MINUTES OF
PLANNING COMMISSION MEETING
MARCH 12, 1992

PRESENT: Lawrence C. Baldwin, Commissioner At-Large
John R. Byers, Mount Vernon District
Patrick M. Hanlon, Providence District
Stephen J. Hubbard, Dranesville District
Maya A. Huber, Commissioner At-Large
Ronald W. Koch, Sully District
Peter F. Murphy, Jr., Springfield District
Henry E. Strickland, Mason District

ABSENT: David P. Bobzien, Centreville District
Suzanne F. Harsel, Braddock District
Carl L. Sell, Jr., Lee District
Alvin L. Thomas, Commissioner At-Large

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The meeting was convened at 8:25 p.m. by Chairman Peter F. Murphy, Jr.

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COMMISSION MATTERS

Chairman Murphy noted that scheduled for public hearing this evening in the Springfield District, was SE-91-S-045, DLKR, Incorporated. He then MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING ON THIS APPLICATION TO A DATE CERTAIN OF MAY 27, 1992.

Commissioner Koch seconded the motion which passed unanimously with Commissioner Hanlon not present for the vote; Commissioners Bobzien, Harsel, Sell and Thomas absent from the meeting.

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Chairman Murphy also noted that scheduled for public hearing this evening in the Springfield District was PCA-78-S-136, Commonwealth Investment Service Corporation, and MOVED THAT THE PLANNING COMMISSION DEFER THIS APPLICATION TO A DATE CERTAIN OF APRIL 2, 1992.

Commissioners Byers and Koch seconded the motion which passed unanimously with Commissioner Hanlon not present for the vote; Commissioners Bobzien, Harsel, Sell and Thomas absent from the meeting.

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Chairman Murphy, in Commissioner Hanlon's temporary absence, noted that scheduled for public hearing in the Providence District was RZ-91-P-027, Merrifalls Plaza Limited Partnership. He then MOVED THAT THE PLANNING COMMISSION DEFER THAT PUBLIC HEARING TO A DATE CERTAIN OF MARCH 19, 1992.

Commissioner Byers seconded the motion which passed unanimously with Commissioner Hanlon not present for the vote; Commissioners Bobzien, Harsel, Sell and Thomas absent from the meeting.

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Chairman Murphy announced that last night, March 11, 1992, was the first phase of the public hearing on the Commercial and Industrial Districts (C & I) Zoning Ordinance Amendment and that the public hearing had been continued to a date certain of Wednesday, March 18, 1992 at 7:30 p.m. He added that there was an established speakers list and anyone who would like to speak on the C & I Zoning Ordinance Amendment should call the Planning Commission Office at 246-2865 and add their name to the list. Chairman Murphy announced that March 18, 1992 would be the last night for the public hearing on the proposed amendment.

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Chairman Murphy announced that the C & I Committee meeting would be held on Monday, March 16, 1992, at 7:30 p.m. in the Board of Supervisors Conference Room and would be open to the public.

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ORDER OF THE AGENDA ITEMS

In Secretary Harsel's absence, Chairman Murphy established the following order for tonight's agenda items:

1. SEA-86-M-086 – Open Arms, Inc.
2. Subdivision Ordinance Amendment (Preliminary Plat Approval)
3. FDPA-82-C-056-4 – Sells Floto, Inc.
4. Zoning Ordinance Amendment (Child Care Centers)
5. PCA-84-P-084 – Fairfax County Redevelopment & Housing Authority
   FDPA-84-P-084 – Fairfax County Redevelopment & Housing Authority
6. SP-92-M-001 – Van Phuoc Buddhist Congregation, Inc.

This order was accepted without objection.

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SEA-86-M-086 – OPEN ARMS, INC. – Appl. under Sect. 6-105 of the Zoning Ord. to amend SE-86-M-086 for a child care center to permit an extension of hours and an increase in enrollment on property located at 5130-B Lincoln Ave. on approx. 20.4 ac. zoned PDH-5. Tax Map 72-3((1))40. MASON DISTRICT. PUBLIC HEARING.

Chairman Murphy noted that there was a problem with the applicant's affidavit and stated that the Planning Commission would go ahead with the public hearing if there was no objection. He said that when this application went before the Board, the problem could be solved with the County Attorney. The Chairman, therefore, recommended that the Commission proceed with the public hearing. Hearing no objection, he asked that the applicant agree to the procedure.

Ms. Deborah McCormick, Executive Director of Open Arms, Inc., represented the applicant and agreed to the procedure. There were no disclosures from Commission members.

Ms. Teresa Hooper, Zoning Evaluation Division (ZED), Office of Comprehensive Planning (OCP), presented the staff report, a copy of which is contained in the date file. She said the application was a request to increase the maximum daily enrollment and to extend the hours of operation for an existing child care facility. Ms. Hooper noted there were no outstanding issues; the application was in harmony with the Comprehensive Plan; and in harmony with the Zoning Ordinance. Staff therefore recommended approval, subject to the proposed development conditions.

Ms. McCormick explained that Open Arms' mission was to provide cultural, educational, and recreational opportunities for the residents of Strawbridge Square and to create a bridge with the surrounding neighborhood areas.

