? I'm very concerned when you are already subject to a reasonableness standard to then put a dollar limit on top of it. I don't think we're asking for a blank check, but if you could help me understand what you mean by this proffer, that might help.

Lynne Strobel, Esquire: Well, the type of construction that may be envisioned would be things like retaining walls. Sometimes you can save trees if you provide a well around the tree. Those would be the types of construction and preservation activities that we would be willing to expend funds on in order to ensure preservation of those trees.

Commissioner Wilson: You would consider then -- that would go into what you consider to be construction, or would that be preservation activities?

Ms. Strobel: I think it's both. It's activities in order to try to ensure tree preservation.

Commissioner Wilson: The concern I have is, because obviously the applicant is going to be constructing, or somebody on behalf of the applicant is going to be constructing --

Ms. Strobel: Right.

Commissioner Wilson: -- the application -- or buildings or grading or engineering whatever on the site as a whole. How do you differentiate between construction activities for tree preservation versus construction activities for the rest of the applicant property? It's just something I can't get my hands on. I think it's one of those things if you're giving us something in the form of this proffer, I think we've got an expectation that it can be enforced and that everybody understands what it means. In this case I just don't -- I don't know how you put this into play. So let me ask this. If staff were going -- if staff got a complaint about this and said "we don't think you've done enough", what would you envision showing as the evidence that you've reached your limit of \$10,000?

Ms. Strobel: Well, I think that in reading the proffer as a whole, it goes on to say that the applicant would determine whether it's possible to save the trees at the time of final engineering working with the Urban Forester. So what I would envision, and maybe this is not exact, but during the site plan approval process, the applicant's engineer would be reviewing the tree preservation plan with the Urban Forester. And I'm sure that they would make recommendations as to what could be done to save the trees. At that time they could assess a cost associated with that and determine whether it's within this cost of \$10,000.

Commissioner Wilson: Could I ask staff --

Chairman Murphy: We're on verbatim.

Commissioner Wilson: Okay. I've never seen a limitation on tree preservation activities like this and was just wondering if you've seen it in proffers before. I'm just very concerned that it can be used to overcome the tree preservation efforts that we're trying to meet in this County.

Mr. Peter Braham: As explained in the staff report and the staff report addendum, staff would prefer that this be changed, but we don't find that it rises to the level of an issue that we would recommend denial on. It is perhaps going to be somewhat problematic to implement if there is a debate about what preservation activities would be undertaken for the trees. But I think, as Ms. Strobel was saying, that determination is best made at the time of engineering review and that plan will be reviewed by the Urban Forester. I'm hoping that they will undertake a lot of activities to save those trees because I do think they would be an asset on the site and would prefer that they be saved.

Commissioner Wilson: Okay. Let me just ask one more question. How did you come upon \$10,000? Why did you use that as the limit?

Ms. Strobel: I can only say that in working with our consultants, including the engineers and others, it seemed that that would be sufficient funds to implement tree preservation measures. I mean it was thought about as to -- given this exact circumstance, location of the stormwater management pond, the location of the trees -- they reviewed all those factors together and determined that would be, you know, an amount that would afford for tree preservation.

Commissioner Wilson: Okay.

Chairman Murphy: Further discussion of the motion? All those in favor of the motion --

Commissioner Wilson: Mr. Chairman? Let me just say that the reason why I asked about this is because what I'm anticipating is if we end up with this dollar limit in our tree preservation proffer from now on, I just think it could severely limit the efforts that we are trying to get in here with tree preservation. So I'm just very much opposed to this particular proffer.

Chairman Murphy: Further discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ-2000-MV-019, say aye.

Commissioners: Aye.

Commissioner Wilson: No.

Commissioner Koch: Abstain.

Chairman Murphy: Motion carries. Mr. Koch abstains; Ms. Wilson votes no.

Commissioner Byers: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION APPROVE THE FINAL DEVELOPMENT PLAN, SUBJECT TO THE DEVELOPMENT CONDITIONS CONTAINED IN THE STAFF REPORT.

Commissioner Hall: Second.

Mr. Braham: Just to clarify, that would be the staff report addendum.

Commissioner Byers: You're correct. I'm sorry.

Chairman Murphy: All those in favor of the motion to approve FDP-2000-MV-019, subject to the Board's approval of the rezoning and the Conceptual Development Plan, say aye.

Commissioners: Aye.

Commissioner Koch: Abstain.

Chairman Murphy: Opposed? Motion carries.

Commissioner Byers: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE TRANSITIONAL SCREENING YARD REQUIREMENTS BE MODIFIED ALONG THE SOUTHERN BOUNDARY AND ABUTTING PARCEL 33 -- BE APPROVED BY THE BOARD OF SUPERVISORS.

Commissioner Hall: Second.

Chairman Murphy: Seconded by Ms. Hall. Discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Commissioner Koch: Abstain.

Chairman Murphy: Opposed? Motion carries. Mr. Koch abstains in the last two motions.

Commissioner Byers: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THE BOARD WAIVE THE BARRIER REQUIREMENTS ALONG THE SOUTHERN BOUNDARY IN FAVOR OF A WALL THAT ENCLOSES THE PRIVACY YARDS FOR THE SINGLE FAMILY ATTACHED DWELLING UNITS ALONG THAT BOUNDARY AND REFERENCED IN THE PROFFERS.

Commissioner Hall: Second.

Chairman Murphy: Seconded by Ms. Hall. Discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

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

Commissioner Byers: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THE BOARD WAIVE THE LIMITATION ON THE LENGTH OF PRIVATE STREETS.

Commissioner Hall: Second.

Chairman Murphy: Seconded by Ms. Hall. Discussion of the motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Wilson: No.

Chairman Murphy: Motion carries. Ms. Wilson votes no. Mr. Koch abstains.

Commissioner Byers: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THE BOARD WAIVE THE REQUIREMENTS OF SECTION 2-414, THAT RESIDENCES BE LOCATED A MINIMUM OF 200 FEET FROM THE EDGE OF THE RIGHT-OF-WAY OF AN INTERSTATE HIGHWAY, WITH REGARD ONLY TO THE PORTION OF THE PARKING GARAGE LOCATED CLOSER THAN 200 FEET FROM THE RIGHT-OF-WAY FROM I-95.

Commissioner Hall: It's only the parking garage?

Commissioner Byers: It's only the parking garage.

Commissioner Hall: Then I second it.

Chairman Murphy: Seconded by Ms. Hall. Discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Commissioner Koch: Abstain.

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

Commissioner Byers: I would point out in that regard because the parking garage is located by a passageway to the residences, it becomes part of the residences.

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(The first and fifth motions carried by a vote of 9-1-1 with Commissioner Wilson opposed; Commissioner Koch abstaining; Commissioner Harsel not present for the vote.)

(The second, third, fourth and sixth motions carried by a vote of 10-0-1 Commissioner Koch abstaining; Commissioner Harsel not present for the vote.)

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