

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, JANUARY 7, 2015**

PRESENT: Peter F. Murphy, Springfield District
Frank A. de la Fe, Hunter Mill District
Julie M. Strandlie, Mason District
James R. Hart, Commissioner At-Large
Ellen J. Hurley, Braddock District
John C. Ulfelder, Dranesville District
James T. Migliaccio, Lee District
Earl L. Flanagan, Mount Vernon District
Kenneth A. Lawrence, Providence District
John L. Litzenberger, Jr., Sully District
Janyce N. Hedetniemi, Commissioner At-Large
Timothy J. Sargeant, Commissioner At-Large

ABSENT: None.

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The meeting was called to order at 8:17 p.m., by Chairman Peter F. Murphy, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

The Honorable John T. Frey, Clerk of the Circuit Court, performed the swearing-in ceremony for the following Commissioners appointed and/or reappointed by the Board of Supervisors for four-year terms ending December 2018:

- Peter F. Murphy, Springfield District
- Timothy J. Sargeant, At-Large
- Julie M. Strandlie, Mason District

Chairman Murphy thanked Mr. Frey for presiding over the swearing-in ceremony.

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Commissioner Lawrence announced that the Planning Commission's Policy and Procedures Committee had met earlier this evening to review updates to the Planning Commission Bylaws. He said that this process would continue at a future meeting at a date to be determined.

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Commissioner Lawrence announced that the Planning Commission's Tysons Committee would meet on Thursday, January 8, 2015, to discuss the transportation portion of the Tysons Plan

Amendment. He also stated that the Tysons Committee would meet again on Thursday, January 22, 2015, to consider the public facilities portion of the Tysons Plan Amendment.

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In accordance with the Commission Bylaws, Chairman Murphy announced that Planning Commission Officers would be elected at the third Planning Commission meeting of the year, on Wednesday, January 14, 2015.

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Commissioner Lawrence indicated that there were still unresolved issues for SE 2014-PR-018, Beyer I Limited Liability Company, which was originally scheduled for public hearing tonight. Therefore, he MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR SE 2014-PR-018, BEYER I LIMITED LIABILITY COMPANY, TO A DATE TO BE DETERMINED.

Commissioner de la Fe seconded the motion which carried by a vote of 12-0.

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Commissioner Flanagan said that the staff report for SE 2014-MV-055, Ngoc Mai Nguyen, had not been available for the applicant's homeowners association to review and the association was scheduled to receive public testimony regarding this application at its meeting on Wednesday, February 18, 2015. Therefore, HE MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR SE 2014-MV-055, NGOC MAI NGUYEN, TO A DATE CERTAIN OF WEDNESDAY, FEBRUARY 25, 2015.

Commissioners Litzenberger and Sargeant seconded the motion which carried by a vote of 12-0.

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Chairman Murphy MOVED THAT THE PLANNING COMMISSION FURTHER DEFER THE DECISION ONLY FOR SE 2014-SP-053, ROLLING VALLEY MALL, LLC, TO A DATE CERTAIN OF WEDNESDAY, JANUARY 21, 2015, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENT.

Commissioner Hart seconded the motion which carried by a vote of 12-0.

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Chairman Murphy announced that the Planning Commission meeting for Thursday, January 15, 2015, had been canceled. Therefore, he MOVED THAT THE PLANNING COMMISSION FURTHER DEFER THE DECISION ONLY FOR PA 2014-III-P1, SILAS BURKE PROPERTY, TO A DATE CERTAIN OF THURSDAY, JANUARY 29, 2015, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENT.

Commissioner Hart seconded the motion which carried by a vote of 12-0.

Chairman Murphy further MOVED THAT THE PLANNING COMMISSION REQUEST THE BOARD OF SUPERVISORS TO MOVE ITS PUBLIC HEARING DATE FOR PA 2014-III-P1, SILAS BURKE PROPERTY, TO A DATE FOLLOWING THE FINAL DETERMINATION BY THE PLANNING COMMISSION.

Commissioner Hart seconded the motion which carried by a vote of 12-0.

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Commissioner Flanagan announced his intent to defer the public hearing on the applicant's request for SE 2014-MV-045, Zahida Babar d/b/a Azeem Day Care, at the Planning Commission's meeting on Thursday, January 8, 2015.