Ms. McCormick said that there was a need to provide child care for school age children, particularly during vacation periods, and that was the reason they had requested an amendment to the special exception.

There were no speakers, no rebuttal and no closing staff comments, therefore Chairman Murphy closed the public hearing and recognized Commissioner Strickland for action on the case. (Verbatim excerpts are contained in the date file.)

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Commissioner Strickland MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE SEA-86-M-086, SUBJECT TO THE PROPOSED CONDITIONS CONTAINED IN APPENDIX 1, AS MODIFIED: IN CONDITION #4, "THE MAXIMUM DAILY ENROLLMENT OF THE CHILD CARE CENTER SHALL NOT EXCEED THIRTY-FIVE (35)." AND DELETE THE FOLLOWING WORDS: "AND SHALL BE LIMITED TO STRAWBRIDGE SQUARE COMMUNITY."

Commissioners Hubbard and Huber seconded the motion which passed unanimously with Commissioner Hanlon not present for the vote; Commissioners Bobzien, Harsel, Sell and Thomas absent from the meeting.

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> SUBDIVISION ORDINANCE AMENDMENT – On the matter of an amendment to Chapter 101, Subdivision Provisions, of The Code of the County of Fairfax, the proposed amendment provides that certain preliminary subdivision plats approved on or before July 31, 1990, may be reapproved without complying with the requirements of Part 8 of Article 2 of the Zoning Ord. provided conditions specified in the proposed amendment are met. The amendment is proposed to address plans in the process of being pursued diligently & meeting the proposed qualifications of Section 101-2-3(d)(4) relative to the provisions of Part 8, Article 2 of the Zoning Ord. PUBLIC HEARING.

Mr. John Winfield, Deputy Director, Plan Review Division, Department of Environmental Management (DEM), presented the staff report, a copy of which is contained in the date file. Mr. Winfield said that on January 27, 1992, Supervisor Hyland brought the amendment to the Board of Supervisors and requested that it be authorized for advertisement. He added that it was Supervisor Hyland's belief that the exemptions adopted as part of the affordable dwelling unit program did not adequately provide relief from the Affordable Dwelling Unit (ADU) requirements. Mr. Winfield said that as a result, the amendment was proposed to provide relief for projects that had been approved prior to the adoption of the ADU program and which were diligently being processed.

There being no listed speakers, Chairman Murphy called for speakers from the audience and outlined the Planning Commission's rules for speakers.

Mr. Robert Corey with Corey Communities said that when the Board adopted the ADU program on July 31, 1990, it had provided certain exemptions or grandfathering provisions for preliminary plans which were approved prior to July 31, 1990. Mr. Corey said that without the proposed correction, the staff would be bound to implement an unintended truncation of the ADU program and the grandfathering provisions. He added that the proposed correction was fair and urged the Commission's approval.

There were no further speakers and no closing staff comments.

Commissioner Huber asked whether there were any grandfathering provisions for any other Ordinance in effect similar to what was being proposed this evening. Mr. Winfield responded that each Ordinance Amendment provided some sort of grandfathering provision. He added that

the Chesapeake Bay Ordinance had a similar proposal in it, but he was not aware of any current ones being adopted with a similar proposal.

Commissioner Huber said that she would not have any problem with due diligence being recognized; however, she did have a problem with changing the way the grandfathering was done in light of other pending Ordinance changes. Commissioner Huber added that she intended to defer the decision for a week.

Commissioner Byers noted he would not be present on March 19, 1992, and wanted to make a few comments this evening. He said that the Commission was essentially talking about a “Bill of Relief”, which was very common in other jurisdictions. Commissioner Byers explained that while the applicant had done his part in good faith; adhered to every effort and requirement of the County, VDOT had delayed the process causing the County delay. Commissioner Byers did not think the Commission would set a precedent in this case, and added that the County's reputation, credibility, and integrity were at stake in this action. He added that he would support the proposal by County staff.

Commissioner Huber commented that the proposed amendment was not labeled as a Bill of Relief, but as a change in the Ordinance.

There being no further comments, Chairman Murphy closed the public hearing and recognized Commissioner Huber for action on the case. (See verbatim excerpts contained in the date file.)

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Commissioner Huber MOVED THAT THE PLANNING COMMISSION DEFER DECISION ONLY ON THE PROPOSED COUNTY CODE AMENDMENT ON CHAPTER 101, SUBDIVISION PROVISIONS, PRELIMINARY PLAT APPROVAL, TO A DATE CERTAIN OF MARCH 18, 1992.

Commissioner Byers seconded the motion which passed unanimously with Commissioner Hanlon not present for the vote, Commissioners Bobzien, Harsel, Sell and Thomas absent from the meeting.

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Chairman Murphy explained that Commissioner Bobzien was on travel this evening and had asked that he handle the next case for him. Therefore, Chairman Murphy turned the Chair over to Parliamentarian Huber.

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FDPA-82-C-056-4 – SELLS FLOTO INC. – Appl. to amend the final development plan for RZ-82-C-056 to permit the addition of a fast food restaurant as a secondary use and change in parking on property located on the S. side of Westwood Center Dr. at its intersection with Leesburg Pike on approx. 9.07 ac. zoned PDC, SC and HC. Tax Map 29-3((20))1, 2, 4. CENTREVILLE DISTRICT. PUBLIC HEARING.

