

## ADDENDUM

### FAIRFAX COUNTY BOARD OF SUPERVISORS November 18, 2014

#### PUBLIC HEARINGS

- 3:00 Public Hearing on RZ 2014-BR-007 (NVR, Inc.) (Braddock District)
- 3:00 Public Hearing on a Proposed Ordinance to Approve a Regional Joint Action Agreement for the Northern Virginia Long-Term Care Ombudsman Program
- 3:30 Public Hearing on SE 2014-SU-016 (Mai-Huong Thi Nguyen / Helen Home Daycare L.L.C.) (Sully District)
- 4:30 Public Hearing on SE 2014-SU-044 (Gita D. Kumar / Peek A Boo Child Care Inc.) (Sully District)
- 4:30 Public Hearing on SE 2014-SU-042 (Montessori Mansion / Naima Qadir Dar) (Sully District)
- 4:30 Public Hearing on SE 2014-SU-031 (Mary Gray / Elf Exploring, Learning & Fun) (Sully District)
- 5:00 Public Hearing on SEA 94-M-047-02 (Home Depot U.S.A., Inc.) (Mason District)
- 5:30 Public Hearing on PCA 88-S-022 (Union Mill Associates Limited Partnership) (Sully District)

3:00 p.m.

Public Hearing on RZ 2014-BR-007 (NVR, Inc.) to Rezone From R-1 to PDH-3 to Permit Residential Development with an Overall Density of 2.88 du/Acres, Located on Approximately 13.88 Acres of Land (Braddock District)

This property is located in the south east quadrant of the intersection of Lee Highway and Forest Hill Drive. Tax Map 56-2 ((4)) 1; 56-2 ((1)) 54, 55, 57, 58 and 59.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, November 13, 2014, the Planning Commission voted 8-0 (Commissioners de la Fe, Flanagan, Lawrence, and Sargeant were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2014-BR-007, subject to Option A, as depicted on Sheet 5 of the CDP/FDP and including a full public road connection and execution of proffers consistent with those dated November 13, 2014;
- Approval of a waiver of the 600 feet maximum length requirement for a private street per Paragraph 2 of Section 11-302 of the Zoning Ordinance;
- Approval of a waiver of the service drive requirement along Route 29; and
- Direct the Director of the Department of Public Works and Environmental Services to approve a deviation from the tree preservation target required per Section 12-0508 of the Public Facilities Manual, in accordance with deviation request letter.

In a related action the Commission voted 8-0 (Commissioners de la Fe, Flanagan, Lawrence, and Sargeant were absent from the meeting) to approve FDP 2014-BR-007, subject to Option A, as depicted on Sheet 5 of the CDP/FDP and including a full public road connection and subject to the Development Conditions dated November 13, 2014, and further conditioned upon the Board of Supervisors approval of RZ 2014-BR-007.

ENCLOSED DOCUMENTS:

Attachment 1: Planning Commission Verbatim Excerpt  
Staff Report previously furnished and available online at:  
<http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdfw/4468139.PDF>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Mike Lynskey, Planner, DPZ

RZ/FDP 2014-BR-007 – NVR, INC.

Decision Only during Commission Matters  
(Public Hearing held on 11/06/14)

Commissioner Hurley: Thank You, Mr. Chairman. This is regarding the case that was deferred a week ago; RZ/FDP 2014-BR-017 [*sic*], which is NVR, Inc. Most elements of this application have received overwhelming, though not unanimous, approval from the staff, the community, and the Braddock Land Use Committee. The general layout, the number of houses, the plans for open space, tree preservation, and stormwater management have all received few, if any, adverse comments. Retaining walls were added to the plans during the last week, but they should have no adverse impact. They will not even be visible outside the development. There are three outstanding matters – matters, but I believe the Planning Commission should vote on this application this evening so that it can move forward to the Board of Supervisors. The first outstanding matter is how much stormwater detention ponds can be enhanced yet still be accepted by the County for public maintenance. This judgment call affects the amount of HOA escrow funds that might be proffered. This question has a larger implication beyond this particular development because the issue will affect future developments that also will have some sort of stormwater detention pond. I urge staff to create some sort of PFM guidelines on this matter. The second matter is reimbursement of design fees to relocate the traffic signal at Forest Hill and Lee Highway. As shown in Proffer 16 and, at the request of the community, the applicant has proffered to add a right turn lane from Forest Hill to Lee Highway. This additional lane does not appear to be warranted merely by the addition of these forty houses, especially if the development connects to Delsignore Road and thence to Shirley Gate Road. Therefore this lane is a public benefit. The traffic signal at Forest Hill and Lee Highway – the pole is being moved anyway because of the current widening of Lee Highway. As shown in the third bullet of Appendix 10, FCDOT is seeking \$13,875 from the applicant as reimbursement for design and coordination fees to relocate the traffic signal mast arm light pole to accommodate the proffered right turn lane. At this point staff has not determined the design fees if the design fees are a public benefit. And staff is working with the County Attorney to resolve this issue. The third outstanding matter, and the most contentious issue in this rezoning application, is whether the new subdivision road should be connected through the existing cul-de-sac, that has been in existence in the southeast corner of the property for decades, and thereby create connectivity from Forest Hill Drive through to Shirley Gate Road. Although some neighbors believe the impact of the future connection should be studied in more detail, VDOT does not require a traffic study for such a relatively small increase in overall traffic on adjacent roads. With Option A of this application, a full public road connection would be built and open to public use after the new roads are accepted by VDOT or in about two to three years. Back in 1979 this body, the Planning Commission, recommended approval of the development to the east, now called Deerfield Forest, with the understanding that when the acreage that is part of the current rezoning was eventually developed, connectivity would then be established. In contrast, under Option B no allowance would be made for the connection ever to be built. Connection C [*sic*] is a hybrid, with the necessary roads built in the new development, but no completed connection until some future

