

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, NOVEMBER 13, 2014**

PRESENT: Peter F. Murphy, Springfield District
Janet R. Hall, Mason District
James R. Hart, Commissioner At-Large
Ellen J. Hurley, Braddock District
John C. Ulfelder, Dranesville District
James T. Migliaccio, Lee District
John L. Litzenberger, Jr., Sully District
Janyce N. Hedetniemi, Commissioner At-Large

ABSENT: Frank A. de la Fe, Hunter Mill District
Earl L. Flanagan, Mount Vernon District
Kenneth A. Lawrence, Providence District
Timothy J. Sargeant, Commissioner At-Large

//

The meeting was called to order at 8:15 p.m. by Chairman Peter F. Murphy in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

//

COMMISSION MATTERS

456A-B95-23-2 – VERIZON WIRELESS, 7920 Woodruff Court

Chairman Murphy: I'LL KICK IT OFF BY MOVING THE CONSENT AGENDA ITEM, WITHOUT OBJECTION.

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

//

SE 2014-SU-042 – MONTESSORI MANSION/NAIMA QADIR DAR

Commissioner Litzenberger: Thank you, Mr. Chairman. I wish to defer one of the cases this evening. It's SE 2014-SU-042, which is the Montessori Mansion daycare application. What's happened is the staff discovered it needs an FDPA before it can do their SE, so I'M GOING TO REQUEST WE DEFER THAT APPLICATION INDEFINITELY.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Hart. Is there a discussion? All those in favor of the motion to defer the public hearing indefinitely on SE 2014-SU-042, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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

//

SEA 94-M-047-02 – HOME DEPOT USA, INC. (Decision Only) (The public hearing on this application was held on November 5, 2014. A complete verbatim transcript of the decision made is in the date file.)

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

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

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

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

Chairman Murphy: Thank you.

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

Commissioner Hart: Second.

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

Commissioners: Aye.

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

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

Commissioner Hart: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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

//

RZ/FDP 2014-BR-007 – NVR, INC. (Decision Only) (The public hearing on this application was held on November 6, 2014. A complete verbatim transcript of the decision made is in the date file.)

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

impact of the future connection should be studied in more detail, VDOT does not require a traffic study for such a relatively small increase in overall traffic on adjacent roads. With Option A of this application, a full public road connection would be built and open to public use after the new roads are accepted by VDOT or in about two to three years. Back in 1979 this body, the Planning Commission, recommended approval of the development to the east, now called Deerfield Forest, with the understanding that when the acreage that is part of the current rezoning was eventually developed, connectivity would then be established. In contrast, under Option B no allowance would be made for the connection ever to be built. Connection C [*sic*] is a hybrid, with the necessary roads built in the new development, but no completed connection until some future date. If 20 percent of the traffic from the new development were to use the proposed connection, corresponding 100 fewer trips on Forest Hill, which currently carries about 500 cars a day. These numbers are miniscule compared to the 21,000 vehicles a day that Shirley Gate was already carrying, according to a VDOT report from 2012. We have heard and read and carefully considered the concerns of the neighbors who would be most affected by such a connection. Several speakers expressed concern that if these streets were to be connected then vehicles from not only these 40 new houses would use the connection but also the immediate neighbors, both to the east and west, who would use the new connection to get into and out of their neighborhoods. It is noted that some of the speakers who spoke in opposition to a connection also stated that if it were available, they would use it. A greater connection to the neighborhood is that other Lee Highway traffic and particularly traffic using Shirley would use the new connection to bypass heavy traffic jams. Some speakers requested some sort of traffic calming devices, perhaps even new stoplights at the intersection at Nancyann and Shirley Gate Road. Developers are not permitted on their own initiative to install speed bumps or stop signs or traffic signals on public roads. Those are all part of a formal process in which the county partners with VDOT, which also requires the community petition for such measures after certain minimum thresholds are achieved. However, developers are permitted to install stop signs on private roads and this applicant is offering to do so at the proposed "T" intersection at the tot lot. In addition, HOAs may limit parking on their private roads to HOA members and their guests, which will ease proposed – potential parking problems for the new residents in this development. My fellow commissioners who use Lee Highway are aware of the widening project currently under construction. When complete, eastbound 29 will gain not only an additional through lane but also a dedicated right-turn lane. These two additional traffic lanes should greatly approve – improve traffic flow and alleviate the desire to seek a bypass through neighborhood streets. As for traffic in the opposite direction – northbound Shirley Gate traffic seeking to make a left turn onto westbound Lee Highway – I am very familiar with the current pattern. This is how I got to this meeting this evening. Previous traffic studies are not clear regarding possible impacts from all these combinations and permutations and to add to the complications of predicting future traffic volumes. The County has funded and is about to begin a feasibility study regarding a potential connection from the Fairfax County Parkway to Shirley Gate at its intersection with Braddock Road. An additional, longer-term project is a potential grade-separated interchange at the intersection of Shirley Gate, Waples Mill, and Lee Highway. While the combined impact of all these projects is unknown, what is known is that Lee Highway is the site of all too many accidents. Last night, at about 6:40, was the third time in about as many months that my own trip was delayed by such an accident. Dozens of cars heading north on Shirley Gate Road chose to make U-turns back to Braddock Road to escape the jam. On such occasions the traffic through a new connection would become very heavy indeed; yet, an emergency bypass would be of great