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FS-H14-45 – T-MOBILE NORTHEAST, LLC, 10909 Sunset Hills Road

Commissioner de la Fe: Yes, Mr. Chairman. I have a "feature shown," FS-H14-45 – the name of T-Mobile Northeast, LLC, for a telecommunications facility on an existing monopole at 10909, Sunset Hills Road in Reston. I MOVE THAT THE PLANNING COMMISSION CONCUR WITH THE DETERMINATION OF THE DIRECTOR OF PLANNING AND ZONING AND FIND THAT THE PROPOSED TELECOMMUNICATION FACILITY BE A "FEATURE SHOWN" OF THE COMPREHENSIVE PLAN.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Discussion? All those in favor of the motion to concur with the "feature shown" determination in FS-H14-45, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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(The motion which carried by a vote of 12-0.)

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ORDER OF THE AGENDA

Chairman Murphy established the following order of the agenda:

1. PFM AMENDMENT (STORM DRAINAGE PRO RATA SHARE PROVISIONS)
(Countywide)

2. SE 2014-SP-047 – SUBHADRA PARAJULI
3. FDPA 81-S-058-01-01 – CENTREWOOD DRIVE APARTMENTS, INC. (Sully District)
4. SE 2014-MV-026 – SHAZIA YOUNIS d/b/a CHILDRENZONE HOME CHILD CARE

This order was accepted without objection.

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PFM AMENDMENT (STORM DRAINAGE PRO RATA SHARE PROVISIONS) – To consider a proposed amendment to the Public Facilities Manual (PFM) regarding Storm Drainage Pro Rata Share Provisions, Chapter 6 (Storm Drainage) and proposed revisions to the Pro Rata Share Agreement form as follows: The proposed amendment to PFM Chapter 6 incorporates provisions as follows: The proposed amendment to PFM Chapter 6 incorporates provisions for establishing a single countywide pro rata share rate used to determine a developer's share of the cost of providing offsite drainage improvements in lieu of the current 27 different watershed-based rates. The proposed amendment also includes provisions to provide credits for onsite stormwater management and/or best management practices. The proposed revisions to the Pro Rata Share Agreement form are necessary for it to conform to the proposed PFM amendment. COUNTYWIDE. PUBLIC HEARING.

Commissioner Hart asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived, and the public hearing closed. No objections were expressed; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Hart for action on this case.

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Chairman Murphy: Without objection, the public hearing is closed. Recognize Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. Let me first thank staff – Craig Carinci, Fred Rose, Darold Burdick – who are here tonight – for all their fine work on this case. This Amendment had a pretty thorough vetting with the Environment Committee not too long ago. It's a fairly straightforward simplification of a number of exiting provisions we have dealing with stormwater pro rata shares. It has staff's favorable recommendation, with which I concur. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS ADOPTION OF THE PROPOSED AMENDMENT TO THE PUBLIC FACILITIES MANUAL REGARDING STORM DRAINAGE PRO RATA SHARE PROVISIONS AND THE PRO RATA SHARE AGREEMENT FORM, AS SET FORTH IN THE STAFF REPORT DATED DECEMBER 2ND, 2014. AND I FURTHER MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD THAT THIS AMENDMENT SHALL BECOME EFFECTIVE AT 12:01 A.M. ON JULY 1, 2015.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it adopt PFM Amendment, Storm Drainage Pro Rata Share and Provisions, as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Thank you, Mr. Chairman.

Chairman Murphy: Thank you very much. Thank you for coming.

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(The motion carried by a vote of 12-0.)

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The next public hearing was in the Springfield District; therefore, Chairman Murphy relinquished the Chair to Vice Chairman de la Fe.

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SE 2014-SP-047 – SUBHADRA PARAJULI – Appl. under Sects. 6-205, 6-206, and 8-305 of the Zoning Ordinance to permit a home child care facility. Located at 13133 Quail Creek Lane, Fairfax, 22033, on approx. 1,500 sq. ft. of land zoned PDC and WS. Tax Map 55-1 ((16)) (5) 46. SPRINGFIELD DISTRICT. PUBLIC HEARING.

Subhadra Parajuli, Applicant/Title Owner, reaffirmed the affidavit dated November 20, 2014.

There were no disclosures by Commission members.

Commissioner Murphy asked that Vice Chairman de la Fe to ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived, and the public hearing closed. No objections were expressed; therefore, Vice Chairman de la Fe closed the public hearing and recognized Commissioner Murphy for action on this case.

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Vice Chairman de la Fe: I will close the public hearing.

Commissioner Murphy: Mr. Chairman – could you please come forward again? Yes. Before I make the motion, I have to ask you if you – for the record – agree to the proposed development conditions dated 23 December, 2014. And do you understand those conditions?

Subhadra Parajuli, Applicant/Title Owner: Yes sir.