about a hundred additional vehicle trips per day would be added to Delsignore with a date. If 20 percent of the traffic from the new development were to use the proposed connection, corresponding 100 fewer trips on Forest Hill, which currently carries about 500 cars a day. These numbers are miniscule compared to the 21,000 vehicles a day that Shirley Gate was already carrying, according to a VDOT report from 2012. We have heard and read and carefully considered the concerns of the neighbors who would be most affected by such a connection. Several speakers expressed concern that if these streets were to be connected then vehicles from not only these 40 new houses would use the connection but also the immediate neighbors, both to the east and west, who would use the new connection to get into and out of their neighborhoods. It is noted that some of the speakers who spoke in opposition to a connection also stated that if it were available, they would use it. A greater connection to the neighborhood is that other Lee Highway traffic and particularly traffic using Shirley would use the new connection to bypass heavy traffic jams. Some speakers requested some sort of traffic calming devices, perhaps even new stoplights at the intersection at Nancyann and Shirley Gate Road. Developers are not permitted on their own initiative to install speed bumps or stop signs or traffic signals on public roads. Those are all part of a formal process in which the county partners with VDOT, which also requires the community petition for such measures after certain minimum thresholds are achieved. However, developers are permitted to install stop signs on private roads and this applicant is offering to do so at the proposed "T" intersection at the tot lot. In addition, HOAs may limit parking on their private roads to HOA members and their guests, which will ease proposed – potential parking problems for the new residents in this development. My fellow commissioners who use Lee Highway are aware of the widening project currently under construction. When complete, eastbound 29 will gain not only an additional through lane but also a dedicated right-turn lane. These two additional traffic lanes should greatly approve – improve traffic flow and alleviate the desire to seek a bypass through neighborhood streets. As for traffic in the opposite direction – northbound Shirley Gate traffic seeking to make a left turn onto westbound Lee Highway – I am very familiar with the current pattern. This is how I got to this meeting this evening. Previous traffic studies are not clear regarding possible impacts from all these combinations and permutations and to add to the complications of predicting future traffic volumes. The County has funded and is about to begin a feasibility study regarding a potential connection from the Fairfax County Parkway to Shirley Gate at its intersection with Braddock Road. An additional, longer-term project is a potential grade-separated interchange at the intersection of Shirley Gate, Waples Mill, and Lee Highway. While the combined impact of all these projects is unknown, what is known is that Lee Highway is the site of all too many accidents. Last night, at about 6:40, was the third time in about as many months that my own trip was delayed by such an accident. Dozens of cars heading north on Shirley Gate Road chose to make U-turns back to Braddock Road to escape the jam. On such occasions the traffic through a new connection would become very heavy indeed; yet, an emergency bypass would be of great value to the entire central Fairfax community and that's something we have to consider also – is the entire community. Even with the current Lee Highway widening, the proposed connection from Shirley Gate to the Parkway, and the more distant grade separation at the intersection of Shirley Gate and Lee Highway, we - the county - need more connectivity. With this application, we have a developer who is proffering to build a connection that the county planned 35 years ago. Traffic is much heavier now. Option C, to build the future connecting roads, yet block the

connection until needed, is not feasible in part because any developer-proffered funds to connect the roads later cannot be held in escrow for longer than seven years. In any case, it would be poor planning to build a connection but not use it until after nearby roads approach gridlock. As it is, Option A, to build through this new subdivision a full public road connection to be open for public use after the issuance of the last occupancy permit, would still not be implemented until two to three years from now. This developer has made significant modifications to this application in response to suggestions and concerns raised by the staff, by the community, and by the Braddock Land Use Committee. Therefore, Mr. Chairman,

I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE RZ 2014-BR-007, OPTION A ONLY, AS DEPICTED ON THE CDP/FDP, INCLUDING A FULL PUBLIC ROAD CONNECTION AND EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED 13 NOVEMBER, 2014.

Commissioners Hall, Hedetniemi, and Migliaccio: Second.

Chairman Murphy: Seconded by Ms. Hall and Mr. Migliaccio. Is there a discussion – and Ms. Hurley [*sic*].

Commissioner Hart: Mr. Chairman?

Chairman Murphy: – and Mrs. Hedetniemi. Yes, Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. I was not here the night of the public hearing, but I did watch the video afterwards and I do intend to participate in the decision. I was going to make one observation. It was interesting watching the public hearing, rather than sitting in the room and hearing it. I think if we had a chance to do over some of the decisions that – that the county has made over the last 40 or 50 years on residential development, we probably would not have so many communities with single-ended or long, convoluted ways in and out. There would be more connections back and forth. And I think part of the effort in Tysons has been to try and retrofit a grid of connecting streets onto an area that had bigger loops and less direct connections. We create more problems when we leave the connections out. We tend to intensify the congestion on the choke points that are remaining and when this kind of thing comes up, I think we're better off completing the connections that were planned, in this case in 1979. I think we're better off with the connection, and so I'm going to support the motion tonight.

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 2014-BR-007, Option A only, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Hurley.

Commissioner Hurley: I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS WAIVE THE 600 FEET MAXIMUM LENGTH REQUIREMENT FOR A PRIVATE STREET AND WAIVE THE SERVICE DRIVE REQUIREMENT ALONG ROUTE 29.

Commissioners Hall and Hedetniemi: Second.

Chairman Murphy: Seconded by Ms. Hall and Ms. Hedetniemi. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Hurley.

Commissioner Hurley: I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS DIRECT THE DIRECTOR OF DPWES TO APPROVE A DEVIATION FROM THE TREE PRESERVATION TARGET, IN ACCORDANCE WITH THE DEVIATION REQUEST LETTER INCLUDED ON THE CDP/FDP.

Commissioners Hall and Hedetniemi: Second.

Chairman Murphy: Seconded by Ms. Hall and Ms. Hedetniemi. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Commissioner Hurley: And last-

Chairman Murphy: Opposed? Motion carries.

Commissioner Hurley: And lastly, I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2014-BR-007, OPTION A ONLY, AS DEPICTED ON THE CDP/FDP, INCLUDING A PUBLIC ROAD CONNECTION –

Chairman Murphy: Hold on just a minute. Do we have development conditions on this application?

Commissioner Hurley: No.

Chairman Murphy: We do.

Commissioner Hurley: No, not in the - - the new staff report does not have them.

Kris Abrahamson, Zoning Evaluation Division, Department of Planning and Zoning:  
Commissioner Murphy, in the original staff report there were actually development condition.

The applicant, in subsequent proffers proffered to those, so they've been deleted. So there's no conditions at the present time.

Chairman Murphy: Okay, should we change the motion, then, that says "proposed development conditions" and –

Ms. Abrahamson: Yes.

Chairman Murphy: – and make it –

Commissioner Hurley: Correct, yes.

Chairman Murphy: I'm sorry to interrupt. I thought we might need a declaration here. I'm sorry. Go ahead.

Commissioner Hurley: I'll restate –

Chairman Murphy: Yes, go ahead.

Commissioner Hurley: I'll restate the last one.

Chairman Murphy: Try to keep it straight here, okay.

