Commissioner Niedzielski-Eichner: Thank you, Mr. Chairman. Mr. Chairman, with your indulgence, I do want to address this complex application in some detail, so it will take just a few minutes. Starting off, the application – applicant, jrs@tysons, LLC, requests approval to rezone 1.10 acres from the C-5, which is the Neighborhood Retail Commercial District, to the Planned Tysons Corner (PTC) Urban District. The applicant also seeks approval of an associated Conceptual Development Plan (CDP). And further, as the subject application has a land area of just over one acre, he requests a waiver of the 10-acre minimum district size specified by the Zoning Ordinance. The subject property is located between International Place and Watson Street, between the Tysons Corner and Greensboro Metro Stations, and within the Watson Street subarea of Tysons Central 123 Subdistrict. The Watson Street subarea is comprised of about 20 acres. The new development plan calls for razing an existing restaurant and replace it with a 26-story multifamily residential mixed-use building with underground parking. My colleagues will recall from the July 29th, 2020 public hearing that staff recommended denial of the rezoning request because staff did not believe the application sufficiently addressed the Comprehensive Plan’s Performance Objectives for Consolidated Development and Parcel Consolidation. Specifically, staff concluded that the application did not fully accomplish the performance objectives for a functioning grid of streets and provision of public parks. At the same time, staff put down, what I call markers that pointed the way to meeting these performance objectives. The applicant committed at the public hearing to modify his proffers to address staff’s concerns. During the deferral period, the applicant formally amended his proffers to reflect the commitments he made at the public hearing. These amended proffers, dated August 25th, 2020 and previously conveyed to the Commission, speak to staff concerns. Now, regarding the performance objective for a functioning grid of streets – the applicant commits to contribute $350,000 in addition to his contribution to the Tysons Grid of Streets Transportation Fund, estimated to be over $280 – $288,000. The $350,000 figure is the amount staff determined is required to construct half the grid street that will ultimately run adjacent to this property. Now, regarding the design and construction of urban park space and the extension of the multi-level plazas, staff’s addendum provides an extensive description of these changes. Of particular note are the commitment of a cash contribution of $120,000 toward the future construction of the deck extension to be put in escrow with the County and provisions to integrate into the open park space, future adjacent small undevelopable parcels created when the grid street is constructed. Finally, the language related to building height and the architectural design element for screening rooftop structures and equipment is clarified. As such, staff has concluded that, with the strengthened proffer commitments, this application meets the Plan’s Performance Objectives for Consolidated Development and Parcel Consolidation and that it is, therefore, in harmony with
the Comprehensive Plan and in conformance with the applicable Zoning Ordinance provisions. With these changes, the staff now recommends approval. I concur with staff’s conclusions and recommendation and, in a moment, will offer motions recommending approval. But first, Mr. Chairman, I want to address directly two key matters underpinning consideration of this application that requires policy judgment in addition to the staff’s professional judgment. One is the matter of consolidation or the lack thereof in this case. And the other is the impact on adjacent property owners who believed their interests were better served by remaining independent property owners and not part of consolidation. Regarding consolidation, many applications that come before us offer a unique set of circumstances that cannot be fully anticipated in our Comprehensive Plan and Zoning Ordinance. This is particularly the case with the evolution of Tysons. The Tysons Comprehensive Plan, for example, is a remarkable document that has provided essential guidance for the evolution of this fast-growing urban center. Necessary guidance, but in some cases not sufficient, to address creative possibilities we want the market to stimulate and inspire. Built into the Plan and Zoning Ordinance are mechanisms to allow for exceptions-to-the-rule with due transparent public consideration and policy deliberation by elected officials. For me, the bottom line in exercising my own judgment in such matters is whether the public interest is, at a minimum, protected; optimally, the public interest should not only be met but enhanced. Further, I want to be – confident that any such exception-to-the-rule is focused narrowly to the circumstances and does not create a precedent that undermines the overall integrity of the Plan and Ordinance. Meeting the performance objectives is one mechanism that affords us, the Planning Commission, an opportunity to recommend and the Board of Supervisors to approve rezoning requests that do not accomplish the Comprehensive Plan’s call for logical and substantial parcel consolidation and Zoning Ordinance objectives that include a 10-acre minimum for any rezoning of a planned Tysons Corner Urban District. My view, after working on this application over the past couple of years with the Supervisor’s office, staff, and the applicant, is that, beyond now meeting the Plan’s performance objectives, an entitled PTC rezoning will be the catalyst for significant further investment in this relatively underdeveloped area, strategically positioned between two Tysons metro stations. Finally, Mr. Chairman, regarding the adjacent property owners, I am confident that JRs made concerted and repeated due – due-diligent efforts to build a consolidation. The market being the market, adjacent property owners determined that their property interests were better served by staying independent. I respect these decisions, on one hand. On the other hand, we have to be careful that our requirements do not, by default, cause the same adjacent property owner interests to overly constrain those of their neighbor – in this case, jrs@tysons, LLC. In my view, these are two sides of the same coin. With the applicant committing to – as he does in Proffer 11, coordinate with adjacent property owners to facilitate the future redevelopment of the properties that abut the Subject Property on the north, east and west, I am satisfied that each of the adjacent property owner’s interests will be protected. In short, JRS will be able to develop and adjacent property owners will have a willing neighbor in support of their own future development. As evidence of the good-faith, with which I believe Proffer 11 commitment is made, I note that the proposed building on the JRS’ property has been designed to allow the properties on the east side of the future grid street to easily integrate their designs into the JRS’ project. Those commitments include burying the parking so those properties can tie in at grade and not into the side of a parking deck, incorporating an access road entirely on the JRS’ property to serve both the JRS’ property and the adjacent property to the east, and designing the public park spaces around the building at grades that facilitate integration with the adjacent properties. These factors noted, Mr. Chairman, we did receive in-person testimony from the property owner to the west of JRS’, expressing concern that the proposed alignment of the future collector grid road, referred to in this application as the Zach Garrett Drive, would be locked in
by virtue of the County approving this rezoning request. It is important to, again, point out that there is no right-of-way dedication being proffered for this road, as it is shown entirely off-site of the application property. So, in this sense, the alignment is not being formally set now. I note that the Planned Tysons Road Network adopted as a part of the Comprehensive Plan, shows this future road on a different alignment than shown for illustrative purposes in the applicant’s CDP. The applicant’s suggested alignment is based on current information on potential connections south of Route 7. However, this is the first rezoning application in this planning subarea and future applications may result in other opportunities. While I understand there are limited options for this road’s ultimate alignment, it is important to permit flexibility in the alignment and allow it to be further studied and refined with future development proposals to the west and the specific land from which the right-of-way will be dedicated. Thus, Mr. Chairman, I will offer a follow-on motion to recommend the Board – to the Board that the alignment of the future connector not be set specifically with this application, but rather allow flexibility for adjustments with future applications. And so with that, Mr. Chairman, I again appreciate your indulgence, I now move to the motions. I – I – I recognize that after I made the first motion, and assuming I receive a second, there may be other Commissioners who may wish to speak to—to this motion. So, to start off, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE RZ 2018-PR-010 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN CONSISTENT WITH PROFFERS DATED AUGUST 25TH, 2020.

