

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, APRIL 13, 2016**

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

ABSENT: None

//

The meeting was called to order at 8:19 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

Commissioner Sargeant stated that the Planning Commission's Schools Committee would meet to review policy language for school facilities that utilized urban design features on the following dates:

- Wednesday, April 20, 2016
- Wednesday, May 4, 2016
- Wednesday, May 25, 2016
- Wednesday, June 15, 2016
- Wednesday, June 29, 2016
- Wednesday, July 13, 2016

In addition, Commissioner Sargeant said that a public hearing regarding this issue was scheduled for Thursday, July 21, 2016. He added that these meetings would occur at 7:00 p.m. in the Board Conference Room of the Fairfax County Government Center and noted that these meetings were open to the public.

//

Commissioner Lawrence announced that the Planning Commission's Tysons Committee had met earlier this evening to review comments that had been made on the transportation portions of the Tysons Plan. He then indicated that he would announce the date of the next scheduled meeting for the Tysons Committee at the Planning Commission's meeting on Thursday, April 14, 2016. He added that this meeting was open to the public.

//

Commissioner Hart announced that he had initially scheduled to move the approval of the Planning Commission's meeting minutes for September 2015 through December 2015, but indicated that additional time was necessary. He added that additional information regarding these minutes would be distributed to the Commissioners before to their approval.

//

Chairman Murphy announced that the Planning Commission's Land Use Process Review Committee would meet on Thursday, April 14, 2016, at 7:00 p.m. in the Board Conference Room of the Fairfax County Government Center to discuss Fairfax Forward. He added that this meeting was open to the public.

//

Commissioner Flanagan indicated that additional time had been requested by multiple parties for SE 2015-MV-019, Charles County Sand & Gravel Company, Inc.; therefore, he MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR SE 2015-MV-019, CHARLES COUNTY SAND & GRAVEL COMPANY, INC., TO A DATE CERTAIN OF MAY 5, 2016, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENTS.

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

//

Commissioner Keys-Gamarra indicated that the applicant for AA 2012-SU-001, Jon & Kim Hickox, required additional time to coordinate this proposal with a related Special Permit application for horse boarding facilities on the property; therefore, she MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR AA 2012-SU-001, JON & KIM HICKOX, TO AN INDEFINITE DATE THAT WAS TO BE RESCHEDULED UPON THE COUNTY'S ACCEPTANCE OF REVISED APPLICATION MATERIALS.

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

//

PCA 75-7-004-03/SE 2015-PR-021 – MERIDIAN SCIENCE 7980, LP (Decisions Only)
(The public hearing on these applications was held on January 13, 2016.)

(Start Verbatim Transcript)

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 11TH, 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 13TH, 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 13TH, 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.

(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.)

(End Verbatim Transcript)

//

RZ/FDP 2014-LE-008 – LONG BRANCH PARTNERS, LLC AND PHD ASSOCIATES, LLC

(Decisions Only)

(The public hearing on these applications was held on March 9, 2016.)

(Start Verbatim Transcript)

Commissioner Migliaccio: Thank you, Mr. Chairman. We had a public hearing last month on RZ/FDB – FDP 2014-LE-008. And I believe Mr. Sargeant needs to make a comment before I move on it.

Commissioner Sargeant: Thank you. Mr. Chairman, as you recall, I have recused myself from this particular application. A – in the affidavit for this particular application is the reference to a person who contributed to my 2015 campaign for Supervisor so I'm going to recuse myself from this decision too. Thank you.

Chairman Murphy: Okay, thank you very much.