Commissioner Hurley: I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2000 - - again, FDP 2014-BR-007, OPTION A ONLY, AS DEPICTED ON THE FDP - - CDP/FDP, INCLUDING A PUBLIC future [sic] ROAD CONNECTION, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED NOVEMBER 13, 2014 AND FURTHER CONDITIONED UPON BOARD OF SUPERVISORS APPROVAL OF RZ 2014-BR-007.

Commissioners Hall and Hedetniemi: Second.

Chairman Murphy: Seconded by Ms. Hall and Ms. Hedetniemi. Is there a discussion of that motion?

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Hart: On that one, not "public future connection" but a "full public connection."

Commissioner Hurley: "FULL PUBLIC ROAD CONNECTION." Correct.

Commissioner Hart: You said "future" and I don't think "future" is in the motion.

Commissioner Hurley: "Future," - - correct; a full public road connection.

Chairman Murphy: Okay, so noted. All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Hurley.

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(Each motion carried by a vote of 8-0. Commissioners de la Fe, Flanagan, Lawrence, and Sargeant were absent from the meeting.)

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Board Agenda Item  
November 18, 2014

3:00 p.m.

Public Hearing on a Proposed Ordinance to Approve a Regional Joint Action Agreement for the Northern Virginia Long-Term Care Ombudsman Program

ISSUE:

The proposed ordinance will allow the approval of the Regional Joint Action Ordinance for the Northern Virginia Long-Term Care Ombudsman Program between the four participating jurisdictions, specifically, the Counties of Fairfax, Loudoun and Arlington and the City of Alexandria.

RECOMMENDATION:

The County Executive recommends approval of the proposed ordinance to allow approval of the Regional Joint Action Agreement for the Northern Virginia Long-Term Care Ombudsman Program, pursuant to Va. Code Ann. 15.2-1300.

TIMING:

On October 28, 2014, the Board authorized advertisement of a public hearing scheduled for November 18, 2014, at 3:00 p.m.

BACKGROUND:

In September 1984, the Board of Supervisors approved the County's participation in the Northern Virginia Long-Term Care Ombudsman Program. In September 1985, a joint action agreement was signed by the Executives for the Counties of Fairfax, Arlington, Loudoun, and Prince William, as well as the City of Alexandria. Prince William County, although initially part of the joint action agreement, withdrew from the regional program in July 2013.

The Northern Virginia Long-Term Care Ombudsman Program provides long-term care services to residents. Services include the investigation and the resolution of complaints or concerns that relate to the health, safety, welfare, or rights of some of the county's most vulnerable residents; the recruitment, training, and oversight of volunteers that contribute to the well-being of the residents; providing education and consultation to the public; providing technical assistance to other community and county agencies and to the facilities themselves.

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The Northern Virginia Long-Term Care Ombudsman Program originates from the Older Americans Act, a federal provision, which requires every state to have a state long term care ombudsman program and encourages the development of sub-state programs. Virginia's State Long-Term Care Ombudsman designated Fairfax County as the administrative unit to annually receive federal and state funding from the Virginia Division for the Aging for the participating jurisdictions. Each of the participating jurisdictions, the Counties of Fairfax, Arlington, Loudoun and the City of Alexandria will contribute financially for the staff and the ongoing operation of the program.

As the Administrative Unit for the Northern Virginia Long-Term Care Ombudsman Program, Fairfax County provides the day to day administration of the program and its services. A policy board composed of directors of the Area Agencies on Aging of the participating local jurisdictions provides guidance and reports to the participating member jurisdictions on the federally mandated activities and functions of the program. The Director of the Fairfax Area on Aging serves as the Chair of the Policy Board.

In order to maintain a continuation of services for the protection, health, safety and welfare of our elder citizens and to provide services and continued communication to their families, this Regional Joint Action Agreement between the participating jurisdictions should be updated and approved. Additionally, the structure of the Northern Virginia Long-Term Care Ombudsman Program should be codified, including but not limited to the liability and liability insurance for Ombudsman Staff and its volunteers.

FISCAL IMPACT:

The fiscal impact for Fairfax County in the implementation of this agreement for the Program Year 2014 is included herein:

The Northern Virginia Long-Term Care Ombudsman Program's cost is estimated at \$600,000 annually and is operated under the Long-Term Care Ombudsman Grant. The participating members of the Joint Action Agreement share in the annual operating expenses, which are proportionally based on the allocation of age 60 years or older populations and the licensed long-term care bed count in each jurisdiction. Fairfax County maintains more than two times as many facilities as the three other participating jurisdictions combined. Fairfax County contributes approximately \$335,000 annually, while the participating jurisdictions in combination with state and federal funding make up the remaining balance. Annually, the allocation is reviewed and adjusted accordingly to reflect changes in any of the formula factors.

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ENCLOSED DOCUMENTS:

Attachment 1: Proposed Joint Action Agreement By and Between the Counties of Fairfax, Arlington, Loudoun and the City of Alexandria

Attachment 2: Proposed Ordinance

STAFF:

Nannette M. Bowler, Director, Department of Family Services

Barbara Antley, Division Director, Adult and Aging Services, Department of Family Services

Sharon Lynn, Director, Fairfax Area Agency on Aging, Department of Family Services

Laura Nichols, Director, Northern Virginia Long-Term Care Ombudsman Program

Gail Ledford, Director, Department of Administration for Human Services

Lee Ann Pender, Division Director, Department of Administration for Human Services

Alison Baez, Contract Analyst, Department of Administration for Human Services

Sue Smith, Financial Specialist III, Department of Administration for Human Services

Donna R. Banks, Assistant County Attorney, VI, Office of the Fairfax County Attorney

**NORTHERN VIRGINIA LONG-TERM CARE OMBUDSMAN  
PROGRAM**

**JOINT ACTION AGREEMENT**

This Northern Virginia Long-Term Care Ombudsman Program Joint Action Agreement is entered into pursuant to Va. Code Ann. §15.2-1300 by and among the Counties of Arlington, Fairfax, Loudoun, and the City of Alexandria, herein referred to as the Member Jurisdictions. This Agreement sets forth the services to be delivered, and the roles and responsibilities of the Member Jurisdictions, including the funding to be provided by each Member Jurisdiction for the Northern Virginia Long-Term Care Ombudsman Program (NVLTCOP).