John C. McGranahan, Esquire, with Hunton & Williams, reaffirmed the affidavit. There were no disclosures by Commission members.

Commissioner Murphy advised the Commission that revised development conditions dated March 5, 1992, had been distributed this evening with very few underlined changes.

Ms. Teresa Hooper, Zoning Evaluation Division (ZED), Office of Comprehensive Planning (0CP), presented the staff report, a copy of which is contained in the date file. She said that the applicant was seeking to amend the final development plan approved by the Board of Supervisors on November 18, 1985. Ms. Hooper indicated that the subject application proposed to clarify the secondary uses permitted within the existing Westwood Development, and modify the parking requirement for the development in accordance with the office standards which were approved September 1989. Ms. Hooper concluded that the application was in conformance with the Zoning Ordinance and in harmony with the Comprehensive Plan, subject to the proposed development conditions dated March 5, 1992.

Mr. McGranahan indicated that this application was a simple, straight-forward one and recommended approval by the Commission, subject to the proposed development conditions.

There being no speakers, no rebuttal, and no closing staff comments, Parliamentarian Huber closed the public hearing and recognized Commissioner Murphy for action on the case. (Verbatim excerpts are contained in the date file.)

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The Commission recessed at 8:55 p.m. in order to establish a quorum and reconvened at 8:58 p.m.

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In Commissioner Bobzien's absence, Commissioner Murphy MOVED THAT THE PLANNING COMMISSION APPROVE FDPA-82-C-056-4, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS RECEIVED TONIGHT AND DATED MARCH 5, 1992.

Commissioner Byers seconded the motion which passed unanimously with Commissioner Hanlon not present for the vote; Commissioners Bobzien, Harsel, Sell and Thomas absent from the meeting.

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Chairman Murphy resumed the Chair at this time.

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ZONING ORDINANCE AMENDMENT (CHILD CARE CENTERS) – On the matter of an amendment to Chapter 112, Zoning Ord. of the 1976 Code of the County of Fairfax, as follows: to amend Articles 4 & 20 to establish a new use of child care centers for occasional care & to permit this use in the C-7 District by right when located in the main structure of a regional shopping center. PUBLIC HEARING.

Ms. Leslie Johnson, Zoning Administration Division (ZAD), Office of Comprehensive Planning (OCP) presented the staff report, a copy of which is contained in the date file. She said that the amendment revised the definition of a child care center to clearly distinguish between those providing care on a regular basis and one providing short term, occasional care. Ms. Johnson called attention to a memorandum from Jane Gwinn, Zoning Administrator, OCP, dated March 11, 1992, which recommended a revision to the definition of a child care center for occasional care in order to clarify that the limitations of four hours in any twenty-four hour day, and a maximum of ten days per month, would not apply to the facility, but would apply to the care per child. Ms. Johnson said that staff recommended approval of the proposed amendment with the revision stated in the March 11, 1992 memorandum.

Chairman Murphy called for speakers on this case.

Ms. Nancy Jackson represented the Fairfax County Chamber of Commerce's Planning and Land Use Committee who were in support of the proposed amendment. She said that such child care centers would provide a much needed service for shoppers and an attractive amenity for retailers in the regional shopping centers. (See position statement contained in the date file.)

Lynne Strobel, Esquire, with Walsh, Colucci, Stackhouse, Emrich & Lubeley, P.C., said that the proposed Ordinance Amendment would result in an implementation of a unique service to retail shoppers in Fairfax County. She added that not only would residents benefit by having a safe and secure environment to leave their children in while shopping, but the regional mall retailers would benefit from increased patronage.

Chairman Murphy asked whether there would be a procedure established if the four hour limit was taken advantage of by anyone. Ms. Johnson said that based on the definition of the amendment, enforcement of the zoning laws could go into effect and action would be taken.

Commissioner Byers suggested that the definition be put into the record instead of referring to it in a memorandum. He suggested that the last sentence of the definition read: "Such care per child shall not exceed four hours."

There being no further speakers or comments from staff or the Commission, Chairman Murphy closed the public hearing and recognized Commissioner Baldwin for action on the case. (Verbatim excerpts are contained in the date file.)

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Commissioner Baldwin MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS ADOPT AN AMENDMENT TO THE ZONING ORDINANCE, ARTICLES 4 AND 20, CHILD CARE CENTERS FOR OCCASIONAL CARE, AS PRESENTED IN THE STAFF REPORT DATED FEBRUARY 18, 1992, MODIFIED AS FOLLOWS:

> ON PAGE 3, ADD THE WORDS "PER CHILD", SO THAT THE PHRASE WOULD READ: ". . . SUCH CARE PER CHILD SHALL NOT EXCEED . . ."

Commissioner Byers seconded the motion which passed unanimously with Commissioner Hanlon not present for the vote; Commissioners Bobzien, Harsel, Sell and Thomas absent from the meeting.

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PCA-84-P-084 – FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY – Appl. to amend the proffers for RZ-84-P-084 to permit revisions to previously approved residential development including addition of affordable dwelling units (du) at a density of 24.65 du/ac. on property located in the N.W. quadrant of the intersection of Legato Rd. & Centennial Blvd. on approx. 6.37 ac. zoned PDC. Comp. Plan Rec: Mixed use. Tax Map 46-3((1))43A, 43B. (Concurrent with FDPA-84-P-084.) SULLY DISTRICT.

