Board Agenda Item
February 10, 2003

3:30 p.m. Item – RZ-2002-BR-017 – Eastwood Properties Inc.
Mt. Vernon District

On Wednesday, January 29, 2003, the Planning Commission voted 6-0-3 (Commissioners Byers, Hall and Wilson abstaining; Commissioner Moon not present for the vote; Commissioners Koch and Murphy absent from the meeting) to recommend that the Board of Supervisors approve RZ-2002-BR-017 and the Conceptual Development Plan, subject to execution of proffers consistent with those dated January 29, 2003.

The Planning Commission then voted 6-0-3 (Commissioners Byers, Hall and Wilson abstaining; Commissioner Moon not present for the vote; Commissioners Koch and Murphy absent from the meeting) to approve FDP-2002-BR-017, subject to the development conditions contained in Attachment 2 of the staff report addendum dated January 15, 2003, revised to delete condition number 2, and subject also to Board approval of RZ-2002-BR-017 and the Conceptual Development Plan.

Planning Commission Meeting
January 29, 2003
Verbatim Excerpt

RZ-2002-BR-017 - EASTWOOD PROPERTIES, INC.
FDP-2002-BR-017 - EASTWOOD PROPERTIES, INC.

Decision Only During Commission Matters
(Public Hearing held on December 11, 2002)

Commissioner Harsel: I have a decision only this evening, Mr. Chairman. I would like to make a few comments. Also I would like to enter some letters we received. This was a public hearing held in December. I'd like to enter into the record this letter of Klaus Baltrusch and his wife Nancy. They wrote this in December and they were opposed and they listed items similar to the ones that I gave in my verbatim when I recommended deferral. I would like to also enter into the record a letter of Christopher and Deborah Findlay. Their comments were the fact that -- one of their comments was the fact that they lived abutting the property and they felt the homes were too close to their property. I would also like to enter into the record a letter of Enayct Rashid. He has two letters. And these are all letters written in December. If any have come in today, when I go through my packet, I'll automatically enter them into the record. Mr. Chairman, in a way, this piece of property -- and I'm going to make a couple of comments on this -- this piece of property came in in July. That was the first time we looked at it. It came in with some acreage -- Eastwood developers -- and we looked at it and it was really kind of ugly, to put it mildly. In fact, everyone looked at it and said it's the ugliest thing they'd seen. The Supervisor's AA or chief of staff, myself, the attorney, about seven people from the County, including the Arborist, John Zuiker, including stormwater management, Steven Aitcheson -- also including three or four people that I didn't know, but they were environmentalists, stream-type people -- walked this 17 acres. It was hilly. We walked in July, through the poison ivy. It's one -- it's the last piece on Zion Drive. And as I said, we all left there, we said it's ugly. It's very ugly and it had a big hunk in the middle that hadn't been consolidated. So we said out right: "There's no way. You're wasting our time. The walk in the woods was nice, but you're wasting our time." So the applicant went back and consolidated everything between the two developments. Mr. Rashid's house is huge and it sits at this end and then the townhouses sit at the other end. So they came in -- Ms. Johnson, put in the first one -- the first picture, number one -- they came in with this iteration. And we said: "Well, there's a lot of work that has to be done." We had a citizens meeting and -- that isn't coming out that well -- and we said: "There's a lot of work -- that isn't the nicest thing that's there." And notice how close these houses are -- and this is the one letter that I had -- the Findlay's -- so poor Mr. Mayland, in the midst of this iteration, left and went to Iowa and got married, came back, right back from the honeymoon. We all walked it again. At this time the Supervisor walked it. The purchaser of the property walked it. And we said -- and this is where Mrs. Bulova and I were educated by County staff again. We had Todd Bolton again. There was a stream that we felt was valuable. All of the environmentalists and everyone else said: "No, it isn't. It's eroding. It's derogating (sic)." We had a hearing date in September.