Commissioner Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder. Is there a discussion of the motion? Ms. Cortina.

Commissioner Cortina: Yes, thank you, Mr. Chairman. Transforming Tysons requires cooperation among landowners in order to obtain land for public facilities, parks, and open space and the grid of streets. It is a gamble as to whether it is an isolated situation or a new market condition. The market will look at this case and property owners may decide to redevelop on their own, so the public road, park, or the public facility does not end up on their lot. The primary regulatory mechanism the County has to implement the key land use and transportation elements of the Tysons’ vision is the Zoning Ordinance. The planned Tysons Corner Urban District PTC minimum size is 10 acres, which forces to great extent the cooperation between landowners. So far, this has been a win-win for the County and for developers. This will be the first case in which the County would waive the district-size absent common ownership. I will support the motion to recommend approval in order to spur redevelopment in this stagnant section of Tysons, but I strongly caution that we will need to maintain the balance of carrots and sticks to see the Tysons vision through. Thank you.

Chairman Murphy: Further discussion of the motion? Commissioner Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. I agree with staff’s analysis of the revised application and I support Commissioner Niedzielski-Eichner’s motion and I also support Commissioner Cortina’s comments. The fact that despite the applicant’s best efforts to convince his neighboring property owners to undertake a joint effort to consolidate their properties and redevelop the area were not successful, should not be conclusive of whether or not to approve this application. The Comprehensive Plan is general guidance, not obligatory, and allows for exceptions, as does the Zoning Ordinance when, – when appropriate. I agree with staff’s approach and analysis concerning this issue and agree that we should not let the other
landowners’ desires or decisions not to have – not to move forward with development of their sites at this time to rigidly govern our decision regarding the landowner who is ready, willing already, and able to proceed at this time, when it can be done consistently with the overall goals and objectives of the plan.

Chairman Murphy: Thank you very much. Is there anyone else? Alright, all those in favor of the motion to recommend to the Board of Supervisors to approve RZ 2018-PR-010, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carriers unanimous. Thank you very much


Commissioner Ulfelder: Second.

Chairman Murphy: Seconded by Commissioner Ulfelder. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carriers.

Commissioner Niedzielski-Eichner: And then finally, Mr. Chairman, the follow-on motion, I MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE ALIGNMENT OF THE FUTURE CONNECTOR NOT BE SET SPECIFICALLY WITH THIS APPLICATION BUT RATHER ALLOW FLEXIBILITY FOR ADJUSTMENTS WITH FUTURE APPLICATIONS.

Commissioner Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder. Is there a discussion of the motion? All those in favor, say aye

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carriers.

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Each motion carried by a vote of 12-0.

SS
September 16, 2020
Waivers and Modifications
jrs@tysons, LLC
RZ 2018-PR-010

- Waiver of Par. 1 of Sect. 6-506 to permit a minimum district size of less than 10 acres for a PTC zoned parcel.

- Modification of Sect. 11-201 and Sect. 11-203 to reduce the five required loading spaces to the two as shown on the CDP.