WHEREAS, this Agreement succeeds a previous agreement dated September 6, 1985, among the Member Jurisdictions, that expired on June 30, 1987; and the NVLTCOP has been operating without a written agreement under substantially the same terms and conditions thereafter of the 1985 agreement since the 1987 expiration; and

WHEREAS, the NVLTCOP is funded in part by the Federal Administration for Community Living (ACL) through the Older Americans Act (OAA), Title VII funds, State Ombudsman award, and the Department of Medical Assistance Services (DMAS) Ombudsman funds, all of which flow through and are administered by the Virginia Division for the Aging (VDA) of the Virginia Department for Aging and Rehabilitative Services (DARS); in addition, all of the Member Jurisdictions help fund the NVLTCOP through an annual contribution based on the formula outlined in section 11 of this Agreement; and

WHEREAS, the VDA provides funding and general oversight of the Office of the State Long-Term Care Ombudsman (OSLTCO) that oversees mandated Ombudsman Program functions in Virginia and the NVLTCOP operates as part of a statewide long-term care ombudsman program that is directed by the OSLTCO; and

WHEREAS, the Congress of the United States has passed legislation and the President of the United States has signed into law the Older Americans Act of 1965, as amended, which requires every state to have a state ombudsman program and encourages the development of sub-state programs; and

WHEREAS, the OAA (Title VII, Chapter 2, Section 712, (a) (5) of the OAA allows the State Ombudsman to designate an entity as a sub-state ombudsman entity

and may certify an employee to represent the entity in carrying out the duties of the OSLTCO; and

WHEREAS, the State Ombudsman has designated the Fairfax Area Agency on Aging (FAAA) as a sub-state Ombudsman Program, and

WHEREAS, the VDA, through an annual contract (Area Plan) and through a separate remittance for DMAS Ombudsman funds, awards funding to Fairfax County, on behalf of the Member Jurisdictions, for the operation of the NVLTCOP; and

WHEREAS, the Member Jurisdictions will provide advice and guidance to the NVLTCOP regarding the activities of the NVLTCOP; and

WHEREAS, the Member Jurisdictions desire to achieve efficient and coordinated delivery of ombudsman services in a manner that will effectively serve the adult residents of the Member Jurisdictions who live in nursing facilities and assisted living facilities, and, to the extent feasible, recipients of home- and community-based services, in a manner designed to respond to meet local needs and to be accountable to local elected and appointed officials, the VDA; and the OSLTCO; and

WHEREAS, for these and other reasons, it is appropriate that the Member Jurisdictions provide funding to jointly operate, through this multi-jurisdictional Agreement, a regional program known as the NVLTCOP, which carries out the mandated functions of a sub-state ombudsman program under programmatic supervision of the OSLTCO; and

WHEREAS, to this end, the Member Jurisdictions desire to establish a regional long-term care ombudsman program (the NVLTCOP) by means of this Agreement; the NVLTCOP will develop, administer and operate the regional ombudsman program in accordance with the OAA Regulations, the VDA, and the OSLTCO; and

WHEREAS, Va. Code Ann. §15.2-1300 (2008), enables counties and cities to enter into joint action agreements with one another for joint or cooperative exercise of any power, privileges or authority which one is capable of exercising severally;

NOW, THEREFORE, BE IT RESOLVED, the Member Jurisdictions do mutually covenant and agree as follows:

1. Program: The Member Jurisdictions hereby establish the Northern Virginia Long-Term Care Ombudsman Program (NVLTCOP).

2. Geographical Area: The geographical areas to be served under by the NVLTCOP pursuant to this Agreement include the combined geographical area of all Member Jurisdictions and named localities within their boundaries:

City of Alexandria

Arlington County

Fairfax County (including the Cities of Fairfax and Falls Church)

Loudoun County

By the signatures below of the chief administrative officials, these Member Jurisdictions adopt the aforementioned purposes and accept the terms and conditions of this Agreement.

3. Statutory Authority of the Signatories: Title 15.2, of the Code of Virginia describes establishes the City of Alexandria and the Counties of Arlington, Fairfax, and Loudoun as being units of general local government having general corporate and police powers and with the power to levy taxes and spend funds.
4. Administrative Unit: By mutual agreement of the parties, the County of Fairfax is designated as the administrative unit to receive and administer funds for the NVLTCOP.
5. Powers and Responsibilities of the County of Fairfax: As the Administrative Unit, Fairfax County shall have the authority to contract with city, county, State, Federal and private organizations and agencies for the delivery of services deemed appropriate for the NVLTCOP and to enter into agreements with appropriate city, county, state, federal and private organizations and agencies to adequately carry out the purposes of the NVLTCOP, so long as the terms of such contracts and agreements do not violate the Policies and Procedures of the OSLTCO or the requirements stated in Title VII of the OAA.

It is agreed that for the day-to-day administration of NVLTCOP activities and operations that the County Executive of the County of Fairfax, shall appoint the FAAA as the program administrator (“Program Administrator”).

NVLTCOP operations and policy decisions will comply with the policies set by and decisions rendered by the OSLTCO.

## REVISED

Additionally, it is agreed that the County of Fairfax shall provide all procurement and fiscal services related to the NVLTCOP, and personnel services as appropriate.

Other acts of the Northern Virginia Long-Term Care Ombudsman Administrative Unit will be in response to policies established by the OSLTCO, the Policy Board (as defined herein below) and the VDA.

6. Policy Board: A four (4) member Policy Board shall provide advice and guidance to the NVLTCOP, and shall report to the Member Jurisdictions and their local officials regarding the NVLTCOP's federally mandated functions and activities in compliance with the Policies and Procedures established by the OSLTCO. Because the Policy Board's members will be the persons filling certain Director positions in the Member Jurisdictions (see below), this Agreement does not provide for term limits for Policy Board members.
7. Policy Board Membership: The Policy Board shall be composed of one individual member representing each Member Jurisdiction. This individual shall be the Area Agency on Aging Director of the Member Jurisdiction's Agency on Aging or another person who is designated by the Member Jurisdiction's Area Agency on Aging Director to represent his or her respective Member Jurisdiction in accordance with that Member Jurisdiction's county or city practices and requirements. The chairperson ("Chairperson") of the Policy Board will be the Director of the Fairfax Area Agency on Aging (FAAA). The FAAA's Director will be the County of Fairfax's member on the four-member Policy Board.
8. Policy Board Meetings and Voting: The Policy Board shall schedule semi-annual meetings and may meet at additional times as deemed necessary by the Chairperson in consultation with the other members of the Policy Board.

The presence and participation of any three of the Policy Board's four members shall constitute a quorum.

Each Member Jurisdiction shall have one vote on the Policy Board. So long as a quorum is present, the Policy Board may make decisions by a majority of votes cast.

The NVLTCOP staff shall be responsible for drafting and maintaining the minutes of the Policy Board meetings.

