

PCA 75-7-004-03/SE 2015-PR-021 – MERIDIAN SCIENCE 7980, LP

Decision Only During Commission Matters  
(Public Hearing held on January 13, 2016)

Commissioner Lawrence: Secondly, I have a decision to – decision only to move tonight. This is in the matter of Meridian Science – PCA 75-7-004-03/7E 2015-PR-021 [sic]. Mr. Chairman, we had the public hearing some time ago and the decision has been deferred while we were working on some issues raised then. These included a couple of principle matters, one of them being the use of crumb rubber as the material for the field. One of my colleagues here tonight will have a follow-on motion concerning that. We have resolved it, I do believe. Another issue was security and that turned out, essentially, to be a matter of law enforcement. And the third issue was noise. And working on the noise aspect, there are really two things to say. One is that someone – some people from the apartments up on Kidwell refer to the possible problem of noise – and I believe we're okay there because they're screened by the parking structure that will be erected. They're distant from the field. And I think we're – I think the – any noise will abate by the time it gets to them, so as not to be a problem. That's not the case at the other end of the field. And what the applicant has now proposed to do is to put a noise wall close to the Beltway and that's the biggest source of noise at that end of the field. There is still a little bit of tweaking to be done with that noise wall – the height of it and minor changes in one location. So what we're going to do is to take care of that before the thing comes up before the Board. And I think with that that – that issue is also resolved. And those were the principle things that we were concerned about. I must observe that the applicant and staff have worked very hard at close cooperative – cooperation during this period of time to get this to the position it is tonight. And tonight, I feel that I can move it. Therefore, Mr. Chairman, I move that the Planning – and I have three – three motions to make. I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE PCA 75-7-004-03, SUBJECT TO THE PROFFERS CONSISTENT WITH THOSE NOW DATED APRIL 11<sup>TH</sup>, 2016.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of the motion? Ms. Hurley.

Commissioner Hurley: Thank you, Mr. Chairman. Just one notation on the barrier wall – that it's cutting awfully close to that corner, which is very tight for a corner kick – people are playing soccer. So just – in that new barrier wall that you just referred to – to be careful not to cut into for the space needed for-

Commissioner Lawrence: -to make a corner kick.

Commissioner Hurley: -such as a corner kick.

Commissioner Lawrence: Understood. Understood. Applicant, is that noted? Thank you.

Chairman Murphy: All those in favor of the motion to recommend to the Board of Supervisors that it approve PCA 75-7-004-03, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Migliaccio: Mr. Chairman?

Chairman Murphy: Yes?

Commissioner Migliaccio: Abstain. Not here for the public hearing.

Chairman Murphy: Okay. Mr. Migliaccio abstains. Not present for the public hearing. Mr. Lawrence.

Commissioner Lawrence: Second, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVE SE 2015-PR-021, SUBJECT TO THE DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE NOW DATED APRIL 13<sup>TH</sup>, 2016.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of that motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2014-PR-021, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries and we have two abstentions on both, Ms. Hurley and Mr. Migliaccio abstain.

Commissioner Lawrence: And now, Mr. Chairman, before my final motion, I need a representative of the applicant to come forward for the record.

David Gill, Applicant's Agent, McGuireWoods LLP: Thank you. My name is David Gill with McGuireWoods – here today on behalf of the applicant.

Commissioner Lawrence: Thank you, Mr. Gill. First of all, are you – is it clear to your client that we will be doing some fiddling with the proffer on the noise wall before this goes to the Board.

Mr. Gill: Understood – that we'll continue to work with staff to sharpen that further.

Commissioner Lawrence: Thank you. Secondly, do you agree with the development conditions associated with this section?

Mr. Gill: We do.

Commissioner Lawrence: Thank you very much. Mr. Chairman, finally, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS

APPROVE THE WAIVERS AND MODIFICATIONS PROVIDED UNDER A SEPARATE ATTACHMENT AND DATED APRIL 13<sup>TH</sup>, 2016, AND AS NOTED IN THE STAFF REPORT.

Chairman Murphy: Seconded-

Commissioner Flanagan: I seconded.

Chairman Murphy: -by Mr. Flanagan. Is there a discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: Mr. Chairman, if I could have a moment.

Chairman Murphy: Ms. Strandlie?

Commissioner Lawrence: There is a follow-on motion coming, but I would like to express my thanks to Kelly Atkinson of County staff for who – for who handled this thing extremely well, I think – and to the applicant for being so cooperative. Thank you very much indeed. I yield to my colleague.