value to the entire central Fairfax community and that's something we have to consider also – is the entire community. Even with the current Lee Highway widening, the proposed connection from Shirley Gate to the Parkway, and the more distant grade separation at the intersection of Shirley Gate and Lee Highway, we - the county - need more connectivity. With this application, we have a developer who is proffering to build a connection that the county planned 35 years ago. Traffic is much heavier now. Option C, to build the future connecting roads, yet block the connection until needed, is not feasible in part because any developer-proffered funds to connect the roads later cannot be held in escrow for longer than seven years. In any case, it would be poor planning to build a connection but not use it until after nearby roads approach gridlock. As it is, Option A, to build through this new subdivision a full public road connection to be open for public use after the issuance of the last occupancy permit, would still not be implemented until two to three years from now. This developer has made significant modifications to this application in response to suggestions and concerns raised by the staff, by the community, and by the Braddock Land Use Committee. Therefore, Mr. Chairman,

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

Commissioners Hall, Hedetniemi, and Migliaccio: Second.

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

Commissioner Hart: Mr. Chairman?

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

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

Chairman Murphy: Further discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2014-BR-007, Option A only, say aye.

Commissioners: Aye.

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

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

Commissioners Hall and Hedetniemi: Second.

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

Commissioners: Aye.

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

Commissioner Hurley: I move that the Planning Commission recommend that the Board of Supervisors direct the Director of DPWES to approve a deviation from the tree preservation target, in accordance with the deviation request letter included on the CDP/FDP.

Commissioners Hall and Hedetniemi: Second.

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

Commissioners: Aye.

Commissioner Hurley: And last-

Chairman Murphy: Opposed? Motion carries.

Commissioner Hurley: And lastly, I move that the Planning Commission approve FDP 2014-BR-007, Option A only, as depicted on the CDP/FDP, including a public road connection –

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

Commissioner Hurley: No.

Chairman Murphy: We do.

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

Kris Abrahamson, Zoning Evaluation Division, Department of Planning and Zoning:
Commissioner Murphy, in the original staff report there were actually development condition. The applicant, in subsequent proffers proffered to those, so they've been deleted. So there's no conditions at the present time.

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

Ms. Abrahamson: Yes.

Chairman Murphy: – and make it –

Commissioner Hurley: Correct, yes.

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

Commissioner Hurley: I’ll restate –

Chairman Murphy: Yes, go ahead.

Commissioner Hurley: I’ll restate the last one.

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

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

Commissioners Hall and Hedetniemi: Second.

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

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes.

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

Commissioner Hurley: “FULL PUBLIC ROAD CONNECTION.” Correct.