Commissioner Murphy: Okay. Thank you very much. Mr. Chairman, this is an application for an increase in – to 12 children at a daycare center. It has received an affirmative staff report. There are no outstanding issues. So therefore, Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE SE 2014-SP-047, SUBJECT TO THE CONDITIONS DATED DECEMBER 23RD, 2014.

Commissioner Hart: Second.

Vice Chairman de la Fe: Seconded by Mr. Hart. Any comments from the Commission? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries. Thank you very much.

Chairman Murphy: Thank you very much.

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(The motion carried by a vote of 12-0.)

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At the conclusion of the case, Chairman Murphy resumed the Chair.

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FDPA 81-S-058-01-01 – CENTREWOOD DRIVE
APARTMENTS, INC. – Appl. to amend the final development plans for FDP 81-S-058 to permit site modifications and associated changes to development conditions. Located S.W. of the intersection of Machen Road and Centrewood Dr., on approx. 43,211 sq. ft. of land zoned PDH-12 and WS. Tax Map 65-1 ((1)) 3C pt. SULLY DISTRICT. PUBLIC HEARING.

Andrew Painter, Agents Applicant, Walsh, Colucci, Lubeley & Walsh, PC, reaffirmed the affidavit dated December 15, 2014.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had two cases where attorneys from Mr. Painter’s firm were representing adverse parties, but noted that those matters

and those parties were unrelated to this application and there was no business or financial relationship; therefore, it would not affect his ability to participate in this public hearing.

Commissioner Litzenberger asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived, and the public hearing closed. No objections were expressed; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Litzenberger for action on this case.

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Chairman Murphy: Without objection, the public hearing is closed – Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman. Mr. Painter, could you please come up and confirm that your client is aware of the – and in agreement with the proposed Final Development Conditions dated December 23rd, 2014, as contained in the staff report?

Andrew Painter, Agents Applicant, Walsh, Colucci, Lubeley & Walsh, PC: We are in agreement with those conditions of approval.

Commissioner Litzenberger: Thank you. Mr. Chairman, I MOVE THE PLANNING COMMISSION APPROVE FDPA 81-S-058-01-01, BY CENTREWOOD DRIVE APARTMENTS, INC., SUBJECT TO THE FINAL DEVELOPMENT PLAN CONDITIONS DATED DECEMBER 23RD, 2014.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of the motion? All those in favor of the motion to approve FDPA 81-S-058-01-01, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Litzenberger: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Litzenberger: I'd like to commend the applicant for their excellent community outreach and to both land use committees – and they supported this unanimously. Thank you.

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(The motion carried by a vote of 12-0.)

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SE 2014-MV-026 – SHAZIA YOUNIS d/b/a CHILDRENZONE HOME CHILD CARE – Appl. under Sects. 6-105, 6-106, and 8-305 of the Zoning Ordinance to permit a home child care facility. Located at 8121 Gilroy Dr., Lorton, 22079, on approx. 3,959 sq. ft. of land zoned PDH-12. \Tax Map 107-2 ((12)) 111. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Shazia Younis, Applicant/Title Owner, reaffirmed the affidavit dated May 21, 2014.

There were no disclosures by Commission members.

Carmen Bishop, Zoning Evaluation Division, Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of application SE 2014-MV-026.

A discussion ensued between Commissioner Flanagan and Ms. Bishop regarding the neighborhoods surrounding the subject property, as depicted in Figure 1 on Page 1 of the staff report, wherein Ms. Bishop explained the following:

- The Laurel Highlands Community, in which the subject property was located, was zoned PDH-12 (Planned Development Housing District – 12 Dwelling Units per Acre);
- The Laurel Crest Community located to the north of the subject property was zoned PDH-4 (Planned Development Housing District – 4 Dwelling Units per Acre);
- The subdivision located northeast of the subject property was zoned PDH-8 (Planned Development Housing District – 8 Dwelling Units per Acre);
- The Laurel Highlands Community was the most dense development compared to the developments surrounding it;
- The single-family detached dwelling units in the Laurel Highlands Community were separated by approximately seven feet, which provided sufficient space for the maintenance of the units; and
- The apartment complex located east of the subject property consisted of three buildings with an attached parking garage.

A discussion ensued between Commissioner Flanagan and Marianne Gardner, Planning Division, DPZ, regarding the traffic routes that were used to access the nearby apartment complex and the impact this traffic had on the Laurel Highlands Community wherein Commissioner Flanagan indicated that vehicles exiting the apartment complex were required to utilize Purvis Drive to access Silverbrook Road while vehicles entering the complex could circumvent the Laurel Highlands Community.