Meanwhile, undercutting all of this is that the attorney and the applicant is saying: "We've gotta go, we've gotta go with it, we've gotta go with it. We don't want the new development criteria. We can't work with the new development criteria." And I said: "Trust me. You can. Just trust me. You can. Because if we go with it in December, you're going to get a no." And we had another citizens meeting and they were loud and clear. There were several things they didn't like. So, as the applicant says, people kept saying: "No, no, no." He kept saying: "No, no, no." So he then -- the Supervisor talked and we walked it again. We had another citizens meeting last night. We have before us an addendum from the staff. Ms. Johnson, do we have the final product that we're coming up with? When I made my motion in December, I commented that there were three things that needed to be done on this particular application. One was a tree save area. They have pulled, on the left of the screen, the houses in. There is a covenant, easement covenant in on this that they will not go 30 feet in. We have protected the homes here. These homes also will not have bump-out basements. They're some homes that can't have bump-outs because the lots are small. We have lot sizes. They go from -- the smallest is 8500. We have 15 feet between homes, which is close to the R-3. The three big things. Well, the tree save. We've got the tree save. You see the green space. That is going to be an oversized detention pond. This is 17 acres. We're going to collect and take care of 40 acres of this drainage stream. We're going to have little wet feet plants replanted in there because the erosion from both sides is so heavy that the parks and environmentalists say we've got to do something. We're silting up Lake Royal. We're doing all sorts of stuff. This is where the Supervisor and I had to give a little. We wanted a bigger pond, but in the bigger pond -- no, I'm sorry -- she wants the trees. I wanted to save all 60, but to save 60 we would lose trees, so we had to save trees. You notice there's only two lots on the right. Those are protecting the people on Windsor Hills, so we do have the tree save. The other thing was, this goes right over to the Pohick Valley, Stream Valley Park that leads into Lake Royal where we have summer concerts. The bridge that people cross is being washed away. The applicant has given $25,000 for the bridge, over and above what he has to give. So he has given the money towards rebuilding this bridge, which was big on the priority list of the Park Authority. He's also doing a trail. None of this was possible in December. And then finally, Mr. Chairman and fellow Commissioners, Zion Drive. Right at the main entrance there is a hump. I don't want to say it's a big hump, but the applicant is fixing it on both sides of the street and he's going to take down eight feet. Now is that a hump or is that not a hump? The December staff report, with the old criteria, recommended denial. The applicant graciously agreed to a deferral. We have an approval under the new criteria. I'm glad the applicant trusted me because we've got a positive staff report. We had a meeting last night, a citizens meeting. We presented this to the citizens. We had some that lived on the north side of the stream valley that still had qualms, but everything else that had been requested, everything that had been asked for has been given to us. I think it's a development that everyone can be proud of. It was a lot of work. I'm not saying it wasn't. And if I went on and on and on and on I wouldn't be able to list all the people. We had at least eight or nine County staff walking this site three times. Bill Mayland, God love him, not only did he go get married and come back and walk the site, last night was his birthday and he was at the citizens meeting listening to us again. And so he said:

