MINUTES OF
PLANNING COMMISSION MEETING
DECEMBER 6, 1995

PRESENT: John R. Byers, Mount Vernon District
Carl A. S. Coan, Jr., Providence District
Judith W. Downer, Dranesville District
Janet R. Hall, Mason District
Robert v. L. Hartwell, Commissioner At-Large
John W. Hunter, Commissioner At-Large
Ronald W. Koch, Sully District
Peter F. Murphy, Jr., Springfield District
John M. Palatiello, Hunter Mill District
Carl L. Sell, Jr., Lee District
Alvin L. Thomas, Commissioner At-Large

ABSENT: Suzanne F. Harsel, Braddock District

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The meeting was called to order at 8:23 p.m. by Chairman Peter F. Murphy, Jr.

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COMMISSION MATTERS

As previously announced, Commissioner Byers MOVED THAT WE DEFER THE PUBLIC HEARING ON SE-92-V-017, STAR ENTERPRISE, TO DECEMBER 13, 1995.

Commissioner Sell seconded the motion which carried unanimously with Commissioner Thomas not present for the vote; Commissioner Harsel absent from the meeting.

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At the request of the applicant, Commissioner Downer MOVED TO DEFER THE PUBLIC HEARING ON RZ-95-D-018 AND FDP-95-D-018, EDGEMOORE HOMES PARTNERSHIP, TO A DATE CERTAIN OF FEBRUARY 22, 1996.

Commissioner Byers seconded the motion which carried unanimously with Commissioner Thomas not present for the vote; Commissioner Harsel absent from the meeting.

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In order to allow time to review revised proffers and the development plan, Commissioner Downer MOVED TO (FURTHER DEFER) THE DECISION ONLY ON RZ-95-D-040

(THE MOST REVEREND JOHN R. KEATING, BISHOP OF THE CATHOLIC DIOCESE OF ARLINGTON, VIRGINIA) FOR ONE WEEK TO DECEMBER 14, 1995.

Commissioner Byers seconded the motion which carried unanimously with Commissioner Thomas not present for the vote; Commissioner Harsel absent from the meeting.

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Referring to RZ-95-D-037, Allan H. Gasner and Frank S. Gordon, Trustees, scheduled for public hearing tonight, Commissioner Downer explained that since she had changed real estate companies less than one year ago and her former employer had business with the applicants, she would recuse herself from this case. To avoid any conflict perception, Commissioner Downer asked Commissioner Murphy for handle this case for her.

Commissioner Murphy, in order to allow time to familiarize himself with the issues, MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING ON RZ-95-D-037 TO A DATE CERTAIN OF JANUARY 11, 1996.

Commissioner Byers seconded the motion which carried unanimously with Commissioner Thomas not present for the vote; Commissioner Harsel absent from the meeting.

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Commissioner Coan announced his intent to defer the public hearing on SE-95-P-056 (Templeton & Templeton Partnership) from December 7, 1995 to December 13, 1995.

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Commissioner Coan announced his intent to (further) defer the decision only on RZ-95-P-029 and FDP-95-P-029 (Edgemoore Homes, L.L.C.) from December 7 to December 13, 1995.

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Chairman Murphy called the Commission's attention to the Draft "State of the Plan" Report in their packets that night. He noted that staff would have a briefing on this document on December 14, 1995.

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<u>456-D94-11 – AMERICAN PCS, LP</u>
<u>SE-94-D-068 – AMERICAN PCS, LP</u> (Decisions Only)
(The public hearing on these applications was held on November 2, 1995. A complete verbatim transcript of the decision made on these items is included in the date file.)

Commissioner Downer MOVED THAT THE PLANNING COMMISSION DENY 456-D94-11.

Commissioner Byers seconded the motion which carried by a vote of 9-0-1 with Commissioner Murphy abstaining; Commissioner Thomas not present for the vote; Commissioner Harsel absent from the meeting.

Commissioner Downer then MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT DENY SE-94-D-068.