Commissioner Flanagan noted the density of community in which the subject property was located, stating that it was greater in a PDH-12 District than an R-District (Residential District) of the same area. Ms. Bishop concurred with Commissioner Flanagan's description of the neighborhood. A discussion ensued between Commissioner Flanagan and Ms. Bishop regarding the size of the lots in the Laurel Highlands Community wherein Ms. Bishop said that the subject property was approximately 3,959 square feet and the surrounding lots were similar in size.

In response to questions from Commissioner Flanagan, Ms. Bishop stated that the existing daycare center on the site had been operating without a Special Exception. Ms. Gardner explained that the applicant was licensed by the State of Virginia to care for 12 children, but was required under new State regulations to adhere to local zoning laws. She then indicated that if the applicant had not been pursuing the necessary permits to ensure that the daycare center adhered to the Zoning Ordinance, then it would be operating illegally. However, she noted that the applicant had been pursuing these permits to ensure compliance.

When Commissioner Flanagan asked whether the subject application had been modified since the applicant submitted the Statement of Justification, as listed in Appendix 2 of the staff report, Ms. Bishop said that the application had been amended to address concerns raised by her community's homeowners association regarding the usage of the tot lot. She then explained that the homeowners association prohibited non-residents from utilizing this tot lot and the applicant addressed this by constructing a fence in the rear yard of the subject property. A discussion ensued between Commissioner Flanagan and Ms. Bishop regarding staff's awareness of the homeowners association's policy regarding the tot lot wherein Ms. Bishop confirmed that staff did not request that the applicant address this concern and the applicant did so voluntarily.

Ms. Younis stated that she had been operating a daycare center at the subject property for approximately nine-and-a-half years. She added that she had not received any complaints from the nearby community regarding the operation of this daycare center, saying that she was committed to maintaining the character of her community.

Responding to questions from Commissioner Hurley, Ms. Younis confirmed that she had constructed a fence around her backyard. She also indicated that the existing slope in the yard was a result of the construction of the fence and that she would install playground equipment for the children to utilize at her daycare center.

When Commissioner Sargeant asked about the customers who utilized her home daycare center, Ms. Younis said that numerous customers lived near the subject property.

Chairman Murphy called the first speaker and recited the rules for public testimony.

Lauryn Sacha, 8911 Gutman Court, Springfield, spoke in support of the proposal. She stated that her daughter had attended the daycare center and commended the applicant for the service provided. She echoed remarks from Ms. Younis regarding the lack of complaints received by the daycare center, stating that its operation did not have a significant impact on the surrounding community. Ms. Sacha described the interior of the daycare center, noting that the children are cared for in the basement under the supervision of two assistants. In addition, she pointed out

that the applicant had been licensed by the State of Virginia and had no outstanding issues, adding that any issues that arose were resolved efficiently. She also noted the effectiveness of the staggered pick-up/drop-off schedule, stating that the driveway was large enough to accommodate two cars. However, Ms. Sacha noted that there had been occasions where customers had to park along the street, but noted that vehicles were moved quickly to mitigate the impact. In addition, she indicated that the pick-up/drop-off schedule did not disrupt neighboring properties. She then reiterated the quality of the care provided by the applicant.

Tracy Gray, 9101 Purvis Drive, Lorton, representing the Laurel Highlands Homeowners Association (LHHOA), voiced opposition to the proposal because it would adversely impact the traffic and parking within the Laurel Highlands Community, which he noted was already an issue. He then pointed out that provisions had been included to mitigate impact to the community, but noted the difficulty of enforcing these provisions. Mr. Gray said that the dwelling units in the Laurel Highlands Community were required to include two-car garages to provide sufficient parking and that on-street parking was prohibited. He then indicated that parking along the street in front of the subject property, as Ms. Sacha described in her testimony, was a violation of the community's policies and the policies of the Fire Marshal. Mr. Gray also pointed out that traffic mitigation features had been installed to direct the traffic entering and exiting the apartment building located to the east of the site, but noted that these features were difficult to enforce. He acknowledged the quality of the service provided by the applicant, but stated that the subject application would further worsen the traffic and parking situation in the Laurel Highlands Community. Mr. Gray indicated that the applicant was in violation of the LHHOA's policy that limited daycare capacity to seven children and one non-resident assistant, adding that the applicant had indicated to the LHHOA that she was currently caring for five to seven children. In conclusion, he said that approval of the subject application was not consistent with the policies of the LHHOA.