FDPA-84-P-084 – FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY – Appl. to amend the final development plan for RZ-84-P-084 to permit revisions to previously approved residential development including addition of

affordable dwelling units (du) on property located in the N.W. quadrant of the intersection of Legato Rd. & Centennial Blvd. on approx. 2.07 ac. zoned PDC. Tax Map 46-3((1))43B. (Concurrent with PCA-84-P-084.) SULLY DISTRICT. JOINT PUBLIC HEARING.

Mr. Michael Scheurer, Director, Division of Housing Development, Department of Housing and Community Development, reaffirmed the affidavit. There were no disclosures by Commission members.

Ms. Denise James, Zoning Evaluation Division (ZED), Office of Comprehensive Planning (OCP), presented the staff report, a copy of which is contained in the date file. She said that the proposed PCA/FDPA applications were in conformance with the Plan recommendations for office mixed-use development and with the Plan policies for increasing affordable housing opportunities. She added that the applications met the checklist for the Fairfax Center area and all applicable Zoning Ordinance requirements. Staff therefore recommended approval of PCA-84-P-084, subject to the execution of proffers consistent with those dated February 24, 1992. Ms. James noted that there would be additional proffer language added relating to separating the two parcels involved. Staff also recommended approval of FDPA-84-P-084, subject to the proposed development conditions contained in Appendix lA of the staff report; subject to the Board's approval of the PCA application; and approval of the modification of transitional screening requirement along the northern lot line pursuant to Paragraph 5, Section 13-304 of the Zoning Ordinance.

Mr. Scheurer said that the Redevelopment Authority had successfully dealt with all of the issues raised by staff. He added that the Authority would do their best to maintain architectural compatibility with the Evans Company development and would provide a bus shelter on site. He noted they would attempt to purchase two additional lots between their parcels and the Assembly of God Church which would provide superior passive recreation for residents and would give more open space. He added that the negotiations appeared to be successful but the Authority had not closed on the deal as of this evening.

In response to Commissioner Huber's question on recreation, Mr. Scheurer said that if the Authority could purchase the two adjoining parcels, they would add a multi-purpose court within the development. He said they hoped to add a community room, which could be used for after school and after hour small functions.

There being no further comments by staff or the Commission, Chairman Murphy called the only listed speaker for this case.

Ms. Geneva Cox, 2666 Military Road, Arlington, the only listed speaker, did not respond when called by Chairman Murphy. He then called for speakers from the audience.

Mr. Edward Byrne, representing the Evans Company, spoke in favor of the application and recommended approval.

Chairman Murphy noted that no rebuttal was necessary. Ms. James had no closing staff comments; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Koch for action on the case. (See verbatim excerpts contained in the date file.)

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Commissioner Koch RECOMMENDED TO THE BOARD OF SUPERVISORS APPROVAL OF PCA-84-P-084, SUBJECT TO THE EXECUTION OF DRAFT PROFFERS CONSISTENT WITH THOSE DATED FEBRUARY 24, 1992, AS AMENDED TONIGHT.

Commissioner Hanlon seconded the motion which passed unanimously with Commissioners Bobzien, Harsel, Sell and Thomas absent from the meeting.

Commissioner Koch also RECOMMENDED APPROVAL OF FDPA-84-P-084, SUBJECT TO THE BOARD'S APPROVAL OF PCA-84-P-084, AND SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS CONTAINED IN THE STAFF REPORT DATED FEBRUARY 26, 1992.

Commissioner Hanlon seconded the motion which passed unanimously with Commissioners Bobzien, Harsel, Sell and Thomas absent from the meeting.

Commissioner Koch then RECOMMENDED APPROVAL OF THE MODIFICATION OF THE TRANSITIONAL SCREENING REQUIREMENT ALONG THE NORTHERN LOT LINE PURSUANT TO PARAGRAPH 5 OF SECTION 13-304 OF THE ZONING ORDINANCE.

Commissioner Hanlon seconded the motion which passed unanimously with Commissioners Bobzien, Harsel, Sell and Thomas absent from the meeting.

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SP-92-M-001 – VAN PHUOC BUDDHIST CONGREGATION, INC. – Appl. under Sects. 3-303 and 8-915 of the Zoning Ord. to permit a place of worship in an existing dwelling & permit a waiver of the dustless surface requirement on property located at 6347 Landess St. on approx. 20,271 sq. ft. of land zoned R-3. Tax Map 72-1((8))26. MASON DISTRICT. PUBLIC HEARING.

(NOTE: Spelling of some of the Vietnamese names may not be correct -- staff did not have access to an interpreter.)

Ms. Yen Hendrix, Interpreter, introduced Reverend Vui Tran, President of the Van Phuoc Buddhist Congregation, and reaffirmed the affidavit. There were no disclosures by Commission members.