Commissioner Hart: You said “future” and I don’t think “future” is in the motion.

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

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

Commissioners: Aye.

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

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

//

ORDER OF THE AGENDA

Secretary Hall established the following order of the agenda:

1. SE 2014-SU-016 – MAI-HUONG THI NGUYEN/HELEN HOME DAYCARE, LLC
2. PCA 88-S-022 – UNION MILL ASSOCIATES LIMITED PARTNERSHIP
3. SE 2014-SU-044 – GITA D. KUMAR/PEEK-A-BOO CHILD CARE, INC.
4. SE 2014-SU-031 – MARY GRAY/ELF EXPLORING, LEARNING & FUN
5. RZ 2014-BR-001 – BLAGOJ SKANDEV (SD HOMES, LLC)

This agenda was accepted without objection.

//

SE 2014-SU-016 – MAI-HUONG THI NGUYEN/HELEN HOME DAYCARE, LLC – Appl. under Sect. 6-105 of the Zoning Ordinance to permit a home child care facility. Located at 13506 Ridge Rock Dr., Chantilly, on approx. 13,860 sq. ft. of land zoned PDH-2 and WS. Tax Map 44-4 ((2)) 193. SULLY DISTRICT. PUBLIC HEARING.

Mr. Thi Nguyen, applicant’s agent, Helen Home Daycare, LLC, reaffirmed the affidavit dated July 24, 2014.

There were no disclosures by the Commissioners.

William O'Donnell, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of application SE 2014-SU-016.

Commissioner Ulfelder asked if the language in the new Development Condition Number 12, regarding state licensure, was consistent with to the county’s saying, “complies with.” Mr. O'Donnell said yes, adding that the new conditions were subject to the state renewal of the license. Commissioner Ulfelder asked how the county would find out if someone’s childcare license was not renewed by the state. Mr. O'Donnell explained that the Fairfax County Office for Children would alert DPZ immediately, thus setting in motion an inspection to determine whether or not the facility was in violation of the county’s Zoning Ordinance.

Commissioner Litzenberger asked whether the home had a deck. Mr. O'Donnell said yes, adding that staff was in the process of determining whether it was actively permitted. When Commissioner Litzenberger asked how long it would take to find out, Mr. O'Donnell said approximately one week.

Commissioner Hall expressed concern about the Planning Commission addressing state requirements in the staff report. Ms. Abrahamson confirmed that the county did not have the authority to address state regulation, but added that staff worked diligently within their authority to ensure consistency between state and county regulations to ensure children's safety.

Commissioner Hart suggested that Development Condition Number 12 be revised to say that approval of the use would be contingent upon the existence and maintenance of a corresponding state approval for 12 children and, if and when the state approval ended, so too would the county's approval.

Mr. Nguyen concurred with the staff report. When Chairman Murphy asked Mr. Nguyen if he understood and agreed with the development conditions, dated November 13, 2014, Mr. Nguyen confirmed that he did. Chairman Murphy noted that Commissioner Litzenberger would defer the decision on this case and explained to Mr. Nguyen the procedures for his agreement with the development conditions at that meeting.

Commissioner Hart asked Mr. Nguyen where pickup and drop-off took place at the facility. Mr. Nguyen said most of the time vehicles parked in the driveway, with the rare occasion when more than two or three vehicles arrived at the same time and someone would park on the street. He explained that the driveway accommodated four vehicles and that pickup and drop-off times were staggered. When Commissioner Hart asked Mr. Nguyen if he would agree to an additional development condition in which all pickup and drop off would occur in the driveway rather than the street, Mr. Nguyen said yes.

Chairman Murphy called for speakers from the audience, but received no response. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Litzenberger for action on this item.

//

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

Commissioner Litzenberger: Thank you, Mr. Chairman. Well, based on the testimony tonight, I'd like the staff to conclude the research on that permit situation. And also, if you could, please review the latest set of conditions – development conditions with the applicant so he fully understands what he's committing to. Can you do that for us? Okay, with that Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND DEFER THE SE 2014-SU-016 TO A DATE CERTAIN OF NOVEMBER 20TH, 2014.

