



County of Fairfax, Virginia

June 24, 2019

**2019 Planning
Commission**

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Jacob L. Caporaletti
Clerk to the Commission

John C. McGranahan, Jr.
Hunton Andrews Kurth, LLP
8405 Greensboro Drive, Suite 140
Tysons, VA 22102

**Re: Planned Residential Community and Conceptual Plan Applications
PRC 86-C-121-06/CP 86-C-121-15 – NS RESTON LLC
Hunter Mill District**

Dear Mr. McGranahan:

At a regular meeting held on June 19, 2019, the Planning Commission voted 7-0-1 (Commissioner Hurley abstained from the vote. Commissioners Clarke, Niedzielski-Eichner, Strandlie, and Cortina were absent from the meeting) to **RECOMMEND DENIAL** of PRC 86-C-121-06 and CP 86-C-121-15. A copy of the verbatim transcript is attached.

This letter serves as a record of the Planning Commission's recommendation to the Board of Supervisors and not as the final approval. The application is still subject to final decision by the Board of Supervisors.

Sincerely,

Jacob L. Caporaletti
Clerk to the Planning Commission

Attachments (a/s)

cc: Catherine M. Hudgins, Supervisor, Hunter Mill District
John A. Carter, Planning Commissioner, Hunter Mill District
Catherine A. Chianese, Assistant County Executive, Clerk to the Board of Supervisors, County Executive Office
William Mayland, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ)
Robert Harrison, ZED, DPZ
Case Date File June 19, 2019



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**County of Fairfax, Virginia
Planning Commission Meeting
June 19, 2019
Verbatim Excerpt**

PRC 86-C-121-06 – NS RESTON, LLC – Appl. to approve the PRC plan associated with RZ 86-C-121 to permit residential development. Located on the N. side of New Dominion Parkway approx. 300 ft. W. of Fountain Dr. on approx. 36,553 sq. ft. of land zoned PRC. Comp. Plan Rec: Mixed Use. Tax Map 17-1 ((17)) 4. (Concurrent with CP 86-C-121-15). (Hunter Mill District)

CP 86-C-121-15 – NS RESTON, LLC – Appl. to approve the Conceptual Plan for RZ 86-C-121 to permit residential development. Located on the N. side of New Dominion Parkway approx. 300 ft. W. of Fountain Dr. on approx. 36,553 sq. ft. of land zoned PRC. Tax Map 17-1 ((17)) 4. (Concurrent with PRC 86-C-121-06). (Hunter Mill District)

After Close of Public Hearing

Commissioner Carter: Okay. This is an interesting case...

Chairman Murphy: Mic.

Commissioner Carter: It's on. I've got it on.

Chairman Murphy: Oh...

Commissioner Carter: How 'bout that...

Chairman Murphy: The next key word is closer.

Commissioner Carter: Okay. Alright. Alright. You know these – these cases. I've been enamored with our process over the last year or so. Our process is to – is to have the hearing, pull out sore thumbs, defer and work those out, and bring it back. That's – that's our general process. Some cases I – I think we can't do that and I – I think this is unfortunately one of these cases. There's a lot of back and forth, a lot of good comments on – on all sides of this. But I have six major concerns. One is the conformance with the development plan. And it's – some would question what the development plan is. But I think the development plan includes the zoning, it includes the park, it includes all of those features, and this project is not in conformance with requirements of the zoning case and development plan approved by the Board of Supervisors for Part 5 of the North Town Center District. This was approved in '87, it was reaffirmed in 2009. There is a table. We can argue about the WDU's. Were they counted? Were they not counted? The table is what it is. It – it has the data on it and it's – it's not – you can try to interpret it, but it has the numbers the way it is. And this project will take this above the fifty units per acre according to that table. So, I think it is not in conformance and I – I appreciated that box, the top and the bottom. I like that, but I can't imagine we just disregard the Comprehensive Plan in these cases in Reston. We have a lot of projects to go and particularly when the Zoning Ordinance is tied directly to – to the Comp Plan. And I think in those cases we can make a strong argument that – that there – whether you – whether you put in the top box or bottom box it – it does apply. So again, my point one is it's not in conformance with the development plan that I think includes the park. Number two. So, if you wanna put it in the bottom box there, I think it does not conform to the land use and density requirements of the Comprehensive Plan and the Zoning Ordinance. So