Commissioner Byers seconded the motion which carried by a vote of 9-0-1 with Commissioner Murphy abstaining; Commissioner Thomas not present for the vote; Commissioner Harsel absent from the meeting.

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ORDER OF THE AGENDA ITEMS

In the absence of Secretary Harsel, Chairman Murphy called the only public hearing on tonight's agenda: 456-S95-30 - Voyten & Associates, Inc.

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Because the case was in the Springfield District, Chairman Murphy asked Vice Chairman Sell to take the Chair.

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> 456-S95-30 – VOYTEN & ASSOCIATES INC. – Under the provisions of Sec. 15.1-456 of the Code of VA, as amended, to construct a miniature golf course & bumper boat pond at Braddock Park, located at 13451 Braddock Rd., Centreville. Tax Map 66-1((1))12. Area III. SPRINGFIELD DISTRICT. PUBLIC HEARING.

Before the presentation of the staff report and in order to clarify misinformation which had been circulating about the application, Commissioner Murphy explained that the Capital Improvement Program for Fiscal Years 1995 to 1999 was not allocating funds to the Park Authority nor were bond referendums scheduled. He stated that the Park Authority Board, in efforts to save tax payers money, was looking to the private sector to provide certain recreational facilities. He noted the importance of providing the right mix of active and passive recreation to meet the demands of the population the park served. Commissioner Murphy explained that the request for proposal (RFP) process utilized by the Park Authority solicited the facilities which were contained in this 456 application. He noted that the RFP had been duly advertised and reminded the public that this application was before the Commission tonight to be judged on the three

criteria established in the State Code for public facility applications: character, location, and extent. He stated that the Commission could not be involved with restriction or restraint of trade. Chairman Murphy further explained that the applicant had filed an appeal before the Board of Zoning Appeals because he believed his application had not received due process. Commissioner Murphy stated that there was some contention as to the exact filing date of the application in that a 456 application must be heard within 60 days of its filing date.

Mr. David Jillson, Planning Division (PD), Office of Comprehensive Planning (OCP), presented the staff report, a copy of which is contained in the date file. He pointed out that the proposed facility was not included in the Park's approved Master Plan and that the proposed buffering was inadequate, especially in view of the fact that a major portion of it was located in a road right-of-way, which questioned its long-term existence. He added that the noise level of bumper boats might be undesirable to nearby residents and that there was a potential conflict with an existing Virginia Power transmission facility. In conclusion, Mr. Jillson said that the proposed facility did not satisfy the location, character, and extent criteria and staff recommended that the application be denied.

In response to Commissioner Palatiello's question, Ms. Lynn Tadlock, Division Director of Planning and Development for the Park Authority, explained that the Park Authority had determined that the proposed facility was within the scope of the type of uses allowed in a district park and therefore was not in conflict with the Braddock Park Master Plan.

Mr. David Marshall, PD, OCP, responding to a question from Commissioner Palatiello, explained that the applicant was a private operator under lease to the Park Authority and staff had determined that a 456 review was necessary since the Park Authority was the subject property owner. He added that, to his knowledge, this was the first time a 456 application had been submitted in the name of a private user.

In reply to a question from Commissioner Byers, Mr. Jillson stated that the proposed facility would not be located in a managed conservation area.

In response to a comment by Commissioner Koch, Mr. Jillson confirmed that approximately half of the proposed screening between the facility and Braddock Road could be lost if Braddock Road were widened in the future.

Commissioner Murphy commented on the precedent which could be set concerning private use of County parkland. He noted that the Park Authority should play a major role in the application process and that a system should be developed to regulate the procedure.

In response to questions from Commissioner Coan, Mr. Jillson confirmed that the applicant was currently the operator of another recreational use on the subject property, for which no 456 review was required or held because that use was shown on the Braddock Park Master Plan.

Vice Chairman Sell commented that the Park Authority should be the applicant because it was a public agency with a public trust to uphold.