Replying to questions from Commissioner Flanagan, Mr. Gray explained the following:

- The LHHOA did not object to the applicant limiting the daycare center on the site to seven children with one non-resident assistant;
- The streets within the Laurel Highlands Community were private streets and were maintained by the LHHOA;
- The streets within the Laurel Highland Community were narrow because since they were privately maintained, they did not have to comply with the criteria prescribed the Virginia Department of Transportation;
- The LHHOA maintained the open space and playground located within the Laurel Highland Community;
- The LHHOA prohibited non-residents from utilizing the playground in the Laurel Highland Community and this applied to customers of the proposed daycare center that did not reside within the community; and

- The parking spaces located near the clubhouse in the Laurel Highland Community were restricted to non-residents and any non-resident worker for a home-based business, such as a home daycare center, could not utilize these spaces.

When Commissioner Litzenberger asked whether the daycare center on the site had generated complaints about its traffic impact, Mr. Gray indicated that there were no outstanding complaints.

Commissioner Hedetniemi pointed out that the two non-resident assistants working at the daycare center did not drive to the site. She then asked if this was sufficient to alleviate the concerns of the LHHOA. Mr. Gray explained that this would not be sufficient because the LHHOA had a policy prohibiting more than one non-resident assistant for a home-based daycare center. A discussion ensued between Commissioner Hedetniemi and Mr. Gray regarding the impact that permitting up to 12 children at the home daycare center would have on the surrounding community wherein Mr. Gray described the existing traffic burden throughout the Laurel Heights Community and stated that the permitting additional capacity at the daycare center would worsen this impact.

Commissioner Hedetniemi noted the importance of supporting daycare facilities and asked about the LHHOA's policy regarding daycare services within the Laurel Highlands Community. Mr. Gray concurred, saying that the LHHOA supported the use of daycare services within private residences, but reiterated that the LHHOA did not support daycare services or any home-based business that had more than one non-resident employee.

Commissioner Hart said that the decisions rendered by the Planning Commission and the Board of Supervisors on this case did not subvert these covenants. He then stated that these covenants could be enforced by law through the courts. In addition, Commissioner Hart pointed out the benefits of permitting a home daycare center through a Special Exception application because these applications had development conditions to mitigate the impacts whereas a by-right use had no such provisions.

Answering questions from Commissioner Hart, Mr. Gray stated the following:

- The board for the LHHOA voted to recommend denial of this case, but the residents of the community had not;
- The LHHOA preferred that the daycare center operate by-right with a limit of 7 children and 1 non-residential employee as opposed to a limit of 12 children and 2 non-residential employees; and
- The LHHOA's primary objection to the proposal pertained to the negative impact on traffic and parking throughout the community.

Commissioner Hart pointed out that the development conditions included provisions, such as requiring that the pick-up and drop-off of the children occur in the driveway, which helped mitigate the impact the proposal had on parking throughout the community. He also suggested that another development condition could be added that restricted the number of vehicular trips to the site, citing other applications where children were dropped off or picked up through carpooling, which would mitigate the traffic impact. In addition, he indicated that the development conditions could be modified to prohibit customers of the daycare center from parking in the common parking area or require that the applicant keep the garage clear to accommodate a vehicle. Commissioner Hart then stated that these kinds of development conditions could not be implemented if the daycare center operated by-right. A discussion ensued between Commissioner Hart and Mr. Gray regarding whether these development conditions would alleviate the concerns of the LHHOA, how these conditions would be enforced, and how parking at the site would be managed in the absence of a Special Exception wherein Mr. Gray explained that he supported such conditions, noted that enforcement would be difficult and would place a significant burden on the LHHOA.

Commissioner Hart pointed out that the State of Virginia required two assistants to care for a certain number of children at a home daycare center. He noted that the Planning Commission had numerous pending cases regarding home child care centers due to new requirements imposed by the State of Virginia requiring that providers comply with local zoning regulations. He then asked about the number of home daycare providers in the Laurel Highlands Community. Mr. Gray stated that there were four in the community and two required a Special Exception to operate. A discussion ensued between Commissioner Hart and Mr. Gray regarding the operation of the home daycare centers that were not seeking a Special Exception, the requirements prescribed by the State of Virginia for home daycare centers, the lack of complaints generated by the home daycare center on the subject property, and the potential impact the proposal would have on the surrounding community wherein Commissioner Hart said he favored utilizing a Special Exception application with development conditions because it provided a better mechanism for enforcement and Mr. Gray reiterated the difficulty of enforcing these conditions.