Ms. Lori Greenlief, Zoning Evaluation Division (ZED), Office of Comprehensive Planning (OCP), presented the staff report, a copy of which is contained in the date file. She said that the BZA would hear this special permit on March 31, 1992. She called attention to two items submitted to the Commission this evening: 1) photographs which showed existing vegetation; and 2) an original staff report with an addendum that addressed a revised submitted plat. She indicated that staff believed the proposed use was not in harmony with the Comprehensive Plan which emphasized the need to maintain and preserve existing residential neighborhoods. She also stated that staff believed the size, shape and location of the lot did not allow the provision of the necessary measures to ensure that the use was compatible with the low density character of the R-3 District. Based on the aforementioned conclusions and others reached in the staff report, Ms. Greenlief indicated that the use did not meet the standards for approval of a special permit and recommended denial of the application. (A copy of the staff report may be found in the date file; photographs were not submitted for the record.)

Commissioner Byers, with reference to use of the site and staff's comment that the application was incompatible, asked Ms. Greenlief whether or not staff normally allowed places of worship in residential areas so that the public could walk to churches. Ms. Greenlief responded that through the special permit process churches were allowed in residential neighborhoods and in that respect the use was compatible. Commissioner Byers and Ms. Greenlief had a brief discussion regarding the applicant's ability to park all its vehicles on site, especially during special holidays. Ms. Greenlief said that seven parking spaces provided the minimum requirement for a twenty-seat church plus two residential spaces.

In response to another question posed by Commissioner Byers, Ms. Greenlief stated that it appeared that if the applicant were required to provide twenty-five feet of screening, in addition to setting off the sewer pipe and including a parking lot for seven vehicles, they would not be able to provide adequate transitional screening to protect neighboring homes from the proposed nonresidential use.

There being no further questions from the Commission or comments by staff, Chairman Murphy called on the applicant's representative.

Ms. Hendrix stated that the Buddhist community needed a place to worship. She said that after a long period of work on their property with limited funds and voluntary help and donations from the Buddhist community they found themselves in an embarrassing situation and didn't know what to do. She said they had met with a realtor who helped them process the paperwork

necessary to purchase their property. She noted that their original intent was to use the property as an office for small scale Buddhist community activities, not as a pagoda. Ms. Hendrix then read from a letter (author not identified) which described the lack of religious freedom and atrocities the members of their community suffered under Communist rule in Vietnam. The author of the letter requested that they be allowed to hold two short services per week on Sundays to minimize neighborhood disruption and to promote good will. (A copy of the aforementioned letter was not submitted for the record.)

Chairman Murphy called the first name on the Speakers List.

Mr. Alan Bird, 6315 Landess Street, Alexandria, presented a petition for the record, a copy of which may be found in the date file. He listed increased automobile traffic throughout the day and night, Code violations within the Congregation's residence, erection of a fence around the property, proposed removal of a carport and paving over of the lot. Mr. Bird said that the area had just undergone a community improvement program and they did not wish to have anything spoil their efforts. He stated that the proposed use of the application was a gross invasion of a residential neighborhood. Mr. Bird said that he was requesting denial of the application on behalf of himself and his neighbors in Lincolnia Heights and the Park Lawn community. Mr. Bird distributed photographs to the Commissioners which were not submitted for the record.

Commissioner Byers commented that after looking at the photographs Mr. Bird submitted, the fence he had referred to as being a "monstrosity" was nothing more than a standard privacy fence. Mr. Bird responded by saying that the custom in the neighborhood was not to put up fences and they found the Congregation's fence to be offensive. Commissioner Byers then stated that he was concerned that Mr. Bird and the community he represented had indicated that a hearing on the application was a waste of the County's money. He said it bothered him that they sought to deny the applicant's right to due process. Responding to Commissioner Byers query as to whether or not these citizens had the same rights as other citizens, Mr. Bird said they did but he thought the application before the Commission this evening was an unreasonable request.

A brief discussion followed between Mr. Bird, Commissioner Byers and Chairman Murphy with respect to the one reported incident of persons egressing from the Congregation's property at 3:00 a.m. onto a public street.

The Chairman called the next listed speaker, Mr. Douglas Mullins, 6350 Hillcrest Place, Alexandria, who was not present at the meeting.

Mr. John Brian Carney, 6367 Landess Street, Alexandria, recommended denial of the application for the same reasons stated by Mr. Bird.

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In Chairman Murphy's absence from the room, Vice Chairman Hanlon assumed the Chair.

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Responding to Commissioner Byers' question, Mr. Carney said no one in their neighborhood had privacy fences; all existing fences were open, chain link variety.

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Chairman Murphy resumed the Chair.

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Commissioner Huber asked Mr. Carney if the community improvement project he and Mr. Bird referred to was a County project or a neighborhood bonding project. Mr. Carney responded that the project was a County improvement project funded by bonds. He said their neighborhood now had new curbs, gutters and sidewalks which greatly improved the drainage problems they had experienced over the years.

In response to Commissioner Koch's questions, Mr. Carney said he was not aware of any covenant that would prohibit erection of a privacy fence in their neighborhood and he did not believe it was illegal to do so.

Commissioner Hanlon noted, and Mr. Carney agreed, that it was possible for anyone in the neighborhood to put up a privacy fence and that the problem within the community was not necessarily the use or the intensity of the use, but that one neighbor had decided to depart from the community pattern.