The staff of the NVLTCOP, being funded in part by the participating Member Jurisdictions, shall provide staff support to the Policy Board meetings.

The Policy Board may adopt additional rules for its proceedings provided that they are consistent with law and not inconsistent with provisions of this Agreement.

9. Duties and Responsibilities of the FAAA as Program Administrator:

- a. Implement the NVLTCOP in compliance with all applicable laws and regulations, including the regulations of the OAA and the policies and requirements set forth by the OSLTCO and the VDA.
- b. Negotiate Memoranda of Agreements between local, State and Federal agencies where appropriate. Work in coordination with the OSLTCO to continuously monitor, evaluate and take corrective action when necessary in a manner consistent with Title VII, Chapter 2, Sec. 712 of the OAA and with the OSLTCO's Policies and Procedures set forth by the OSLTCO.
- c. Have the authority to supervise NVLTCOP staff and volunteers' activities to ensure consistency with the OSLTCO's Policies and Procedures set forth by the OSLTCO.
- d. Assure the FAAA's and the Policy Board's freedom from conflict of interest with regard to long-term care institutions and issues.
- e. Obtain approval from the OSLTCO for the credentials of the individuals to be designated the local ombudsmen.
- f. Provide personnel support to the NVLTCOP in accordance with the Fairfax County Pay for Performance System rules and procedures.
- g. Assist the VDA and the OSLTCO with audits as required and report the results thereof to the Policy Board and others consistent with applicable State and Federal requirements.
- h. Ensure that the NVLTCOP provides Policy Board members and OSLTCO with standard program reports and statistics. These reports will indicate program activity specifically within the geographical boundaries of each Member Jurisdiction.
- i. Provide volunteer insurance coverage for all volunteers assigned to the NVLTCOP in accordance with the most current coverage at the time of a claim, under Fairfax's County Volunteer Coverage program, regardless of the location at which the volunteer services were provided.

10. Duties and Responsibilities of the NVLTCOP:

- a. Receive, investigate, and work to resolve complaints made by or on behalf of residents of nursing facilities, assisted living facilities and other long-term care settings as described in the Policies and Procedures of the OSLTCO.

## REVISED

- b. Receive, investigate and work to resolve complaints made by or on behalf of persons aged 60 and older receiving home and community-based long-term care services.
- c. Observe the requirements and rights to access assisted living facilities, nursing facilities, continuing care retirement communities, community long-term care facilities, and their medical records as provided for in the Code of Virginia, §2.2-705.
- d. Observe the requirements of confidentiality for complainants as provided for in Federal law, including Title VII, Chapter 3 of the OAA and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Code of Virginia, including §2.2-706, and the Virginia Privacy Protection Act. Maintain a secure file for complaints in accordance with Federal law, including the HIPAA, and the Code of Virginia, including the Virginia Privacy Protection Act. Ensure procedures are in place to protect the identity, confidentiality, and privacy of complainants, residents and recipients of services.
- e. Report and record complaints and reports in the manner specified by the OSLTCO Policies and Procedures.
- f. Hire, train and supervise NVLTCOP staff and volunteers in accordance with Policies and Procedures set forth by the OSLTCO, and Fairfax County.
- g. Recruit, screen, train, and directly supervise the NVLTCOP volunteers in accordance with the Policies and Procedures set forth by the OSLTCO and the NVLTCOP.
- h. Conduct publicity and outreach efforts concerning the availability of the NVLTCOP to receive and investigate complaints and provide information concerning the long-term care system.
- i. Provide information and education regarding long-term care resources and the rights of residents and potential residents of nursing facilities and assisted living facilities.
- j. Working in coordination with the OSLTCO, identify, document and make recommendations concerning major issues affecting the well-being of residents of long-term care facilities and monitor the development and implementation of Federal, State and local laws, regulations and policies that relate to long-term care.
- k. Consult with community groups, agencies, legal service programs, and individuals in order to assist them in effectively serving long-term care clients.

- I. Consult with the OSLTCO for assistance as needed and to forward to the OSLTCO any complaints which cannot, in the Program Administrator's opinion, be resolved by the NVLTCOP sub-state program.
  - m. Submit to Member Jurisdictions an annual list of long-term care facilities which the NVLTCOP serves or will serve in the planning and service area.
11. Allocation of Funds: Any funds that are appropriated by the Member Jurisdictions for the NVLTCOP shall be expended for the mutual benefit of the long-term care recipients residing in the Member Jurisdictions.

In August or September of each year, NVLTCOP shall provide the Policy Board with an annual summary of the **projected** Member Jurisdictions' appropriations for the next Area Plan fiscal year. The projections are based on the financial information available at that time.

Each Member Jurisdiction's appropriation to NVLTCOP costs will be calculated using the formula below based on each Member Jurisdiction's respective proportion of the population aged 60 and older **of the participating member jurisdictions' population**, based on the American Community Survey data most recently used by the VDA (50% of the formula), and the number of licensed long-term care beds in that Member Jurisdiction (50% of the formula).

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Member Jurisdiction's Appropriation = [(Total Personnel Cost + Operating Costs) – Total Federal and State Revenue] x Member Jurisdiction's Relative Share of Cost

Term	Definition
Member Jurisdiction Relative Share of Cost =	[% of total licensed long-term care beds (nursing and assisted living) in the jurisdiction + total population in the jurisdiction aged 60 and older as a % of the <b>participating member jurisdictions' population</b> aged 60 and older based on the American Community Survey data most recently used by the VDA] / 2
Total Federal and State Revenue =	Federal Ombudsman award + State Ombudsman award + DMAS funds
Total Personnel Cost =	Proposed salaries including Fairfax County fringe benefit rate (Salaries are estimated at the time of the projected budget letter. Any salary increases are determined by the Fairfax County Board of Supervisors and are not known until the end of the Fairfax County Budget cycle which is typically in April/May of each year.)
Operating Costs =	Non-personnel expenditures related to staff trainings, volunteer trainings, mileage, database, publications, supplies, and other program activities

Any written amendment to this Agreement that is signed by authorized representatives of all of the Member Jurisdictions and that reflects any changes to this funding formula shall be executed prior to any changes to these formulae taking effect.