Referring to letters submitted to the applicant from the LHHOA and the LHHOA's lawyer, which were in Appendix 4 of the staff report, Commissioner Flanagan asked for clarification on what these letters requested. Mr. Gray confirmed that these letters articulated that the LHHOA favored prohibiting more than seven children and one non-resident assistant at the daycare center, adding that permitting more than seven children in a daycare center would require two non-residential assistants under the criteria prescribed by the State of Virginia.

Responding to questions from Commissioner Flanagan, Mr. Gary explained the following:

- The private streets in the Laurel Hill Community did not have marked lanes;
- The private streets in the Laurel Hill Community only accommodated two-way traffic and both sides of the street were fire lanes;
- The presence of fire lanes prohibited street parking along these private streets;

- The customers for the daycare center on the site were required to utilize the driveway for drop-off and pick-up, but there had been instances where customers parked in the fire lane;
- The LHHOA's policy required home-based businesses to instruct customers to adhere to the Laurel Highlands Community's parking policies and homeowners were required to sign off on this policy;
- The LHHOA's policies were inherited by the developer of the community and the initial approval for the community included a provision requiring the formation of a homeowners association for the community;
- The fees charged by the LHHOA supported the maintenance of the community and there was a legal team for the LHHOA in charge of collecting these fees in the event they were not paid; and
- The applicant had been provided with a copy of the LHHOA's covenants, which included the prohibition of more than one non-resident employee at a home daycare center, and the applicant had signed this document.

Commissioner Sargeant asked about possible parking opportunities in common areas, such as the spaces serving the community pool located along Purvis Drive. Mr. Gray said that there would be limited parking opportunities for this area because residents and their guests frequently parked in these areas, adding that the existing parking provisions in the neighborhood was insufficient because of the density of the community. In addition, he indicated that the lack of guest parking was an outstanding issue for residents in the Laurel Highlands Community, noting that some of these spaces were utilized by residents. Mr. Gray said that the LHHOA attempted to address this issue by designating certain spaces for guests and assigning certain time periods for these spaces, but he reiterated the difficulty of enforcing the LHHOA's parking policy. In addition, he indicated that the residents could revise these parking policies.

Referring to Figure 1 on Page 1 of the staff report, which depicted an aerial view of the subject property and the surrounding neighborhood, Commissioner Hurley asked for more information on the traffic patterns throughout the Laurel Highlands Community. Mr. Gray pointed out the routes vehicles were required to utilize when accessing certain portions of the community near the apartment complex to the east, adding that traffic mitigation features had been installed on Furey Road to ensure the use of these routes for vehicles attempting to exit the community to access Silverbrook Road. A discussion ensued between Commissioner Hurley and Mr. Gray regarding the routes that would be utilized by vehicles accessing the home daycare center on the subject property wherein Mr. Gray concurred that the vehicles accessing the facility would not conflict with the traffic mitigation measures in the community.

Commissioner Hurley indicated that she did not support the LHHOA's conclusion that traffic would be significantly increased, as articulated in the LHHOA's letter in Appendix 4 of the staff report.

Commissioner Hurley echoed remarks from Commissioner Hart regarding the additional enforcement mechanisms that a Special Exception would provide compared to a by-right use. Mr. Gray reiterated the difficulty of monitoring and enforcing these policies. He added that he did not object to the operation of a home daycare center on the subject property, but he favored limiting its operation to LHHOA policies. A discussion ensued between Commissioner Hurley and Mr. Gray regarding the presence of other home-based businesses in the Laurel Highlands Community, the policies prohibiting the use of the tot lot in the community by non-residents, the lack of guest parking in the community, and the County requirements for home daycare centers. Replying to questions from Chairman Murphy, Mr. Gray confirmed that approval of the subject application would be a violation of the LHHOA's covenants, adding that such approval would not circumvent the provisions of these covenants. Ms. Gardner stated that the Board for the LHHOA was responsible for enforcing its covenants.

Commissioner Lawrence indicated that the decision only for the subject application would be deferred at the conclusion of the public hearing. He then pointed out that the applicant had testified that her home based daycare served customers within the Laurel Highlands Community, which would limit the traffic impact on the neighborhood because they did not drive to the site. Mr. Gray concurred, but noted that there were still customers from surrounding communities that did drive to access the facility. Commissioner Lawrence suggested that the development conditions be modified to account for the number of vehicular trips compared to the customers that walked to the site and that the Laurel Highlands Community coordinate with the applicant to determine whether the extent to which the traffic impact for the home daycare center under these conditions would be acceptable.