Commissioner Migliaccio: Thank you, Mr. Chairman. Let me first begin by thanking Mike Van Atta and all of our professional County staff that have worked on this application. As you – as I noted before, it's RZ 2014. So this has been around for two-plus years. In those two-plus years, Mike has moved to a different division – a different job, but he has retained the lead staff coordinator on this. And I thank you for all your work on this. As I mentioned, last month we held a public hearing for this application to rezone land located at the end of Thomas Grant Drive from R-1 to PDH-3 to allow 35 townhomes to be built. At the public hearing and via other correspondence, three items were raised repeatedly by citizens – density, access, and marine clay. Let me take just a moment to address each. The density allowed per the Comprehensive Plan for this parcel is three to four dwelling units per acre. This is similar to adjacent subdivisions. Island Creek is zoned PDH-4 and Amberleigh is zoned R-5. When all of the County environmental regulations are applied, the allowable density on this 15 acre site is 3.12 dwelling units. The application before us tonight is for only 2.28 dwelling units per acre. As for the access to this site, that was established long ago when the land for the 1,100 or so homes in Island Creek was rezoned. When the old Hunter Tract was rezoned, this 15-acre parcel of land was designated to have access through a public road – Thomas Grant Drive. At no time was this property to cut through the floodplain, RPA, and wetlands to access Cinder Bed Road. The items – the item that perhaps garnered the most discussion throughout the community outreach process and with County staff was how to – how to safely deal with the Marine Clay onsite and still respect the environmentally sensitive areas. Marine Clay is not unique to this site. Marine Clay can be found in much of southeastern Fairfax County. In fact, much of the Kingstowne and the neighboring subdivisions were built on sites with identified problem soils. To address the concerns of the community, the applicant did much of the engineering normally left to the site plan process

earlier in the process and provided this information for all to examine. As we heard at the public hearing, Island Creek's own engineer acknowledged that if done to proper engineering protocols, this site can be built upon safely. One other item that kept being brought up during this public hearing and throughout the process was misinformation about this site being built on a floodplain. Let me reiterate, not a single home is being built in the floodplain. This application has the support of our Lee District – my Lee District Land Use Committee and our professional planning staff. And therefore I have a few motions to make tonight, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2014-LE-008, SUBJECT TO PROFFERS DATED APRIL 7TH, 2016.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2014-LE-06 – 008, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Migliaccio: And Mr. Chairman, I believe I need the applicant to come down on one – one item. I should've given you more warning.

Lynne Strobel, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, PC: I apologize. I should've come down sooner.

Chairman Murphy: A grand entrance.

Ms. Strobel: My name is Lynne Strobel with the law firm of Walsh Colucci. I represent the applicant.

Commissioner Migliaccio: And do you agree with the development conditions attached to FDP 2014-LE-008 dated February 23rd, 2016?

Ms. Strobel: Yes.

Commissioner Migliaccio: Thank you. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2014-LE-008, SUBJECT TO DEVELOPMENT CONDITIONS DATED FEBRUARY 23RD, 2016, SUBJECT TO THE BOARD'S APPROVAL OF THE CONCURRENT REZONING.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion? All those in favor of the motion to approve FDP 2014-LE-008, subject to the Board's approval of the rezoning, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Migliaccio: Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE FOLLOWING MODIFICATIONS – ONE, MODIFICATION OF THE REQUIREMENTS OF PFM SECTION 7-0406.8A TO ALLOW A MINIMUM 30-FOOT PAVEMENT RADIUS WITHIN THE CUL-DE-SAC TERMINATING THE EXTENSION OF THOMAS GRANT DRIVE.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion? All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Migliaccio: And finally, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS ALONG ALL SIDES OF THE applicant – APPLICATION PROPERTY IN FAVOR OF THE EXISTING LANDSCAPING, AS SHOWN ON THE CDP/FDP.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Migliaccio: Thank you, Mr. Chairman.

(Each motion carried by a vote of 11-0. Commissioner Sargeant recused himself from the votes.)

(End Verbatim Transcript)

//

PCA 89-D-007 – FAIRFAX COUNTY SCHOOL BOARD (Decision Only)
(The public hearing on this application was held on March 16, 2016.)

(Start Verbatim Transcript)

Commissioner Ulfelder: Thank you, Mr. Chairman. Yes, we had a public hearing on March 16th on the plans for the expansion and renovation of the Herndon High School, the applicant being the Fairfax County School Board. Could – we have received a set of revised proffers. I think the one proffer that had raised a number of questions at the public hearing has been eliminated. And I think there was a memo that included information in response to some of the questions that some of the Commissioners raised at the public hearing concerning the adequacy of the cafeteria and the auditorium and the gymnasium and parking and seating. And I think those have been answered as well with that memorandum. With that, I'd like to – would you please ask a representative of the applicant to come forward?