Mr. John G. Lavoie, 6377 Landess Street, Alexandria, referred to a letter he had written to Ms. Greenlief concerning his objections to this application. (A copy of the letter may be found in the date file.) He reiterated the objections listed in the letter. He emphasized a breakdown in trust between the applicant and those persons residing in the neighborhood. He indicated that the 3:00 a.m. traffic problem described by previous speakers happened on the Vietnamese New Year. Mr. Lavoie clarified previous statements regarding the bond issue by saying that he believed the project was a joint effort because the citizens in the area had been assessed a certain amount of money for some of the improvements.

Commissioner Koch said he appreciated Mr. Lavoie's clarification of the reason for the early morning traffic and stated that he was sure there would be a lot of traffic in any given neighborhood throughout the County on our New Year, January 1st. Mr. Lavoie agreed and said that objections had been raised by elderly persons who had been awakened by automobiles turning around in their driveways and by headlights shining in their windows.

Commenting on Mr. Lavoie's testimony, Commissioner Hanlon said he was struck by the impact of the breakdown of trust between the applicant and their neighbors. He noted that if the use continued, as Mr. Lavoie had indicated, where commitments and representations were made and various inconsistencies arose, there was indeed too much actual intensity and that was an issue.

He asked if that was inherent in the situation and if an effort could be made to rebuild trust. He asked if imposing development conditions, having regular participation with their neighbors to minimize the impact, and talking through their problems would present a potential for being able to integrate the use as long as it was held to an appropriate size.

Mr. Lavoie responded by saying Commissioner Hanlon's intention was well taken but unfortunately the applicant's attorney had proposed those same things at the original citizens meeting. He said he thought that any further effort to bring this situation to an equitable conclusion would be highly unlikely.

In response to Commissioner Hanlon's query, Ms. Greenlief said that the BZA had placed terms on special permits and could impose any reasonable conditions such as a one-year expiration of approval if the applicant could not show that they had built trust and adhered to conditions. She said that one of the aspects of operation was that the BZA generally did not condition the hours of operation for uses such as this. She noted that the applicant had indicated that they would have Sunday services but they were not restricted to that.

Mr. Lavoie responded to Commissioner Byers question by saying that on Sundays, when the congregation held its services, he had observed cars parked on both sides of the street. He suggested that Commissioner Byers ask the residents who lived closer to the subject property how many cars parked on the street and where.

Commissioner Huber noted that Park Lawn School was at the end of Landess Street. She thought it would be easy for the applicant to enter into an agreement with the public schools to allow parking by their parishioners on the school lot and then they could walk to the temple. Mr. Lavoie agreed and noted that the Korean church, located across Lincolnia, seemed to do that. Mr. Lavoie said that the community sympathized with the fact that the Congregation had limited funds and had suggested, at the citizens meeting, that perhaps they could rent a school hall or other large facility that could accommodate the growth in their congregation as well. He said rental of such a facility could be done cheaply, for a period of time, until they had enough money to buy a larger facility. Commissioner Huber suggested that an agreement could be made with the applicant to ensure that when attendance at their services consistently went beyond a certain number of people they would move their services to a larger facility and the subject property could then revert to being the home of the priests. Mr. Lavoie reemphasized that the congregation was already too large for the present facility and that's what was in contention. A brief discussion followed regarding parking, stacking of cars, and allowance for green space on the lot.

Responding to Commissioner Strickland's question, Ms. Greenlief said that the six-foot high fence which formed a horseshoe around the house, was on the property line.

Mr. Paul Ngo, a resident of Fairfax County and a reporter for a Vietnamese newspaper, commented on testimony given by Messrs. Bird and Carney. He spoke of the quiet ways of the

Vietnamese people and the Buddhist religion and invited their neighbors to go to the temple and meditate with them. He said that the congregation was willing to work with its neighbors in order to live in peace and harmony. He stressed that the congregation was willing to continue its efforts to cooperate with community members with respect to problems raised concerning the type of fence used to surround the property, parking on neighborhood streets and hours of worship. He asked that the community accept the Vietnamese people and their customs just as they had accepted American customs.

Ms. Tu Ngac, a Fairfax County public health nurse, stated that she felt it was time for the Vietnamese community to have an adequate facility available to them where they could go to seek help for emotional and psychological stress and practice Buddhism and their traditional culture. She commented on the number of churches other religions had and the fact that there was nowhere for the fifteen to twenty thousand Buddhists in the area to worship. She requested approval of the application.

Commissioner Byers stressed to Ms. Tu that the issue before the Commission was not the establishment of a church and whether or not it could be located in that particular neighborhood. The issue, he said, concerned land use problems and whether or not the lot was big enough for the proposed use. He added that the Commission was also concerned about screening and whether or not the fence was adequate enough to protect the residents of the neighborhood.

Mr. Manfred C. Klatt, 6340 Landess Street, Alexandria, stated that he had been told that the property in question was to be purchased by a woman and her son. He said he found out after the fence went up and a lot of work had been done to the structure that it was going to be a temple. He, too, felt that the use of the property did not conform to the Comprehensive Plan. He read a letter into the record which was written by the former owner of 6347 Landess Street, which stated that they had sold their home in August, 1991 to Thuong Thay and Nguyen Thai and there was no mention made at that time that the dwelling would be used for a temple. Mr. Klatt said he had another letter which specified the property would be occupied by "a mother and her son." (These letters were not submitted for inclusion in the date file.) He said he had no problem with a family living on the premises but he had great concern that the proposed use would be precedent setting. He confirmed the testimony of others regarding the early morning traffic and recommended denial of the application.