Commissioner Hall: Second.

Chairman Murphy: Seconded by Ms. Hall. Is there a discussion of the motion? All those in favor of the motion to defer the decision only on SE 2014-SU-016 to a date certain of November 20th, with the record remaining open for written comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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

//

PCA 88-S-022 – UNION MILL ASSOCIATES LIMITED PARTNERSHIP – Appl. to amend the proffers for RZ 88-S-022 previously approved for community retail to permit modification of proffers with an overall Floor Area Ratio (FAR) of .17. Located in the N.W. quadrant of the intersection of Union Mill Road and Braddock Road, on approx. 16.37 ac. of land zoned C-6 and WS. Comp. Plan Rec: retail and other. Tax Map 55-3 ((1)) 47A, 47B, 47C, 47F; 66-1 ((1)) 16D, 16E, and 16G. SULLY DISTRICT. PUBLIC HEARING.

Sarah Mariska, Esquire, Applicant's Agent, Walsh, Colucci, Lubeley, Emrich & Walsh, PC, reaffirmed the affidavit dated October 29, 2014.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had had two pending cases with Ms. Mariska's law firm in which there were attorneys representing adverse parties, but indicated that it would not affect his ability to participate in this case.

William O'Donnell, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), introduced Sharon Williams, ZED, DPZ, who presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of application PCA 88-S-022.

Ms. Mariska noted that the property had been rezoned in 1988; however, the proffers had prohibited veterinary use on the subject site. She stated that the application proposed no other changes to the property, adding that staff recommended approval of the application, along with the Western Fairfax County Citizens Association and Sully District Council.

Commissioner Litzenberger noted a citizen had expressed concern about dog waste disposal and asked Ms. Mariska to address the applicant's response. Ms. Mariska explained that a proffer was added requiring that the veterinarian office staff monitor the property, noting that a waste container be placed directly outside of the office.

Commissioner Migliaccio asked Ms. Mariska if there would be a rear access to the property. Ms. Mariska stated that customers would access the site in the front.

Commissioner Hart requested confirmation that the waste container would not be placed close to of the nearby restaurants. Ms. Mariska assured him that it would not.

Chairman Murphy called for speakers from the audience, but received no response. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Litzenberger for action on this item.

//

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

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

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

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

Commissioner Migliaccio: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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

//

SE 2014-SU-044 – GITA D. KUMAR/PEEK-A-BOO CHILD CARE, INC. – Appl. under Sect. 6-105 of the Zoning Ordinance to permit a home child care facility. Located at 5642 Powers Lane, Centreville, on approx. 4,334 sq. ft. of land zoned PDH-8, HC, and WS. Tax Map 54-4 ((26)) 201. SULLY DISTRICT. PUBLIC HEARING.

Gita D. Kumar, Owner, Peek-A-Boo Child Care, Inc., reaffirmed the affidavit dated July 23, 2014.

There were no disclosures by the Commissioners.

William O'Donnell, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of application SE 2014-SU-044.

Ms. Kumar stated that she had been a childcare provider for 22 years and was active in the county's Fairfax Futures and School Readiness programs. She also noted that she was a member of the Child Care Advisory Council.

Commissioner Hart asked Ms. Kumar where pickup and drop-off took place at her facility. Ms. Kumar said that people dropped off and picked up their children from the driveway. When Commissioner Hart asked her if she would agree to an additional development condition in which all pickup and drop off would occur in the driveway rather than the street, Ms. Kumar said yes. When Commissioner Hart asked her if she would accept a development condition stating that the special exception approval would be contingent upon an existing corresponding state approval for 12 children, Ms. Kumar said yes.

Chairman Murphy called for speakers from the audience, but received no response. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Litzenberger for action on this item.

//

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

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

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

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

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

Mr. O'Donnell: December 2nd.

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

Chairman Murphy: Okay.