Susan K. Yantis, Applicant's Agent, Hunton & Williams, LLP: Yes. I'm Susan Yantis. I'm a land use planner with Hunton & Williams.

Commissioner Ulfelder: Before we – I ask you the – whether you agree with the proffers – this evening, about 15 minutes ago, we received a letter from a neighbor who lives over in – on Kingsville Circle, which is on the side where the buses currently park for the Herndon High School – requesting some relief, both from the noise and the fumes. Will the – I would like to request that the school – the School Board consider, as part of the project, what it might do to alleviate some of the problems that that letter is raising in connection to the bus parking for this application.

Ms. Yantis: Yes. I'm happy to relay his concerns to the schools, in terms of the location of the parking in the near future to address it in the interim, prior to the renovation. And then, subsequent to the renovation, the bus parking will be relocated in front of the school. There is going to be adequate parking there that they can utilize.

Commissioner Ulfelder: Thank you. With that, do you agree with the – does the applicant agree with the revised development – proffers now dated April 7th, 2016?

Ms. Yantis: Yes. We do.

Commissioner Ulfelder: Okay. Thank you. With that, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF PCA 89-D-007, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED APRIL 7, 2016.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve PCA 89-D-007, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Ulfelder: Two more motions. I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE TRANSITIONAL SCREENING

REQUIREMENTS ALONG ALL PROPERTY BOUNDARIES IN FAVOR OF THAT SHOWN ON THE GENERALIZED DEVELOPMENT PLAN.

Commissioner Migliaccio: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Ulfelder: And finally, I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE BARRIER REQUIREMENTS ALONG THE NORTHERN, EASTERN, AND WESTERN BOUNDARIES IN FAVOR OF THE FENCING SHOWN ON THE GENERALIZED DEVELOPMENT PLAN AND A WAIVER OF THE BARRIER REQUIREMENT ALONG THE SOUTHERN BOUNDARY.

Commissioner Migliaccio: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Ulfelder: Thank you. And thank you, Mr. Katai.

(Each motion carried by a vote of 11-0. Commissioner Keys-Gamarra was not present for the votes.)

(End Verbatim Transcript)

//

ORDER OF THE AGENDA

Secretary Hart established the following order of the agenda:

1. SE 2015-MV-033 – OLETHEA GILMORE/LEE'S DAYCARE
2. SEA 2004-MV-001-02 – THE TRUSTEES OF FIRST VIRGINIA BAPTIST CHURCH
3. PCA 84-L-020-25/CDPA 84-L-020-06/FDPA 84-L-020-02-14 – KINGSTOWNE M&N, LP AND KINGSTOWNE TOWNE CENTER, LP

This order was accepted without objection.

//

SE 2015-MV-033 – OLETHEA GILMORE/LEE'S DAYCARE –
Appl. under Sects. 6-105, 6-106, and 8-305 of the Zoning Ordinance to permit a home child care facility. Located at 8652 Bent Arrow Ct., Springfield, 22153, on approx. 1,500 sq. ft. of land zoned PDH-3. Tax Map 98-1 ((4)) 802. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Olethea Gilmore, Applicant/Title Owner, reaffirmed the affidavit dated March 11, 2014.

There were no disclosures by Commission members.

Laura Arseneau, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of application SE 2015-MV-033.

Referring to the letter dated November 10, 2014, from the Newington Forest Community Association (NFCA) in Appendix 2 of the staff report, Commissioner Flanagan stated that the NFCA had granted permission for the applicant to utilize the playground facilities located within the Newington Forest community. He also noted that another letter dated December 19, 2013, from the NFCA in Appendix 2 of the staff report stated that the NFCA did not object to the operation of a home child care facility on the subject property, adding that the community had not implemented covenants that would preclude such a use. Ms. Arseneau concurred with this statement.

Commissioner Flanagan pointed out that a letter of opposition dated April 11, 2016 had been submitted to Commission by a neighboring resident. He then asked staff whether this resident's concerns had been addressed. Ms. Arseneau indicated that she had met with this resident to discuss the subject application. A discussion ensued between Commissioner Flanagan and Ms. Arseneau regarding the extent to which this resident understood the proposal and the scope of staff's recommendations for this proposal. (A copy of this letter is in the date file.)