Mr. Bernard C. Voyten, Jr., the applicant, explained that he planned a small, attractive recreational facility in a County park under a lease with the Park Authority. He noted that Braddock Park was a district park, and that the Comprehensive Plan recommended that active recreational facilities be provided on parkland. He maintained that the facility would generate thousands of dollars to the County during the term of its lease. Mr. Voyten maintained that the facility would provide needed wholesome family outdoor recreation opportunities and would not utilize areas appropriate for soccer or ballfields. He stated that adequate buffer and stormwater management would be provided, any noise generated from the use would be well below acceptable standards, and that a traffic study had determined that the use would have no adverse impact on the County's transportation system.

In response to questions from Commissioner Murphy, Mr. Voyten explained that several possible locations within the park had been discussed with the Park Authority, and that the currently proposed site had been chosen because it would not require removal of any trees. He said that other locations were rejected because they were too small or heavily treed.

Commissioner Murphy asked for staff comment on this issue and Mr. William Ference, landscape architect for the Park Authority, pointed out the locations proposed for the miniature recreational vehicles on the plan that was presented at the Park Authority's public hearing. He noted that the miniature vehicles were not a part of the application before the Planning Commission tonight.

In response to Commissioner Hall's questions, Mr. Voyten explained that the lease period would begin when a non-residential use permit was issued and would run for 15 years, with options for two 5-year renewals. He added that his contract with the Park Authority specified that all applicable permits must be acquired before the lease would become effective.

In reply to questions from Commissioner Coan, Mr. Voyten stated that he currently had a lease with the Park Authority for operation of the batting and golf practice cages at Braddock Park. He added that that lease also ran for 15 years with two renewal options. He stated that a 456 review had not been required for that site.

Vice Chairman Sell outlined the Planning Commission's rules for public testimony and called the first name on the speakers list.

Mr. Keith Miller, 13544 Sierra Drive, Clifton, was opposed to the application. He said that the noise and pollution from the proposed facility was unacceptable to the adjoining residential neighbors. A copy of Mr. Miller's position statement is in the date file.

Mr. Roger Williams, 4533 King Edward Court, Annandale, President of Fairfax Adult Softball, submitted written testimony, a copy of which is contained in the date file. He voiced his group's opposition to the proposal, stating that the use would ruin the park's natural beauty and its quality athletic facilities.

In response to a question from Commissioner Murphy, Mr. Williams said that any additional facilities would distract family members who came to watch softball games and would create parking problems.

Commissioner Murphy pointed out that Braddock Park was a district park and was located in a heavily populated area, and that additional active recreational facilities might be appropriate.

Mr. Robert Levy, 4507-J Hazeltine Court, Alexandria, spoke in opposition. He said that more softball fields were needed, not bumper boats or miniature golf. He also cited parking problems.

Mr. Wayne Bentley, 14831 Palmerston Square, Centreville, was opposed to the application because of the potential loss of green space. He also expressed the concern that the County would be left to manage the facility if the business was not successful and the operator wanted out of the lease. Mr. Bentley said that another softball field would be a better use for the subject site.

Mr. John Pace, 11806 Breton Court, #21A, Reston, pointed out that the Fairfax Adult Softball League had contributed significantly to the financial support of Braddock Park and that the proposed facility would be detrimental to the League. He said that the Master Plan for the park called for an athletic complex for the use of both adult and youth groups. He commented on parking problems which he said would be aggravated if the proposed facility was approved.

Mr. William Sikes, 3200 Adams Court, Fairfax, concurred with previous speakers in opposition. He said that the softball program co-existed well with other athletic activities, but would not be compatible with the proposed recreational facility.

Mr. Donald Law, 7701 Viceroy Street, Springfield, Executive Director of the Fairfax Adult Softball League, reiterated the points made by previous speakers concerning the benefits of additional softball fields and the disadvantages of bumper boats and/or miniature golf. (A copy of Mr. Law's statement is in the date file.)

Mr. Law responded to questions from Commissioner Murphy regarding his position, the length of the softball season and the number of tournaments scheduled during the season.

In response to a question from Commissioner Coan, Mr. Law confirmed that there was asbestos at the park which could cause problems for Mr. Voyten's proposal.