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

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

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

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

Commissioner Hall: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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

//

SE 2014-SU-031 – MARY GRAY/ELF EXPLORING,
LEARNING & FUN – Appl. under Sect. 6-105 of the Zoning Ordinance to permit a home child care facility. Located at 4180 Whitlow Pl., Chantilly, on approx. 4,228 sq. ft. of land zoned PDH-20 and WS. Tax Map 44-2 ((23)) 22. SULLY DISTRICT.
PUBLIC HEARING.

William O'Donnell, Zoning Evaluation Division, Department of Planning and Zoning, informed the Chairman of the Commission that the applicant was not present and suggested that the public hearing be deferred.

Commissioner Hall noted that the subject dwelling was rented and asked if the child care owner had been permitted by the homeowner to make the changes proposed in this application. Mr.

O'Donnell said that she was, adding that a consent form was on file with the county. Commissioner Hall suggested that the form be included with the application for the public hearing.

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

//

Chairman Murphy: All right, Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman. I - - let me think, here. I move that the - - I move that the Planning Commission defer the - - excuse me. I MOVE THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR SE 2014-SU-031 TO A DATE CERTAIN OF NOVEMBER 20TH, 2014.

Commissioner Hall: Second.

Chairman Murphy: Seconded by Ms. Hall. Is there a discussion of the motion? All those in favor of the motion to defer a public hearing on SE 2014-SU-031 to a date certain of November 20th, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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

//

RZ 2014-BR-001 – BLAGOJ SKANDEV (SD HOMES, LLC) –
Appl. to rezone from R-1 to R-3 to permit residential development with a total density of 2.06 du/ac. Located on the E. side of Twinbrook Road approx. 900 ft. S. of its intersection with Braddock Road on approx. 42,209 sq. ft. of land. Comp. Plan Rec: 2-3 du/ac. Tax Map 69-3 ((1)) 31. BRADDOCK DISTRICT.
PUBLIC HEARING.

Blagoj Skandev, Owner, SD Homes, reaffirmed the affidavit dated March 11, 2014.

There were no disclosures by the Commissioners.

Joseph Gorney, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of application RZ 2014-BR-001.

Commissioner Hurley described the existing road to the site, noted that the site would have two stormwater trenches, and pointed out that there were few trees onsite except for the perimeter, as there had once been a house on the property.

Commissioner Hart referenced Proffer Number 10, Stormwater Management, in the proffer package dated November 13, 2014, and asked for clarification on paragraph 10b, which stated that each homeowner would be responsible for the stormwater trenches on his corresponding lot. Mr. Gorney stated that Commissioner Hart had interpreted the paragraph correctly. Commissioner Hart expressed concern about paragraphs 10c and 10d, regarding notification and delivery of written materials on the maintenance of the stormwater facilities respectively, and asked if they would apply only to the initial purchasers, suggesting that the language be clarified to include later homebuyers.

Mr. Skandev said that the majority of stormwater maintenance included clearing the facility of dirt and/or leaves, a fairly simple and regular maintenance. He added that Fairfax County required regular inspection of such facilities to ensure they worked properly and pointed out that new homeowners would know how to maintain the facility because the county provided maintenance instructions. He then added that the proffers need not be modified as suggested.

Chairman Murphy called the one listed speaker and recited the rules for testimony.

Miguel Marino, 5063 Queens Wood Drive, Burke, expressed concerns about the root pruning of trees, both within the proposed easement and on his property. He stated that over the previous winter, two trees had fallen on his property and noted his fear that the proposed pruning would render the existing trees unstable. He also pointed out that an existing tree that stood near his driveway was not listed on the applicant's tree inventory and wished to know what would happen to it. Additionally, he wished to know whether the applicant would be liable for replacing trees on his property that might be damaged as a result of the proposed development. In addition, he asked what buffering would be put in place to provide privacy between his and the new development.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Mr. Skandev, who explained that root pruning was performed to improve the life of trees, adding that it would not destabilize the existing trees. Addressing Mr. Marino's concerns about the trees in the easement, Mr. Skandev noted that trees were not to be planted in a stormwater easement and, therefore, any trees currently in the easement must be removed. He stated that while most of the trees were on his property, there was one that was on Mr. Marino's whose roots extended onto his property, and said that all of the roots would be pruned.