A discussion ensued between Commissioner Ulfelder and Ms. Arseneau regarding the location of the recreation facilities and the proximity of these facilities to the subject property wherein Ms. Arseneau pointed out the location of open space and playground equipment, noting that the playground equipment was located at Newington Elementary School.

When Commissioner Ulfelder asked how the children attending the proposed home child care facility accessed the recreation areas located at Newington Elementary School, Ms. Arseneau indicated that a paved trail was utilized to access these areas. Commissioner Ulfelder then expressed concern regarding the distance of certain recreation areas from the subject property. Ms. Arseneau deferred to the applicant for additional information on these recreation facilities.

Ms. Gilmore explained that the area surrounding the subject property contained numerous recreation facilities, adding that these facilities were subject to significant use. She indicated that these facilities included various features, such as tennis courts and basketball courts. Ms.

Gilmore addressed Commissioner Ulfelder's concern regarding the applicant's ability to access these recreation facilities, pointing out the location of the trails that would be utilized and describing the features around these trails.

A discussion ensued between Commissioner Ulfelder and Ms. Gilmore regarding the age of the children that would be cared for at the proposed home child care facility, the needs of the children who were of a certain age, the extent to which the recreation facilities and the open space located near the site were utilized, and the ability of these recreation facilities to accommodate the children attending this facility wherein Ms. Gilmore indicated the recreation area surrounding the site had been sufficiently planned to accommodate large numbers of children.

Commissioner Hurley pointed out that the applicant had originally applied to permit a maximum of 12 children at the home child care facility, but had subsequently reduced this limit to 10 children. Ms. Gilmore concurred with this statement. A discussion ensued between Commissioner Hurley and Ms. Gilmore regarding the possibility that the applicant would apply to permit a maximum of 12 children at the facility wherein Ms. Gilmore indicated that the applicant intended to care for a maximum of 10 children at the facility and did not intend to increase this limit.

Commissioner Flanagan pointed out the location and extent of Newington Elementary School and the various park facilities located near the subject property. He then stated that he concurred with the Ms. Gilmore's statement that the surrounding community contained sufficient recreation provisions for the children attending the proposed home child care facility.

Chairman Murphy called for speakers from the audience, but received no response; therefore, he stated that no rebuttal statement was necessary. 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 Flanagan for action on this case.

(Start Verbatim Transcript)

//

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

Commissioner Flanagan: Thank you, Mr. Chairman. The – one of the things that I was impressed with this application was the – it was one of the best daycare – staff reports that I've had the opportunity to review. I think it's really – I don't know who wrote it, whether it was the – for the staff, but it was quite well done and I really want to let you know how much I like this particular staff report. The – in that case though, Mr. Chairman, I request that the applicant confirm, for the record, their agreement to the proposed development conditions dated March 29, 2016.

Chairman Murphy: Ms. Gilmore, do you agree?

Olethea Gilmore, Applicant/Title Owner: I do.

Commissioner Flanagan: Thank you. And with that, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2015-MV-033, SUBJECT TO THE REVISED DEVELOPMENT CONDITIONS NOW DATED MARCH 29, 2016.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2015-MV-003, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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

(End Verbatim Transcript)

//

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

//

SEA 2004-MV-001-02 – THE TRUSTEES OF FIRST VIRGINIA BAPTIST CHURCH – Appl. under Sects. 3-103 and 3-104 of the Zoning Ordinance to amend SE 2004-MV-001, previously approved for a telecommunications facility, to permit continuation of the use to a newly modified site, and associated modifications to site design and development conditions. Located at 8616 Pohick Rd., Springfield, 22153, on approx. 3.98 ac. of land zoned R-1. Tax Map 98-1 ((1)) 21. SPRINGFIELD DISTRICT. PUBLIC HEARING.

Andrew Painter, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, PC, reaffirmed the affidavit dated March 2, 2016.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had multiple cases where attorneys in Mr. Painter's firm were representing adverse parties. However, he noted that this matter and those parties were not related to this case and there was no business or financial relationship; therefore, it would not affect his ability to participate in this case.

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

Vice Chairman de la Fe closed the public hearing and recognized Commissioner Murphy for action on this case.