Mr. Nguyen Thai, co-owner of the property at 6347 Landess Street, explained that once a week the Vietnamese community needed to gather their families and friends and practice their religion. He noted that they had adapted to the American culture but wished to keep their own culture alive so they could pass it down to present and future generations. He said the congregation was willing to work with its neighbors; that the fence was not erected to isolate them from the community; that they were quiet people who did not make loud noises when they worshipped; and, invited everyone to attend their services to see what transpires in the temple.

Responding to Commissioner Byers' question, Mr. Nguyen said there were between twenty and thirty people in their congregation, that two monks lived in the house, the others lived

elsewhere throughout Fairfax County and drove vehicles. Commissioner Byers noted that there were seven parking spaces and five of them were designated for the congregation. He asked how they intended to squeeze everyone in five cars. Mr. Nguyen said he was not sure that all those people could fit into five automobiles. Commissioner Byers stressed that adequate parking on the site was a major concern to the Commissioners. Mr. Nguyen, in answer to Commissioner Byers query, said that there were two services held at the temple each Sunday, one in the morning and one in the afternoon; that the whole congregation attended each one; and that he thought approximately seven cars were used to transport the people to the services.

Commissioner Strickland, in reference to the petition submitted for the record, noted that there were approximately 1,000 names on it and indicated to him that there was tremendous support for Buddhism and for the application before the Commission. (A copy of the petition is in the date file.) He noted that the addresses that accompanied the signatures were from all over Northern Virginia, Maryland and other areas. He then made reference to the title of the petition which began: "We, the members of the Vietnamese-American Buddhist community of Northern Virginia . . . ." and asked Mr. Nguyen if there were any other Buddhist temples in the area, other than the one in Mount Vernon. Commissioner Strickland inquired about the number of signatures on the petition, and stated that the indication was that the congregation had the potential for a much larger number of people attending services than was indicated earlier by Mr. Nguyen. He also wanted to know if all the petitioners were potential members of the Van Phuoc Congregation. Mr. Nguyen deferred to the interpreter, who in turn deferred to Reverend Tran.

With the assistance of the interpreter, Ms. Hendrix, Reverend Tran responded to Commissioner Strickland's questions concerning the scope of the congregation and the number of temples in the area. He said there were many Buddhist pagodas in the area including six pagodas in Northern Virginia, some larger and some smaller than the Van Phuoc Congregation.

Mrs. Liesa Kirste, whose property at 6351 Landess Street, Alexandria, was next door to the applicant's dwelling, commented on the traffic problem referenced in previous testimony. She said that there had been as many as fifteen or twenty cars parked in the back yard of 6347 Landess Street soon after the monks moved in. Mrs. Kirste said she had observed automobiles entering and leaving the property throughout the day, Monday through Saturday. She said she attended her own church on Sunday and could not comment on any activity that day. (A letter of protest from Mr. & Mrs. Kirste is in the date file.)

Ms. Thanh Nguyet Nguyen, 6704 James Lee Street, Falls Church, stated that she was the only member of her family residing outside of Vietnam. She stated that the temple and the priest were like family to her and when she was troubled she would go to the temple and seek advice. She asked the Commission to be understanding and grant approval of the application.

In answer to Commissioner Strickland's query, Ms. Nguyen said that in addition to the two monks residing at 6347 Landess Street, she knew of only two others; one in Centreville and one in Washington, D.C.

Ms. Jackie Hill, a resident of Park Lawn, asked why the application was being heard since it was her understanding that the structure had been already been gutted and was serving as a temple.

In response to Chairman Murphy's question, Ms. Greenlief said that the applicant had not been cited. She confirmed the Chairman's statement that if the application were to go before the Board of Zoning Appeals and they were to deny it, all activity on this property would summarily be closed down.

Ms. Hill, responding to previous comments regarding Sunday use of the nearby school parking lot by the congregants, stated that: 1) a limited amount of parking was available; and 2) the school was being used for church services on Sundays and had been for many years. She said there could be a confrontation if the temple's parishioners were to park in the school lot on Sundays.

Mr. Pan Nguyen, a resident of Fairfax County, expressed his opinion that the Buddhist community should have a chance to worship and grow and should be allowed to remain where it was until they could obtain enough money to build a larger temple in a non-residential area.

Mr. Edwin Cu said his congregation did not have enough money to buy a temple or rent a community center. He assured the Commission that the Buddhist religion was a quiet one of meditation. He commented that the early morning traffic mentioned by earlier speakers had occurred on their holiday which came about only once a year. He noted that between two and twenty worshiped there on a daily basis and therefore there was minimal traffic in the area. He urged support of the application.

Ms. Elinor Mary Barbee, 6356 Landess Street, Alexandria, stated that she was the first resident on the street. She expressed her objection to a church being permitted to locate in the residential neighborhood of Lincolnia Heights because she and her neighbors would have to bear the burden of paying more taxes because the temple was exempt, by law. She said she would have no objection to the temple's location if the Commission, the residents and the County authorities could ensure that the Van Phuoc congregation would abide by all the conditions set forth in the staff report.