Responding to a question from Commissioner Hall, Mr. Skandev reiterated that he would be pruning the roots of a tree which extended onto his lot from Mr. Marino's lot. Mr. Gorney explained that all of the root pruning would take place on the project site, adding that it was necessary in order to install the infiltration lines. Commissioner Hall asked if the applicant

would replace the neighbor's tree if the pruning destabilized it. Mr. Gorney said that a tree appraisal and subsequent tree replacement bond could resolve the issue, but noted that the current proffers did not include a bond for the root pruning.

Commissioner Hurley referenced the Landscape Plan on Sheet 5 in the staff report and briefly explained the existing vegetation and what would need to take place for the development to occur.

Commissioner Hart asked whether the trees near the sewer easement would be affected by the excavation site. Mr. Gorney said that they likely would be. Commissioner Hart asked what aftercare would be provided for trees on the adjacent homeowner's property. Mr. Gorney explained that the trees had been planted on the property line, adding that a number of them were in the easement. He said that a discussion with the homeowner revealed that the homeowner anticipated that the trees would be destabilized as a result of the excavation and would understand the need for their removal. Further discussion ensued between Commissioner Hart and Mr. Gorney with regard to the limits of clearing and grading, the impact on the trees onsite, and possibly adding language to the proffers to address tree replacement.

Mr. Skandev added that he would ensure that the trees were properly taken care of in relation to the infiltration trenches and the onsite excavation.

Commissioner Hurley again referenced Sheet 5 in the staff report and reiterated her earlier remarks regarding the existing road to the site, the stormwater flow and proposed trenches, and suggested that staff arrange a site visit over the next week for the applicant, neighbors, county staff, and urban forester to assess the adequacy of the proposed pre-protection measures and the limits of clearing and grading on the site. She added that the site visit would allow the Commission to address the adequacy of these measures and any remaining concerns.

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

//

Chairman Murphy: Public hearing is closed; Ms. Hurley.

Commissioner Hurley: Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION DEFER FOR ONE WEEK the - - FOR DECISION ONLY the - - case RZ 2014-BR-001 TO A DATE CERTAIN OF 20 NOVEMBER, 2014, WITH THE RECORD TO REMAIN OPEN FOR PUBLIC COMMENT.

Commissioner Litzenberger: Second.

Chairman Murphy: Seconded by Mr. Litzenberger. How are we doing on the 20th? It seems like everything is going on the 20th. Are we going way over the –

Commissioner Hurley – It's just a decision only. It shouldn't be too –

Chairman Murphy: I know but, I mean, we have about eight.

Commissioner Hart – I think we're deferring both... I think we probably are deferring the whole

Chairman Murphy: Yes but, I mean, just the verbatims on the deferral – on the decisions only – to spread it out. Can you do it on the 13th? Is that okay?

Commissioner Hurley: The 19th?

Chairman Murphy: Nineteenth?

Commissioner Hurley: Does that work for staff? Six days?

Chairman Murphy: You're not here on the 19th?

Joseph Gorney, Zoning Evaluation Division, Department of Planning and Zoning: I'm not here on the 19th.

Chairman Murphy: Okay, we'll do it on the 20th. All those in favor of the motion to defer RZ 2014-BR-001 for decision only with the record remaining open for written to November 20th, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

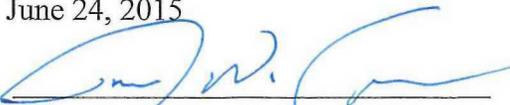
The motion carried by a vote of 8-0. Commissioners de la Fe, Flanagan, Lawrence, and Sargeant were absent from the meeting.

//

The meeting was adjourned at 9:46 p.m.
Peter F. Murphy, Chairman
Janet R. Hall, Secretary

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: Jeanette Nord
Approved on: June 24, 2015


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