(Start Verbatim Transcript)

//

Vice Chairman de la Fe: Close the public hearing. Mr. Murphy.

Commissioner Murphy: Thank you very much. I would ask Mr. Painter to please come forward and reaffirm the fact that he has read the development conditions, he understands them, and he would abide by them, so help you God.

Andrew Painter, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, PC: We do.

Commissioner Murphy: Okay, thank you very much. This is basically a housekeeping application to make the Plan consistent with this Special Exception Amendment – with an application filed by the BZA, which was approved. So therefore, Mr. Chairman, I WOULD MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE SEA 2004-MV-001-02, SUBJECT TO THE DEVELOPMENT CONDITIONS CONTAINED IN THE STAFF REPORT.

Commissioner Hart: Second.

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

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

Commissioner Murphy: Thank you very much.

Vice Chairman de la Fe: Thank you very much.

Commissioner Murphy: I have one more. I would-

Vice Chairman de la Fe: Oh, I'm sorry.

Commissioner Murphy: Mr. Chairman, I WOULD MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE THE REAFFIRMATION OF THE MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS ALONG THE WESTERN, NORTHERN, AND SOUTHERN PROPERTY LINES IN FAVOR OF THE PLANTINGS SHOWN ON THE SEA PLAT.

Commissioner Hart: Second.

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

Commissioners: Aye.

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

Commissioner Murphy: Thank you very much.

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

(End Verbatim Transcript)

//

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

//

PCA 84-L-020-25/CDPA 84-L-020-06/FDPA 84-L-020-02-14 – KINGSTOWNE M&N, LP AND KINGSTOWNE TOWNE CENTER, LP – Appls. to amend the proffers, conceptual development plan, and second final development plan for RZ 84-L-020, previously approved for mixed-use development, to permit residential/mixed-use and associated modifications to proffers and site design at a density of 18.5 dwelling units per acre (du/ac). Located S. and E. of Kingstowne Village Pkwy., N. of Kingstowne Blvd., and W. of South Van Dorn St., on approx. 5.46 ac. of land zoned PDC, NR. Comp. Plan Rec: Mixed-Use. Tax Map 91-2 ((1)) 36B and 36G (part). LEE DISTRICT. PUBLIC HEARING.

Antonio Calabrese, Applicant's Agent, Cooley LLP, reaffirmed the affidavit dated March 14, 2016.

Commissioner Hart disclosed his law firm, Hart & Horan, PC, had a previous case where a principle from the firm, Tri-Tek Engineering, Inc., had been hired as an expert witness on behalf of a client for a litigation matter. However, he noted that this matter had been concluded more than 12 months ago and there was no business or financial relationship; therefore, it would not affect his ability to participate in this case.

Commissioner Migliaccio stated that the applicant had distributed a revised set of proffers to the Commission prior to the public hearing. Subsequently, he announced his intent to defer the decision only for this case at the conclusion of the public hearing to provide additional time for the Commission and the Lee District Land Use Committee to review these applications.

Casey Gresham, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of applications PCA 84-L-020-25, CDPA 84-L-020-06, and FDPA 84-L-020-02-14.

Mr. Calabrese said that the applicant had coordinated with the Kingstowne community on the subject applications over a two-year period and indicated that the Kingstowne Residential Owners Corporation (KROC), had subsequently submitted a letter of support. He then commended staff and Commissioner Migliaccio for coordinating with the applicant in reviewing the proposal over this period. Mr. Calabrese gave a presentation for the subject applications wherein he explained the following:

- The parcel identified as Parcel M&N on the subject property were among the final undeveloped parcels in the Kingstowne Center Development;
- The existing Kingstowne Center Development included approximately one million square feet of retail development and most of this development was occupied by a tenant;
- The demand for additional retail development in the surrounding area was significant whereas the demand for office space had been subject to significant declines;
- The subject property was initially approved for the installation of four office buildings on Parcel M&N with a maximum of approximately 1.2 million square feet of office space, but the applicant had concluded that the market for such space was insufficient and tenants of the existing office development at Kingstowne Center supported the installation of additional retail;
- The proposal would permit a residential development at a lower intensity than the previously-approved office development;
- The proposed residential development on the site included four buildings that would provide a total of approximately 800,000 square feet;
- The height of the buildings would be lower compared to the previously-approved office development and the architecture of these buildings would be consistent with the character of the surrounding area;
- The reduced density of the proposed residential development would permit a reduction in the parking provisions, which would permit the installation of amenities at the street-level in a manner consistent with that of similar development, such as that utilized at the Reston Town Center;
- The proposed residential development would include an enhanced public plaza that would accommodate features such as outdoor seating for restaurants, benches, water features, landscaping, and a seasonal skating rink;