"Do you want me tonight?" and I said: "No, Bill, you deserve the night off." I urge you all to read both his staff report and his addendum. He was very harsh, very thorough in the staff report originally. He is very thorough. He's made an excellent case for staff changing their mind. As a fact, I would like to say that hopefully this case will slay a few of the dragons of misconception about the new development criteria because it works. It does work. And we have combined, for public facilities, three items. We've got the park. We've got the road, the major road improvement, and we've also given money to the school because they lost a classroom. And the classroom they lost was the computer lab, so this applicant is contributing $1500 per house to the schools to start a computer bank, which are neat things that you can do a rolling computer lab. Also, Mr. Chairman, there is an assistant that belongs with the applicant that I have heard rumored, when the applicant was throwing up his hands and saying: "No way." This assistant very calmly said: "Let's look at it again." I think we owe him a lot of gratitude. We owe everyone. We owe the citizens. But be that as it may, I hope I haven't forgotten anyone. Now, getting to Mr. Byers and the proffers. There are changes in the proffers tonight. The two major changes are -- last night -- Proffer 31 -- last night at the citizens meeting it was brought up that this property was part of 100 acres. It was a land grant for resettlement of black people in the County, so the applicant is going to get a commemorative sign put -- stating this. In fact, there was an Anderson Wright, and if you go though the names of the applicants there's still a Wright. I knew them -- or the great-great granddaughter -- but that's the trouble with living in a little district. The other thing is, there's a development condition that staff put in concerning the record plats of the perimeter setbacks. That's Number 19. The applicant has very graciously moved it to a proffer. Everyone feels a lot safer with it as a proffer. And then the other change is -- when the Park Authority representative looked at this and read this, Number 8, she said the Pohick Stream Valley covers several districts and so she wants the extra money to go to the Braddock District Stream Valley. I don't want to go on and on, but I just want to say -- I want to thank everyone -- County staff, the Supervisor's Office, the Supervisor, Mr. Lawrence, and most of all, Bill Mayland, because he has done over, over -- outstanding -- and he's made excellent points and an excellent case in both. So, without further ado, -- and Gloria said I could wander -- Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ-2002-BR-017 AND THE CONCEPTUAL DEVELOPMENT PLAN, SUBJECT TO EXECUTION OF PROFFERS RECEIVED THIS EVENING DATED JANUARY 29, 2003.

Commissioner de la Fe: Second.

Vice Chairman Byers: Seconded by Mr. de la Fe. Any discussion? I have a question for staff. The addendum notes that, based on the student increase and the students generated by the development, Fairfax County Public Schools Facilities Planning Branch is requesting a contribution of between $90,000 and $150,000. The applicant has proffered to provide a contribution in the amount of $61,500. That's below the minimum that the school system asked for. How do you decide that this meets the new development criteria?

Commissioner Harsel: Mr. Chairman, if I could interrupt, because we're putting an unfair burden on Ms. Johnson. The schools requested that. I called the School Board member who contacted the principal at Robinson. Now, once again, -- and Mr. Alcorn will come and give his speech or read his thing -- this is $61,500 that we're getting for schools. We're talking public facilities. The need -- the need is for this bridge, for the road and for the schools. We've got three major public facility needs that this property will have and the impact it will give. So even if you add just the $61,500 and the $25,000 for the bridge, you're close to that $90,000. And I'm not even going to quote the price for -- although it was quoted last night -- for that road improvement because originally they were going to dedicate it because they didn't want an uneven road. Unfortunately, we knew that the same guy owned both sides, both properties. So, once again, we did some talking, we did some smiling and they're doing the whole road. And that's over $600,000, close to a million dollars to take the hump out.

Commissioner Alcorn: Mr. Chairman?

Vice Chairman Byers: Mr. Alcorn.

Commissioner Alcorn: To follow up on that with staff -- or maybe with Ms. Harsel. With the stormwater management pond -- do I understand -- is that also being oversized to take care of some water from off site?

Commissioner Harsel: Yep. It's taking care of 40 out of the 17 acres (sic). This is 17 acres. It's handling 40 acres because of the erosion and the silt that's going into Royal Lake.

Commissioner Alcorn: So -- my understanding is -- from the public facilities perspective, the contribution to the schools, although it's lower than what was requested, plus the Park Authority bridge, plus the oversize of the pond, I think -- in my opinion, it's adequate to offset public facility impact. That's a judgment call.

Commissioner Smyth: Mr. Chairman?

Vice Chairman Byers: Ms. Smyth.

Commissioner Smyth: I would also note that in the school memo there apparently seems to be a fair amount of capacity at the elementary school. It is not -- the high school is over capacity, but the elementary is school is about 160 students under capacity according to the school memo.

Commissioner Harsel: They were just renovated last year.

Vice Chairman Byers: Further discussion?

Commissioner Smyth: Mr. Chairman, just one quick question, if I may.

Vice Chairman Byers: Ms. Smyth.

Commissioner Smyth: I noticed on Proffer 26, we're talking about the possibility of other BMP treatments. This -- I -- my guess is that basically we're going to do the pond and it's going to be big enough and they're going to take care of everything, but this is a little bit vague to me. I don't know what we mean by "other possible BMP treatments." Are we talking about a rain garden?