Referring to the letters from the LHHOA and the LHHOA's lawyer in Appendix 4 of the staff report, Commissioner Strandlie asked for further clarification on the specific provisions of the LHHOA's covenants that the applicant had violated. Mr. Gray explained that the LHHOA had been informed that the home daycare center on the site had not been caring for more than seven children, but stated that the presence of an additional non-resident assistant warranted a violation because an additional provider was required by the State of Virginia to care for more than seven children, adding that the LHHOA's prohibition on more than one non-resident assistant at a home daycare center was intended to limit the number of children in such a facility.

Commissioner de la Fe said that the County Code would not be changed under the subject application. He added that if the covenants of the Laurel Highlands Community required that home daycare centers abide by the County Code, then the applicant would be in conformance with these covenants.

Angela Szwec, 8408 White Feather Court, Lorton, spoke in support of the subject application. She indicated that her children attended the applicant's home daycare center and commended the applicant for the quality of the service provided. In addition, she noted the difficulty of finding quality child care services. Ms. Szwec stated that the applicant had been caring for a maximum

of 12 children at the site, but pointed out that there had been instances where she cared for fewer children. She then said that the impact on the surrounding community was minimal. She also acknowledged the parking issues within the Laurel Highlands Community, but pointed out that the applicant's staggered pick-up/drop-off times sufficiently mitigated this impact, adding that she did not park on the street. Ms. Szwec noted that the applicant had obtained the necessary licenses and complied with the necessary provisions articulated by the State of Virginia for home daycare centers.

Chairman Murphy acknowledged the quality of the service provided by the applicant's home daycare center, but stated that the Planning Commission was limited to ruling on the land use aspects of the subject application. Ms. Szwec reiterated the community's support for the applicant and the absence of significant traffic impacts incurred by the home daycare center.

Answering questions from Commissioner Flanagan, Ms. Szwec said that she did not reside within the Laurel Highlands Community. She stated that there were other child care service providers in her neighborhood.

Chairman Murphy called for speakers from the audience.

Khaled Rashed, 8116 Gilroy Drive, Lorton, voiced support for the application. He said he lived near the subject property and indicated that the traffic and parking impact of the home daycare center on the site was minimal. Mr. Rashed acknowledged that vehicles occasionally parked along the street, but stated the vehicles did not remain in this area for long periods and the applicant sufficiently enforced the pick-up/drop-off policies of her facility. In addition, he said that his kids had attended the applicant's home daycare center.

Pramod Gudishetty, 8119 Gilroy Drive, Lorton, spoke in support of the proposal. He stated that he resided in the dwelling unit adjacent to the subject property and had not experienced any negative impacts from the applicant's home daycare center. In addition, he indicated that his children had attended the home daycare center and echoed remarks from previous speakers regarding the quality of the service provided.

Christina Chun and Michael Kwok, 8123 Gilroy Drive, Lorton, voiced support for the proposal. Mr. Kwok said that he and Ms. Chun resided in the dwelling unit adjacent to the subject property. He then echoed remarks from previous speakers regarding the lack of negative impacts from the applicant's home daycare center, adding that the parking provided by the driveway was sufficient. Mr. Kwok also pointed out that the traffic generated by the home daycare center did not affect the traffic along Furey Road.

Antony Demaio, 8712 Canaan Court, Lorton, spoke in support of the subject application. He stated that he did not reside within the Laurel Highlands Community. He said that his daughter attended the applicant's home daycare center and reiterated remarks from previous speakers regarding the quality of the service provided. He then noted the effectiveness of the applicant's staggered pick-up/drop-off policy. Mr. Demaio also stated that the streets were sufficiently wide to accommodate the traffic generated by the proposal.

Dorothy Gibson, 8938B Milford Haven Court, Lorton, aligned herself with previous speakers in support of the proposal. She echoed remarks from previous speakers regarding the effectiveness of the applicant's staggered pick-up/drop-off policy, stating that this policy sufficiently mitigated the facility's impact on traffic and parking. In addition, she stated that the applicant coordinated with customers to ensure that children arrived and departed from the home daycare center in an efficient manner.

Darius Daniel, 9565 Potters Hill Circle, Lorton, aligned himself with previous speakers in support of the application. He stated that his children attended the applicant's home daycare center echoed remarks from previous speakers regarding the quality of the service provided and the effectiveness of the applicant's staggered pick-up/drop-off policy. Mr. Daniel addressed Mr. Gray's concern regarding the enforceability of the parking provisions for the home daycare center, stating that the applicant provided sufficient enforcement. He then noted that the applicant informed customers of this policy and the customers were responsible for abiding by this policy.