12. Appropriations by Member Jurisdictions: The Program Administrator shall be responsible for calculating formula allocation costs based upon the NVLTCOP's actual operating budget (determined by the Fairfax County Board of Supervisors) and VDA funding. The Billing Statement is sent to each Member Jurisdiction after VDA provides the FAAA with the Summary of Obligations indicating the funding to be expected from VDA. Each Member Jurisdiction will contribute its share to the program on an annual basis in one lump sum. Notwithstanding any term or condition of this Agreement to the contrary, all funds for payments by any Member Jurisdiction to the NVLTCOP pursuant to this Agreement are subject to the availability of an annual appropriation for this purpose by the governing body of each Member Jurisdiction. In the event of non-appropriation of funds by the governing body of any Member Jurisdiction, the Policy Board will convene to

## REVISED

discuss the non-appropriation and will ask the governing bodies of the Member Jurisdictions to address the non-appropriation.

A financial report of operating expenditures, including aggregate salary information, and other operating expenses, will be provided annually to each Member Jurisdiction through their designated Policy Board Member.

13. Participation in Optional Activities: No program activities will be imposed on any Member Jurisdiction participating in this Agreement should such Member Jurisdiction decide that such program activities would be detrimental to the best interests of that Member Jurisdiction.
14. Authority of the OSLTCO: The Member Jurisdictions acknowledge the authority of the OSLTCO over the NVLTCOP program activities that are mandated by the OAA.
15. Limitations on Obligations to Long-Term Care Recipients: Any obligation, whether expressed or implied in this Agreement to provide services through the NVLTCOP is expressly limited to the extent that such services can be provided by means of and under the terms of the Fairfax VDA Contract and the Policies and Procedures and other guidance of the OSLTCO.
16. Delegated Signatory Authority: To the extent that such documents relate directly to the NVLTCOP, The parties hereto Member Jurisdictions delegate signatory authority to the County Executive, of the County of Fairfax, or his designee, for grant applications to the Governor of Virginia, on agreements with state and local agencies, on agreements with VDA and the OSLTCO, and on sub-grants and subcontracts and related grant agreements within the scope of the approved grants and applicable regulations.
17. Term and Effective Date: This Ordinance Agreement shall be in effect from the date of on which it is last signature signed by an authorized representative of a Member Jurisdiction (“Effective Date”) until September 30, 2034, or until the NVLTCOP is terminated by the Member Jurisdictions or by the Commonwealth of Virginia, whichever occurs first. If the Commonwealth of Virginia terminates the NVLTCOP, Fairfax County will notify Member Jurisdictions six months in advance of the termination. The term “Effective Date” means the date coinciding with the last to occur of each of the following events: (i) passage of an ordinance by each of the Counties of Fairfax, Arlington, Loudoun, and the City of Alexandria as participants in this Agreement; (ii) execution of the Agreement by all members.
18. This agreement shall remain in full force and effective from its Effective Date until September 30, 2032, or until the NVLTCOP is terminated.
19. Termination: This Agreement shall not be terminated by withdrawal of any Member Jurisdiction(s).

## REVISED

Any Member Jurisdiction, which is party hereto, shall have the right to withdraw from this Agreement and the NVLTCOP by written notice from their respective jurisdiction's executive level authorized official to the other Member Jurisdictions and the FAAA at least 90 days prior to the date on which that Member Jurisdiction's withdrawal will take effect.

A withdrawing Member Jurisdiction shall have no responsibility under this Agreement for NVLTCOP actions that take place on or after the date that withdrawal will take effect.

20. Effect of Termination: Should a Member Jurisdiction withdraw from this Agreement, that Member Jurisdiction will be deemed to have waived all rights to services provided under the NVLTCOP and to any funding allocated to the NVLTCOP.
21. Disposition of Assets: As Program Administrator, FAAA shall be responsible for procuring and holding, for the duration of this Agreement, any real assets obtained with VDA funds during the course of this Agreement for the duration of this Agreement. Should the NVLTCOP Member Jurisdictions terminate this Agreement or the Member Jurisdictions or the Commonwealth terminate(s) NVLTCOP, its operations and this agreement, any real assets that are held by the Program Administrator for the purposes of this Agreement or NVLTCOP in excess of \$10,000 shall be liquidated and the proceeds from such sale will be divided among the then-current Member Jurisdictions in accordance with the proportion of the then-current funding allocation formula, within 180 days of termination.
22. Additional Covenant: This Agreement is in no way to be construed as an indication of a joint effort of the Member Jurisdictions in any manner other than that which is expressly indicated in other sections described above.

Furthermore, the Member Jurisdictions individually covenant and agree that this Agreement shall not be introduced or referred to in any future proceeding, judicial or administrative, concerning a change in the geographical boundaries hereto of the Member Jurisdictions or of Planning District 8.

23. Severance Provision: If any provision of this Agreement is found or determined by a court of competent jurisdiction to be invalid, the remaining provisions still shall remain in full force and effect.
24. Assignment: No Member Jurisdiction may assign, transfer, convey, sublet, or otherwise dispose of any of its rights or duties under this Agreement and the NVLTCOP created by it without the prior written consent of all of the other Member Jurisdictions by and through representatives duly authorized to bind them.
25. Amendments: This Agreement shall not be amended except by written amendment executed by persons duly authorized to bind each Member Jurisdiction.

26. No Waiver: The failure of any Member Jurisdiction to exercise in any respect a right provided for in this Agreement shall not be deemed to waive subsequently the same right or any other right hereunder.
27. No Waiver of Sovereign Immunity: Notwithstanding any other provision of this Agreement to the contrary, nothing in this Agreement or any action taken by any Member Jurisdiction or the NVLTCOP pursuant to this Agreement shall constitute or be construed as a waiver of either the sovereign or governmental immunity of any Member Jurisdiction. The Member Jurisdictions intend for this provision to be read as broadly as possible.
28. Notices: Unless otherwise provided herein, all notices and other communications required by this Agreement shall be deemed to have been given when made in writing and either (a) delivered in person, (b) delivered by an agent, such as an overnight or similar delivery service, or (c) deposited in the United States mail, postage prepaid, certified or registered, addressed as follows:

**IF TO FAIRFAX COUNTY:**

County Executive

12000 Government Center Parkway

Fairfax, VA 22035

**IF TO ARLINGTON COUNTY:**

County Manager

2100 Clarendon Boulevard, Suite 302

Arlington, Virginia 22201

**IF TO THE CITY OF ALEXANDRIA:**

City Manager

301 King Street

Alexandria, Virginia 22314



REVISED

**Fairfax County**

---

Edward L. Long Jr., County Executive

Date

*ADOPTION OF AN ORDINANCE TO  
APPROVE A REGIONAL JOINT ACTION AGREEMENT FOR  
THE NORTHERN VIRGINIA LONG-TERM CARE OMBUDSMAN PROGRAM*