Ms. Leslie Johnson: No.

Commissioner Smyth: No. Thank you.

Commissioner Harsel: Mr. Chairman?

Vice Chairman Byers: Ms. Harsel.

Commissioner Harsel: Ms. Smyth, I questioned some of these -- of course, the one thing I love is the plunge pool. I've never heard of a plunge pool. According to Mr. Mayland, this proffer and a couple of others are language that has come from County staff. This is how they prefer to work it. And you'd better believe that -- if we've walked it three times in the snow and in the heat, we're going to be out there again. Correct, Mr. Lawrence?

Robert Lawrence, Esquire: Right.

Commissioner Wilson: Mr. Chairman?

Vice Chairman Byers: Ms. Wilson.

Commissioner Wilson: Mr. Chairman, I was not here for the public hearing, so I will be abstaining from the vote, but I do have one question for either staff or Ms. Harsel about something that just caught my eye in the proffers. Number 6 on lighting says that public street lighting will be provided by use of blah, blah, blah, a certain kind of fixtures "as approved by Dominion Power." Our street lights are as required by the Public Facilities Manual and VDOT standards and not set by Dominion Power. And Dominion Power doesn't have approval authority over the street lights.

Commissioner Harsel: Now, I'll have to turn to Mr. Lawrence on that because I --

Commissioner Wilson: You contract with Dominion Power, but they're still -- the approval is according to our Public Facilities Manual. I only know this because I'm doing the lighting.

Mr. Lawrence: This language was given to us by staff.

Vice Chairman Byers: Mr. Lawrence, would you identify yourself?

Mr. Lawrence: For the record, my name is Bob Lawrence. I'm the attorney for the applicant. This language was given to us by staff. They wanted to make sure that there was an opportunity to have full cut-off problem and we had no problem with that as long as VDOT would agree with it. But the language that it be approved by Dominion Power was by staff. And they are the ones that actually have to review and approve these as well.

Commissioner Wilson: Yeah -- no -- the only thing -- I just wanted to follow up. The common area lighting -- you're right, Mr. Lawrence -- that is something that staff is asking for in terms of having the downward directional and full cut-off features so the light doesn't spill over to the side, but that's not the same for this public street lighting. It's just a different standard.

Mr. Lawrence: Um-hum.

Commissioner Wilson: I think it's just a wording issue that probably can be fixed. I just wanted to bring it Ms. Harsel's attention.

Vice Chairman Byers: Other discussion? All in favor of the motion to recommend the Board of Supervisors approve RZ-2002-BR-017, say aye.

Commissioners: Aye.

Vice Chairman Byers: Opposed?

Commissioners Hall and Wilson: Abstain.

Vice Chairman Byers: Ms. Wilson and Ms. Hall abstain, not present for the public hearing. And the Chair abstains. Ms. Harsel.

Commissioner Harsel: Thank you, Mr. Chairman. My second and last motion -- we have no waivers or anything on this -- I MOVE THAT THE PLANNING COMMISSION APPROVE FDP-2002-BR-017, DELETING CONDITION 2, SUBJECT TO THE BOARD'S APPROVAL OF THE REZONING AND CONCEPTUAL DEVELOPMENT PLAN AND THOSE CONDITIONS ARE CONTAINED IN ATTACHMENT 2 OF THE STAFF REPORT ADDENDUM DATED JANUARY 15, 2003.

Commissioner de la Fe: Second.

Vice Chairman Byers: Seconded by Mr. de la Fe. Any discussion? All in favor of the motion to approve FDP-2002-BR-017, say aye.

Commissioners: Aye.

Vice Chairman Byers: Opposed?

Commissioners Hall and Wilson: Abstain.

Vice Chairman Byers: Same abstentions.

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(Each motion carried by a vote of 6-0-3 with Commissioners Byers, Hall and Wilson abstaining; Commissioner Moon not present for the vote; Commissioners Koch and Murphy absent from the meeting.)

GLW