Angela Bautista, 8623 Beech Hollow Lane, Springfield, aligned herself with previous speakers in support of the subject application. She pointed out that there were similar concerns regarding traffic and parking in other communities throughout Fairfax County. She then echoed remarks from previous speakers regarding the applicant's policies to limit the traffic and parking impact on the neighborhood, adding that the applicant ensured that the driveway remained clear. Ms. Bautista said that her children attended the home daycare center on the site. She acknowledged that street parking was sometimes utilized, but indicated that the impact on the community was minimal. In addition, she noted the difficulty of finding suitable child care.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Ms. Younis, who acknowledged that she cared for a maximum of 12 children in her home daycare center. She stated that she had not been informed of restrictions on home daycare centers in her neighborhood when she purchased her property. She then said that the State of Virginia required that her home daycare center have a second resident assistant to care for up to 12 children. Ms. Younis also explained that she had only cared for five children with one assistant in the past, but additional children had enrolled since then. In addition, she said that her home daycare facility was not in violation because she was still within the timeframe prescribed by the County for state-licensed home child care facilities to comply with local regulations. She then stated that the traffic impact from her home daycare center had been minimal, adding that her two non-resident assistants did not park in the neighborhood or utilize their own vehicle. Ms. Younis pointed out that the traffic for the subject property did not affect the traffic along Furey Road. She also noted that the proposal had the support of numerous residents and customers.

Responding to questions from Commissioner Flanagan, Ms. Younis said that most of the customers to her home daycare center resided in nearby communities, but were not a part of the Laurel Highlands Community. She reiterated that she had inquired whether a home daycare facility was permitted when she initially purchased her property, but she was informed that there were no restrictions. She then indicated that she had acquired the necessary license by the State of Virginia, adding that she had also not been informed when she purchased her property that such a license was required.

A discussion ensued between Commissioner Lawrence and Ms. Younis regarding instances where greater coordination was needed with customers during pick-up/drop-off wherein Ms. Younis reiterated her commitment to limiting the impact of her home daycare center on the surrounding community, adding that she ensured the driveway was available for customers and that her family's cars remained parked in the garage.

Chairman Murphy called for concluding staff remarks from Ms. Bishop, who declined.

A discussion ensued between Commissioner Flanagan and Ms. Bishop, with input from Ms. Gardner, regarding the criteria for home daycare centers that cared for a maximum of five children, the need for approval from the Fairfax County Office for Children, and the scope of the subject application wherein Ms. Bishop confirmed that a permit was required for home daycare centers caring for a maximum of five children and Ms. Gardner stated that home daycare centers caring for less than seven children would not be subject to certain zoning restrictions, such as development conditions.

In reply to questions from Commissioner Hedetniemi, Ms. Younis indicated that three residents who lived within the Laurel Highlands Community had testified in support of the subject application and noted the location of their residences. She also stated that these residents had lived within the community for at least six years and could confirm that the impact of her home daycare center on parking was minimal. In addition, Ms. Younis said that numerous letters of support had been submitted for her application and Ms. Gardner confirmed that these letters were included in Appendix 2 of the staff report.

There were no further comments or questions from the Commission; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Flanagan for action on this case.

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Chairman Murphy: Public hearing is closed. Recognize Mr. Flanagan.

Commissioner Flanagan: Yes, Mr. Chairman. I need to find the – after this lengthy public hearing – unexpected public hearing. I would like to move that – I MOVE that the – TO DEFER THE DECISION ONLY FOR SE 2014-MV-026 TO A DATE CERTAIN OF JANUARY 21, 2015, WITH THE RECORD REMAINING OPEN FOR WRITTEN TESTIMONY.

Commissioners Lawrence and Sargeant: Second.

Chairman Murphy: Seconded by – who? Mr. Sargeant and Mr. Litzenberger [sic]. What was the date again?

Commissioner Flanagan: 21.

Chairman Murphy: All those in favor of the motion to defer decision on this application, SE 2014-MV-026, to a date certain of January 21, with the record remaining open for comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much – the applicant for all your – Mr. Gray and your homeowners association and all you folks who came out. We admire your tenacity and we appreciate the fact that you appreciate the applicant.

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(The motion carried by a vote of 12-0.)

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The meeting was adjourned at 10:27 p.m.
Peter F. Murphy, Chairman

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jacob Caporaletti

Approved on: September 17, 2015



John W. Cooper, Clerk to the
Fairfax County Planning Commission