*At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, Held in the Board Auditorium of the Government Center at Fairfax, Virginia, on Tuesday, November 18, 2014, the Board after having first given notice of its intention so to do, in the manner prescribed by law, adopted an ordinance regarding the approval of a Regional Joint Action Agreement for the Northern Virginia Long-Term Care Ombudsman Program, said ordinance so adopted being in the words following, to-wit:*

*BE IT ORDAINED BY THE BOARD OF SUPERVISORS OF FAIRFAX  
COUNTY, VIRGINIA:*

**1. That pursuant to the authority granted by Va. Code Section 15.2-1300, the Regional Joint Action Agreement for the Northern Virginia Long-Term Care Ombudsman Program by and among the Counties of Fairfax, Loudoun and Arlington, as well as the City of Alexandria, a copy of which is attached hereto and incorporated herein by reference, is hereby approved and the County of Fairfax hereby adopts and enters into the attached agreement.**

*GIVEN under my hand this 18<sup>th</sup> day of November, 2014*

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CATHERINE A. CHIANESE  
Clerk to the Board of Supervisors

Board Agenda Item  
November 18, 2014

REVISED

3:00 p.m.

Public Hearing on SE 2014-SU-016 (Mai-Huong Thi Nguyen / Helen Home Daycare L.L.C.) to Permit a Home Child Care Facility, Located on Approximately 13,860 Square Feet of Land Zoned PDH-2 and WS (Sully District)

This property is located at 13506 Ridge Rock Drive, Chantilly, 20151. Tax Map 44-4 ((2)) 193.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission public hearing was held on October 29, 2014 and the decision was deferred to Thursday, November 13, 2014, when it deferred for decision only to November 20, 2014. The Commission's recommendation will be forwarded to the Board of Supervisors subsequent to that date.

ENCLOSED DOCUMENTS:

Staff Report previously furnished and available online at:  
<http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdfw/4467326.PDF>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Mike Lynskey, Planner, DPZ

4:30 p.m.

Public Hearing on SE 2014-SU-044 (Gita D. Kumar / Peek A Boo Child Care Inc.) to Permit a Home Child Care Facility, Located on Approximately 4,334 Square Feet of Land Zoned PDH-8, HC and WS (Sully District)

This property located at 5642 Powers Lane, Centreville, 20120. Tax Map 54-4 ((26)) 201.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, November 13, 2014, the Planning Commission voted 8-0 (Commissioners de la Fe, Flanagan, Lawrence, and Sargeant were absent from the meeting) to recommend to the Board of Supervisors approval of SE 2014-SU-044 subject to the Development Conditions dated November 13, 2014 with the addition of a condition that states, "All pickup and drop-off of children shall take place in the driveway."

ENCLOSED DOCUMENTS:

Attachment 1: Planning Commission Verbatim Excerpt  
Staff Report previously furnished and available online at:  
<http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdfw/4468650.PDF>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
William O'Donnell, Planner, DPZ

SE 2014-SU-044 – GITA D. KUMAR/PEEK-A-BOO CHILD CARE, INC.

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed; Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman. She already agreed to the development conditions, so I'm not going to have to call her back.

Chairman Murphy: Okay. How are you going to do the two that we added? Are you going to –

William O'Donnell, Zoning Evaluation Division, Department of Planning and Zoning:  
Commissioner Murphy, there's a couple options. He - Commissioner Litzenberger can add the development condition about the drop-off and pickup today and then what I would suggest is to leave the - Development Condition Number 12 about the state and allow us to fix or wordsmith it before it gets to the Board. So what I would say is do a motion to approve, add the development condition for pickup and drop-off in the driveway, and then we'll work on the other condition.

Commissioner Litzenberger: Okay. When's the Board date on this, through December?

Mr. O'Donnell: December 2<sup>nd</sup>.

Commissioner Litzenberger: Okay, thank you. I'm ready, Mr. Chairman.

Chairman Murphy: Okay.

Commissioner Litzenberger: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF SE 2014-SU-044, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED TODAY, NOVEMBER 13<sup>TH</sup>, 2014, WITH THE ADDITION OF A CONDITION THAT SAYS, "ALL PICKUP AND DROP-OFF OF CHILDREN SHALL TAKE PLACE IN THE DRIVEWAY."

Chairman Murphy: Do we have an additional on the - twelve. Do you want to state something there, Mr. O'Donnell?

Mr. O'Donnell: What I've said on the record should cover it, but what he's doing is, he's RECOMMENDING APPROVAL OF THE CONDITIONS THAT WERE HANDED OUT THAT HAS THE STATE REFERENCE, BUT WE'RE GOING TO FIX IT BEFORE IT GETS TO THE BOARD.

Chairman Murphy: Okay, is there a second to the motion? Ms. Hall –

Commissioner Hall: Second.

Chairman Murphy: – seconds it. Discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2014-SU-044, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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(The motion carried by a vote of 8-0. Commissioners de la Fe, Flanagan, Lawrence, and Sargeant were absent from the meeting.)

JN

Board Agenda Item  
November 18, 2014

REVISED

3:30 p.m.

Public Hearing on SE 2014-SU-042 (Montessori Mansion / Naima Qadir Dar) to Permit a Home Child Care Facility, Located on Approximately 8,793 Square Feet of Land Zoned PDH-2 and WS (Sully District)

This property located at 14018 Rose Lodge Place, Chantilly, 20151. Tax Map 44-2 ((20)) 32.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission public hearing has been deferred indefinitely.

ENCLOSED DOCUMENTS:

Staff Report previously furnished and available online at:

<http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdfw/4468748.PDF>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Michael Lynskey, Planner, DPZ

Board Agenda Item  
November 18, 2014

REVISED

3:30 p.m.

Public Hearing on SE 2014-SU-031 (Mary Gray / Elf Exploring, Learning & Fun) to Permit a Home Child Care Facility, Located on Approximaely 4,228 Square Feet of Land Zoned PDH-20 and WS (Sully District)

This property is located at 4180 Whitlow Place, Chantilly, 20151. Tax Map 44-2 ((23)) 22.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission public hearing will be held on Thursday, November 20, 2014. The Commission's recommendation will be forwarded to the Board of Supervisors subsequent to that date.

ENCLOSED DOCUMENTS:

Staff Report previously furnished and available online at:  
<http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdfw/4468602.PDF>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Joseph Gorney, Planner, DPZ

5:00 p.m.