Commissioner Huber, in rebuttal to Mrs. Barbee's statement that Fairfax County dismissed taxes to temples and churches, explained that the law was imposed by the State, not the County, and that that same law also stated that churches were compatible with residential areas. Ms. Barbee argued that the Commission would be putting the residents of Lincolnia Heights at a disadvantage because they would have to make up the difference. Commissioner Huber stated that that law applied to everyone.

Commissioner Hanlon said that the key issue before the Commission was a considerable degree of skepticism as to whether or not it would be possible to work out ways of ensuring that the conditions were complied with. He said he found it very disturbing to listen to the kind of debate

that had gone on this evening where, in a way, everyone was right and there was no apparent way to solve the problem. He commented that there were issues beyond land use with respect to building trust, understanding, respect and affection among neighbors of different ethnic backgrounds. He commented on the lack of understanding, which he shared, of exactly what the customs were of the congregation, how it would operate, and how it related to other Buddhist temples in the area. He commented that he felt the problem was solvable with extra work and communication on everyone's part.

Ms. Terry O. Lavoie, 6377 Landess Street, Alexandria, said she believed strongly in trying to work out agreements whenever possible and wished something could be worked out in this instance. She said she empathized with the congregation's need to worship but there appeared to be only four religious teachers to serve the needs of over a thousand people. She said nothing that she had read or heard indicated that those numbers could work, especially in her neighborhood.

In rebuttal Reverend Tran, through his interpreter, thanked the Commission and the Lincolnia Heights neighbors present at the hearing. He apologized for the problems caused in the neighborhood and explained that the temple had been created out of the Vietnamese community's need for a place to worship. He said that the congregation would rent a facility to celebrate their special occasions such as their New Year's Eve celebration. He assured everyone that beginning immediately they would not disturb their neighbors further and would strictly observe all regulations.

Responding to Commissioner Strickland's question, Reverend Tran said there were seven monks in the Washington area.

Commissioner Hanlon asked what the congregation proposed to do when the 21st person arrived at the pagoda, which would violate the condition of the permit. Reverend Tran said that whenever they had more than 20 persons, they would ask them to attend a different service and work the situation out in order to stay in compliance.

In answer to Commissioner Hubbard's query regarding the parking facilities and whether the monks had automobiles, Reverend Tran said they had two cars.

Ms. Greenlief declined to make a closing statement.

Commissioner Huber and Ms. Greenlief discussed the transitional screening and the fence on the subject property. Commissioner Huber commented that twenty-five feet, supplemented by plantings plus the fence, could work to provide a transitional yard and asked why staff's comments were so negative. Ms. Greenlief responded that staff's concern was that a waiver was necessary for this use in order to provide an adequate amount of screening and the required number of parking spaces. She explained that staff felt the fence and screening, as shown on the plat, would not provide adequate screening or visual relief, given the location of the fence as it presently existed.

In response to Commissioner Huber's comments regarding a Kingstowne case heard by the Commission last week, Ms. Kristen Abrahamson, Branch Chief, RZ/SE Evaluation Branch, OCP, said Kingstowne and this application were not comparable with respect to screening. She stated that a fence was generally required to be on the interior of the transitional screening so that the neighbors benefited from the screening and in this case it would not provide that benefit even if it was supplemented in the yard.

Commissioner Hubbard questioned the screening issues in the context of a modification of a house as a facility and the parking, in terms of the compatibility and destabilization issues. Would the argument, he asked, still apply if the building were on a main street. Ms. Greenlief said that the intent of the screening was not only to screen the buildings on the site but also the parking and the use of the site. She said that one of the primary concerns was the location of the site, central to the neighborhood. She added that placing such a facility along a major arterial was not a requirement.

There being no further questions or comments of staff, Chairman Murphy closed the public hearing and recognized Commissioner Strickland for action on the case. (Verbatim excerpts are contained in the date file.)

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Commissioner Strickland MOVED DEFERMENT OF THIS CASE, SP-92-M-001, TO A DATE OF MARCH 19, 1992, FOR DECISION ONLY, WITH THE RECORD REMAINING OPEN.

Commissioner Hanlon seconded the motion which passed unanimously with Commissioners Bobzien, Harsel, Sell and Thomas absent from the meeting.

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Chairman Murphy announced that the Board of Zoning Appeals (BZA) was scheduled to hear this application on Tuesday, March 31, 1992. He said he had been notified tonight that because the Board of Supervisors would be meeting in the Board Room on that date, the BZA had rescheduled its public hearing. They would now meet in Room 226, at the new Government Center building, 12000 Government Center Parkway.

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The meeting was adjourned at 11:14 p.m.
Peter F. Murphy, Jr., Chairman
Suzanne F. Harsel, Secretary

For a verbatim record of the meeting, reference may be made to the audio and video recordings which can be found in the Office of the Planning Commission of Fairfax County, Virginia.

Minutes by: Sandra L. Stever

Approved on: September 23, 1992

Mary A. Pascoe

Mary A. Pascoe, Clerk to the
Fairfax County Planning Commission