Commissioner Coan asked for staff comment on this issue, to which Ms. Tadlock said that asbestos would inhibit development, but would not prevent it.

Mr. Gary Reedy, 6404 Lake Meadow Drive, Burke, majority owner of Centreville Golf and Games, located approximately a mile and a half from the park, spoke in opposition to the application, citing the subject site's proximity to Braddock Road and the residential area

immediately across the road, noise pollution, and parking problems. Mr. Reedy discussed the financial aspects of the application, pointing out that the County was practically giving the property away if it allowed Mr. Voyten to lease the site for only $8500 a year.

In response to Commissioner Hall's questions, Mr. Reedy stated that he had already purchased his commercial property at the time the RFP was presented and therefore did not bid on the contract himself. He added that, in addition to his miniature golf facility nearby, there was another in Chantilly and two more in Manassas, indicating that there was no need for an additional facility as proposed by Mr. Voyten.

Commissioner Hall, Mr. Reedy, Vice Chairman Sell, and Commissioner Palatiello discussed what the RFP encompassed and where the other miniature golf facilities were located.

Commissioner Byers commented that everyone should confine their remarks to land use issues, not financial ones.

Mr. Robert Murphy, 6646 Rockland Drive, Clifton, spoke in opposition. He expressed his concern about the additional noise, lights, and traffic that would be generated by the proposed facility. Mr. Murphy submitted a petition containing approximately 120 signatures of Rocky Run residents opposed to the application, a copy of which is in the date file.

Mr. Scott Stevenson, 5101 Dahlgreen Place, Burke, was opposed to Mr. Voyten's proposal. He commented on the noise and lights that would adversely affect nearby residents. He spoke about possible environmental hazards and maintained that individual property owner’s rights must be protected. Mr. Stevenson submitted a petition of opposition with 14 signatures of residents along Braddock and Old Clifton Roads, a copy of which is in the date file.

Mr. John Henderson, 14005 Marblestone Court, Clifton, represented the Little Rocky Run Homeowners Association. He noted that the Association was opposed to the application, supporting the staff recommendation for denial. Mr. Henderson said that the proposed facility would not be compatible with the park and the area in general which had already suffered a significant loss of open space. He submitted a letter of opposition from the Association, a copy of which is in the date file.

Mr. George Chernesky, 6730 Jade Post Lane, Chantilly, spoke on behalf of the Southwestern Youth Association. He opposed what he characterized as an unsightly, noisy amusement park attraction in a County park. He spoke about the desperate need for ballfields in this area for youth sports activities, both diamond fields for baseball and softball as well as rectangular fields for soccer, football and lacrosse. (A copy of Mr. Chernesky's statement is in the date file.)

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The Commission went into recess at 11:05 p.m. and reconvened in the Board Auditorium at 11:27 p.m.

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Bernard Fagelson, Esquire, Fagelson, Schonberger, Payne and Deichmeister, stated that he represented a client who had an economic interest in an existing miniature golf course. He said, however, that he did not intend to discuss economics, but what might be considered subtle points of law. He questioned whether a 456 public hearing was the proper format for this application and whether it was in accord with the Braddock Park Master Plan. He maintained that the Park Authority had erred in determining the proposed facility to be within the scope of the type of uses allowed and that approval of the application would set a detrimental precedent that would have long term repercussions which residents in the area would have to live with for years. He suggested that the Commission deny this application.

Mr. Glenn Cornell, 6725 Cub Run Court, Centreville, spoke in opposition to the application. He said that the proposed facility would be too close to the road and would cause increased traffic which would complicate an already dangerous intersection.

Ms. Stephanie Long, 15120 Carlbern Drive, Centreville, spoke in favor of the application. She spoke about the need for family-oriented activities in the area and said that the proposed facility would be ideal for family entertainment. She said parks were for everyone, not just ball players.

Dr. Tom Sullivan, 5203 Knoughton Way, Chantilly, spoke in favor of the application. He stated that a variety of activities should be available for all ages and that the proposal would be a welcome addition to Braddock Park.