Public Hearing on SEA 94-M-047-02 (Home Depot U.S.A., Inc. ) to Amend SE 94-M-047 Previously Approved for Fast Food Restaurant; Fast Food Restaurant with Drive-Through Window; Drive-in Financial Institution in a Highway Corridor Overlay District; Reduction in Land Area; Waiver of Certain Sign Regulations; Modification and Waivers in a CRD to Permit an Expansion of an Existing Retail Sales Establishment – Large and Site Modifications on Approximately 30.69 Acres of Land Zoned C-7, CRD, H-C, and SC (Mason District)

This property is located 6210 Seven Corners Center, Falls Church, 22044. Tax Map 51-3 ((16)) (B) 1 A and 51-3 ((1)) 29 A.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, November 13, 2014, the Planning Commission voted 8-0 (Commissioners de la Fe, Flanagan, Lawrence, and Sargeant were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SEA 94-M-047-02, subject to the Development Conditions, now dated November 13, 2014;
- Reaffirmation of the 20 percent parking reduction in a CRD, in consideration of the presence of a transit transfer center, a pedestrian crossing of Arlington Boulevard, pedestrian facilities, and the close proximity of multiple stores;
- Reaffirmation of the modification of transitional screening and barrier requirement(s) along the northern boundary of Parcel 29A adjacent to the multi-family development, in favor of the existing conditions;
- Reaffirmation of the modification of barrier requirement(s) along the northern boundary of Parcel 29A adjacent to the Willston Multi-Cultural Center, in favor of the existing conditions;
- Reaffirmation of the waiver of the transitional screening and barrier requirement(s) along the northern boundary of Parcel 1A adjacent to the multi-family development, in favor of the alternatives as shown on the proposed plat and as conditioned;
- Reaffirmation of the modification of the transitional screening and barrier requirement(s) along the eastern boundary of Parcel 1A, in favor of the alternatives as shown on the proposed plat and as conditioned;

- Modification of barrier requirement(s) along the southwestern boundary of Parcel 1A adjacent to the Bailey's Upper Elementary School for the Arts and Sciences, in favor of the alternatives as shown on the proposed plat and as conditioned;
- Reaffirmation of the modification of peripheral parking lot landscaping requirements along all street frontages, in favor of the alternatives as shown on the proposed plat and as conditioned;
- Modification of interior parking lot landscaping requirements, in favor of the alternatives as shown on the proposed plat and as conditioned;
- Reaffirmation of the modification of trail requirement along Arlington Boulevard, in favor of the existing 4-foot wide sidewalk;
- Reaffirmation of the waiver of service drive requirement along Leesburg Pike, in favor of the retention of the existing landscape areas, buffers, and parking; and
- Pursuant to Site Plans 9037-SP-01 and 9037-SP-02, reaffirmation of the waiver of frontage improvements along Leesburg Pike, subject to provision of all necessary ancillary and construction easements; and modification of streetscape and dedications as recommended for the Bailey's Crossroads/Seven Corners CRD.

ENCLOSED DOCUMENTS:

Attachment 1: Planning Commission Verbatim Excerpt  
Staff Report previously furnished and available online at:  
<http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdfw/4468397.PDF>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Joseph Gorney, Planner, DPZ

SEA 94-M-047-02 – HOME DEPOT USA, INC.

Decision Only during Commission Matters  
(Public Hearing held on 11/05/14)

Commissioner Hall: This evening we have a decision on the Home Depot application and I would you reaffirm – agree - - agree to the proposed development conditions that are dated November 13<sup>th</sup>, with one little, minor change to condition number 22; the word stamped be replaced with “marked.” Do you so?

Andrew Painter, Esquire, Walsh, Colucci, Lubeley, Emrich & Walsh, PC: I do affirm, on behalf of the applicant, that the applicant agrees to all the conditions that were approved and dated November 13<sup>th</sup>, including the proposed modification to condition 22.

Chairman Murphy: And just for the record, will you identify yourself so we’ll know.

Mr. Painter: Andrew Painter, with Walsh, Colucci; speaking on behalf of the applicant, Home Depot USA, Incorporated.

Chairman Murphy: Thank you.

Commissioner Hall: Very well, thank you. With that, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF SEA 94-M-047-02, SUBJECT TO THE DEVELOPMENT CONDITIONS, NOW DATED NOVEMBER 13<sup>TH</sup>, 2014.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SEA 94-M-047-02, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Hall.

Commissioner Hall: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE LIST OF MODIFICATIONS AND WAIVERS DATED NOVEMBER 13, 2014, THAT WERE PROVIDED TO YOU TODAY AND FURTHER DISCUSSED IN THE STAFF REPORT. THIS LIST SHALL BE MADE PART OF THE RECORD OF THIS CASE.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(The motion carried by a vote of 8-0. Commissioners de la Fe, Flanagan, Lawrence, and Sargeant were absent from the meeting.)

JN

5:30 p.m.

Public Hearing on PCA 88-S-022 (Union Mill Associates Limited Partnership) to Amend the Proffers for RZ 88-S-022 Previously Approved for Community Retail to Permit Modification of Proffers with an Overall Floor Area Ratio of .17 on Approximately 16.37 Acres of Land Zoned C-6 and WS (Sully District)

This property is located in the North West Quadrant of the Intersection of Union Mill Road and Braddock Road. Tax Map 55-3 ((1)) 47A, 47B, 47C, 47F; 66-1 ((1)) 16D, 16E, and 16G.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, November 13, 2014, the Planning Commission voted 8-0 (Commissioners de la Fe, Flanagan, Lawrence, and Sargeant were absent from the meeting) to recommend to the Board of Supervisors approval of PCA 88-S-022, subject to the proffers consistent with those dated October 23, 2014.

ENCLOSED DOCUMENTS:

Attachment 1: Planning Commission Verbatim Excerpt  
Staff Report previously furnished and available online at:  
<http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdfw/4468257.PDF>

STAFF:

Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Sharon Williams, Planner, DPZ

PCA 88-S-022 – UNION MILL ASSOCIATES LIMITED PARTNERSHIP (Sully District)

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed; Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman. I think I have to call the applicant up one more time to reaffirm they accept the development conditions. Is that correct?

Chairman Murphy: There are no development - - they're all proffers.

Commissioner Litzenberger: Okay, they're all proffers. Well, I'm pleased to be able to take over from the previous Planning Commissioner that approved this so many years ago. I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF PCA 88-S-022, SUBJECT TO THE PROFFERS CONSISTENT WITH THOSE DATED OCTOBER 23<sup>RD</sup>, 2014.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve PCA 88-S-022, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(The motion carried by a vote of 8-0. Commissioners de la Fe, Flanagan, Lawrence, and Sargeant were absent from the meeting.)

JN