now I'm putting it in the bottom box. And – and I think this is a real problem in the way we do things and we have that case earlier tonight where the park is designated, but then somebody buys the park and then – well, maybe we can develop on this. I think this one is – is an open space. There's some density left, but not 58 units worth. I also think the – you're suppose to have a mix of – of land uses. You're suppose to have residential as well as least a little bit of commercial and I think that's inherent in the land use and density argument. Third. The location of WDUs on-site. The application's not in conformance with the recommendations to provide WDUs. The proposed development locates all that – the WDUs off-site with an unknown location. I don't know where you would buy the WDUs. Everybody is struggling to find them. But in the last year, we have had no cases that tried to do the WDUs off-site. And in most cases, we've even reduced the tiers for the WDUs from 70, 80 to 100 is – is been our standard procedure in Reston. So, I – I think this project is not in conformance with the – the WDU notion. Next, the consolidation. The plan clearly calls for the consolidation and I think the Zoning Ordinance backs that up. It – it says there's no density on this. It – let's see. From the plan it says the Comprehensive Plan recommends this underdevelopment parcel located south of the Regional Library and Winwood Children Center be considered for redevelopment only if consolidated with either or both of the adjacent parcels on which the library and shelter are located. It is unfortunate that that joint development didn't – didn't work out. I appreciated that – that comment. But undoubtedly that's coming back. We have money to rebuild the library so that's – that's gotta be resolved. So, I think you're no in conformance with that consolidation issue. And again, I think you can tie that both to the plan and the Comp Plan. The Comp Plan as well as the Zoning Ordinance. I think this project is not in conformance with the transportation recommendations in the Comp Plan and would not be in conformance with site plan kind of issues with transportation. First of all, Library Street is the only street that goes all the way through north Reston, goes through the existing Town Center, goes across the W&OD trail and connects directly to the – to the WMATA – the future WMATA Metro Station. So, I think this is a critical link in the transportation network. These things are important to have and this would certainly come in as part of the site plan. It's necessary to enhance the circulation and access to the area to help relieve congestion at key intersections. The – also, the extension of Library Street is intended to occur at the same time at the future development. And I won't go back to the site plan, but if you pull that up, I think regardless of the circuitous and I think that is a problem because you have Library Street both to the north and south of this. But the street that's proposed would probably not work well as a public street. I'm not sure the width is correct. You're supposed to have walks on both sides, the trees, the width of the sidewalks, that would be your main pedestrian bicycle and vehicular connection. It's not just the vehicular. This is your main connection to the – to the Metro. And if you don't provide that, I think that's problematic. Whether you use that, use the Comp Plan to back that up or whether it's the Zoning Ordinance in review of the site plan I – I think you can use both. The last one, perhaps not quite as important, but I – I think there is an issue about the placemaking. We've had a few of these cases recently where you show trees, and it looks very lush and then suddenly we find some utilities underground and we can't do quite as many trees. That's a problem here on this and I – I know – I think there are utilities in this case and the four street trees was not very much really, I think will be problematic. I also think that wall along New Dominion Parkway and along the street as well as the pathway. You have the wall from – from the parking garage is a problem. So, in conclusion, the application in my view does not conform to the requirements in the approved adopted plan that limits the site to open space, which I would argue is backed up with the Zoning Ordinance. The proposed development is also not in conformance with the recommendation in the Comprehensive Plan and Zoning Ordinance. For the land use intensity, the provision of

WDUs, consolidation of parcels, the important extension of Library Street, and the placemaking that is part of our normal review in terms of the site plan. So, I'm ready to make a motion.

Chairman Murphy: Okay.

Commissioner Carter: Okay. So, the motion is to deny. I MOVE THAT THE PLANNING COMMISSION DENY CP 86-C-121-15 AND RECOMMEND THAT THE BOARD OF SUPERVISORS CONSIDER THE REVIEW OF THE CONCEPT PLAN AS PART OF THEIR REVIEW OF THE PRC PLAN. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS TO DENY PRC 86-C-121-06.

Commissioner Migliaccio: Second.

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

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: One concern here and I think this – this borders on the legal question and I don't think we've seen any legal input from County Attorney's Office, which might be clarifying. I'm wondering if that would be a ...

Commissioner Carter: I – I think we do have some...

William Mayland, Zoning Evaluation Division, Department of Planning and Zoning: May I ask what the legal question you have?

Commissioner Sargeant: I think it's the – the interpretation of – of – of Part 5 density issues related to who was there first so to speak and whether the – the applicant might have another – we're hearing different interpretations of that and I appreciate that position here. I just think it might be helpful if we heard from the County Attorney or have we?

Mr. Mayland: So, the – the applicant was suggested on numerous occasions throughout this application and before the application was accepted to consider to file an interpretation request unrelated – related to density, they chose not to do that. During the review of the application before the staff report was published, I did discuss this staff report and these questions directly with the Zoning Administrator and with the Office of the County Attorney. The Zoning Administrator has interpreted density question regards related to WDUs. The provision in Reston for WDUs is different than non-other P-Districts. PRC calculates differently. And a PDC or PRM District bonus units related to provision WDUs are excluded. It's always the bonus units never the WDU. In Reston, it's only proffered bonus units are excluded. So, if you do not have proffers, you're not excluded from the provision of the density calculations. So, it's very clear what is included in Reston. It's only the provision – it's only proffered of affordable units and the bonus units associate those WDUs that would be excluded.

Commissioner Sargeant: Okay. Thank you.

Chairman Murphy: Further discussion of the motion? All those – yeah, Ms. Hurley.

Commissioner Hurley: I think I followed what staff just explained. Maybe it's just I'm too tired or it's too late or something. I thought I knew what was going on until I listened to Mr. McGranahan. So, at this point, I'm going to have to abstain because I'm kind of confused still on this legal thing.

Chairman Murphy: Further discussion? All those in favor of the motion to deny these applications as articulated by Mr. Carter, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hurley: I abstain.

Chairman Murphy: Ms. Hurley abstains.

The motion carried by a vote of 7-0-1. Commissioner Hurley abstained from the vote. Commissioners Clarke, Niedzielski-Eichner, Strandlie and Cortina were absent from the meeting.

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