Commissioner Strandlie: Thank you, Commissioner Lawrence. We have been discussing for some time the science available on – on the crumb rubber fields. And since we've had the hearing, there is – there is now an ongoing federal study on this. And Proffer Number 8A currently is written that the installation will be in accordance with the proffers at the time – at this time. And Commissioner Lawrence and I have discussed this and I feel very strongly and we're going to make a motion to amend that so that it's the – according to the science that is in effect at the time the field is installed. And we also had discussed the – having staff very closely monitoring these studies. I checked in with Senator Blumenthal's office today. They're expecting an interim report by the end of the year and, perhaps, a more definitive report in the next two years. As the Chairman of the CPSC has stated, the limited studies to date have not shown a danger. The research does not, however – does not comprehensively evaluate the concerns about health risks from exposure to the tire crumb. And, in fact, he stated that the 2008 declaration from the fields were safe was overstated. So, therefore-

Chairman Murphy: Are we making the motion to change the proffers? Or-

Commissioner Strandlie: Yes. It's to amend Proffer 8A.

Commissioner de la Fe: Yeah, we can't – we can't do that.

Commissioner Hart: We can't.

Chairman Murphy: We can't do that.

Commissioner Hart: We're not allowed to.

Chairman Murphy: We're not allowed to do that.

Commissioner de la Fe: Proffers are voluntary. They come – you know, development conditions are different. You can't do that for proffers.

Commissioner Strandlie: It's in the material that was distributed tonight and we had talked about it beforehand.

Chairman Murphy: Well, that's all well and good, but-

Commissioner Lawrence: Let's see, what could we do?

Chairman Murphy: Mister-

Commissioner Strandlie: We – we had agreed before to amend it to require that the applicant install the field in accordance with scientific studies and research available at the time of installation, as long as the cost is comparable.

Chairman Murphy: Hold on. Mr. Gill, come on up. Let's get this resolved.

Mr. Gill: We understand the Commissioner's concerns and we'll be likely amending the proffer consistent with that before the-

Chairman Murphy: Before the Board?

Mr. Gill: -Board of Supervisors hearing.

Chairman Murphy: Okay.

Mr. Gill: So that you will – you will be consistent with that, but when we bring it to the Board.

Commissioner Lawrence: All right. So it would be what there is at the time the field is actually built, as long as the cost is comparable.

Mr. Gill: Exactly. That's our intent is – we'll use whatever materials is the Fairfax County park standards, as long as it doesn't increase the cost to the applicant, as of today.

Commissioner Lawrence: That satisfy your concern?

Commissioner Strandlie: Yes. And then I had the other part of the – the motion is TO MOVE THAT THE PLANNING COMMISSION RECOMMENDS TO THE BOARD OF SUPERVISORS THAT DEDICATED COUNTY STAFF INCLUDING, BUT NOT LIMITED, TO PARK AUTHORITY STAFF BE ASSIGNED TO MONITOR THE STATUS AND PROGRESS OF PENDING FEDERAL STUDIES INTO POSSIBLE HEALTH AND ENVIRONMENTAL IMPACT OF CRUMB RUBBER ATHLETIC FIELDS AND REPORT TO

THE PLANNING COMMISSION AND THE BOARD OF SUPERVISORS REGARDING  
INVESTIGATIONAL RESULTS.

Commissioner Lawrence: So that's a separate motion altogether, not a – not about the proffer here.

Chairman Murphy: Okay.

Commissioner Lawrence: Second that motion.

Chairman Murphy: You second it, Mr. Lawrence? All right. Is there a discussion of the motion? All those-

Commissioner Sargeant: Just to – just a reminder, Mr. Chairman. During the CIP process, we did indeed make some recommendations regarding the risk and financial analysis, pending those studies and outcome. So this would be in addition – but monitoring, I think, is consistent, if not parallel, to what we recommended.

Commissioner Strandlie: Yes.

Chairman Murphy: All right.

Commissioner Strandlie: I had that in mind when I drafted this.

Chairman Murphy: All those in favor of the motion – as an add-on motion, not as an amendment to the proffers – say aye.

Commissioners: Aye.

Commissioner Migliaccio: Mr. Chairman, I abstain also, just to be consistent throughout this.

Chairman Murphy: Okay. Two abstentions again – Ms. Hurley and Mr. Migliaccio. Mr. Ulfelder?

Commissioner Ulfelder: I abstain.

Chairman Murphy: Mr. Ulfelder abstains. Further discussion, all those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries with three abstentions, as noted. Thank you very much.

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(The first three motion carried by a vote of 10-0-2. Commissioners Hurley and Migliaccio abstained from the vote.)

(The fourth motion carried by a vote of 9-0-3. Commissioners Hurley, Migliaccio, and Ulfelder abstained from the vote.)

JLC