Mr. David Love, 14521 South Hills Court, Centreville, supported the application. He stated that he was a softball player, that there were six ballfields at Braddock Park already, and that another, family-type activity was needed for non-ball playing family members.

Mr. Jeffery Gilliland, 14252 Hard Forest Drive, Centreville, also supported the application. He stated that a variety of activities should be provided at Braddock Park and that while he was playing softball, his family would be able to make use of Mr. Voyten's proposed facility. He noted that there was also a lot of support in his neighborhood for the facility.

William Thomas, Esquire, Fagelson, Schonberger, Payne and Deichmeister, disclosed that he and Mr. Fagelson were attending the meeting with Mr. Reedy, but that in this particular instance, he was speaking as an individual. He gave his home address as 2925 Motherwell Court, Herndon. He agreed with previous speakers who indicated that a variety of uses was needed at County parks, but disagreed that bumper boats and miniature golf were the right type of uses for this particular park. He cited the poor location proposed and the noise issue as two reasons why this application should not be approved.

Mr. Stephen Fortier, 14403 Brookmere Drive, Centreville, supported the proposal. He said that good family-oriented activities were badly needed in the area.

Mr. Jack Noland, address unknown, noted that he was the soccer representative for Fairfax County and a member of the Fairfax County Athletic Council. He maintained that a survey had been made regarding the need for athletic facilities in Fairfax County and at no time had the type of recreational uses proposed by Mr. Voyten been suggested. He stated that the survey had revealed, however, a great need for more ballfields.

There being no further speakers, Vice Chairman Sell turned to Mr. Voyten for a rebuttal.

In regard to the asbestos issue, Mr. Voyten explained that soil testing indicated that there were mineral-bearing soils at Braddock Park that were known to sometimes contain asbestos. He added that no asbestos had been discovered during the construction of the batting practice cages. He noted that soil borings at the site selected for the proposed facility had shown that it was one of the areas in the park that had the most soil above the underlying rock foundation. Regarding the location of the facility, Mr. Voyten explained that the site had been chosen because it would require no tree removal and would not conflict with the existing ball fields. In conclusion, he stated that he was willing to work with the softball groups and other citizens.

In response to questions from Commissioner Hall, Mr. Voyten explained that he viewed himself as a private businessman, doing business with Fairfax County. He added that the proposed facility would be owned by Voyten and Associates, Incorporated, but that ownership of the land would remain with the Fairfax County Park Authority.

Mr. Jillson had no closing staff comments; however, Ms. Tadlock, in response to an inquiry from Vice Chairman Sell, explained that the Park Authority had issued a general RFP requesting proposals for recreational activities at seven different parks and that Mr. Voyten had responded with a proposal for Braddock Park. She added that a public hearing on his proposal was held by the Park Authority on November 30, 1994.

Mr. Jillson, in reply to questions from Commissioner Hall, explained that while the facility would be privately owned, it would be used by the public and was similar to a telecommunications tower that served the public, but was owned by a telecommunications company.

Commissioner Murphy stated that he had requested the County Attorney to review this issue for future applications, but that Mr. Voyten should not be penalized for following County staff's instructions as the successful bidder on a legally advertised RFP.

In response to a question from Commissioner Murphy, Ms. Tadlock said there was no plan at this time to construct additional ball fields at Braddock Park. She added that, in her opinion, the area proposed for Mr. Voyten's facility was too small for a ball field. As to whether there was room anywhere in the park for another ball field, she stated that that matter would require further review.

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

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Commissioner Murphy MOVED THAT THE PLANNING COMMISSION DEFER DECISION ON 456-S95-30 TO A DATE CERTAIN OF WEDNESDAY, DECEMBER 13, 1995, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENTS.

Commissioner Thomas seconded the motion which carried unanimously with Commissioner Koch not present for the vote; Commissioner Harsel absent from the meeting.

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At the conclusion of this case, Vice Chairman Sell returned the Chair to Chairman Murphy who adjourned the meeting.

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

Meeting taken by: Paula A. McFarland

Minutes by: Gloria L. Watkins

Approved on: April 16, 1997

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