- The applicant had met with residents of the surrounding community and representatives in Lee District to discuss the subject applications;
- The applicant agreed, after input from the community, to implement a policy requiring that a minimum of 10 percent of the residential units be occupied by at least one person 55 years of age or older;
- The demographics of the surrounding area supported an age-restricted community and staff favored encouraging such a community on the subject property;
- The proposed residential development would generate fewer peak-hour trips compared to the previously-approved office development and encouraging an age-restricted community would further reduce the amount of peak-hour trips;
- The subject application included numerous transportation provisions such as road improvements, a Transportation Demand Management Program, and a shuttle service for the Van Dorn Metrorail Station; and
- The amenities and features provided by the surrounding Kingstowne Center Development would further reduce the need for residents to utilize vehicles.

(A copy of the KROC's letter is in the date file.)

After the conclusion of his presentation, Mr. Calabrese stated that Commissioner Hart submitted an email prior to the public hearing that listed a number of questions and concerns. He then addressed these issues by explaining the following:

- The applicant had modified the language of Proffer Number 11, Architectural Design and Building Materials, in the revised set to ensure that the quality of the architecture was consistent with the depictions in Sheet 8 of the Conceptual Development Plan Amendment/Final Development Plan Amendment;
- The architecture for the proposed development would be consistent with the standards of a Class A office and residential structure;
- The existing development surrounding the subject property included various retail uses and demand for additional retail space in this area was significant;
- The applicant had agreed to Commissioner Migliaccio's request to preclude the installation of an adult video store in the retail space on the site, but no additional uses had been prohibited, provided that the use was consistent with the zoning of the site;
- The applicant would be responsible for policing and managing the retail uses on the subject property;

- The skating facility, as referenced in Proffer Number 7, Non-Residential Uses, could be utilized for purposes other than an ice skating during appropriate seasons, such as a roller skating rink; and
- The provisions in Proffer Number 20, Electric Vehicle Charging Facilities, included the installation of 5 electric vehicle charging stations that would serve 10 vehicles, but more charging stations could be provided to meet changes in market demand.

(A copy of the revised set of proffers dated April 13, 2016 and the email containing Commissioner Hart's questions and concerns is in the date file.)

When Commissioner Migliaccio asked whether the electric vehicle charging stations referenced in Proffer Number 20 would be utilized by residents of the proposed development or visitors for the retail establishments on the site, Mr. Calabrese said that at least one charging station would be installed within the parking areas for the retail properties. He then indicated that the majority of the electric vehicle charging stations would be utilized by residents of the proposed development.

Mr. Calabrese continued addressing the questions and concerns from Commissioner Hart, as articulated in the email submitted prior to the public hearing, wherein he explained the following:

- The proposed residential development would utilize both condominiums and apartments;
- The provisions of Proffer Number 17A, Temporary Signage, precluded the use of Popsicle style signage on the subject property;
- The proposed residential development included two levels of amenities, including a second-level courtyard area and that could accommodate a dog park;
- The proposed development included Affordable Dwelling Units and Workforce Dwelling Units (WDU) in a manner consistent with the Board of Supervisors' policies and objectives for such units; and
- The potential for empty retail spaces was low due to the significant demand for such space in the surrounding area, but the applicant would maintain sufficient flexibility for this space to accommodate various uses, such as a dentist office or a law firm.

Commissioner Hurley asked about the amount of rental units in the proposed residential development compared the amount of condominium units. Mr. Calabrese said that the proposed residential development could be utilized as either rental units or condominiums, noting that the use of these options would be determined by market conditions. A discussion ensued between Commissioner Hurley and Mr. Calabrese regarding the type of units the proposed residential development would accommodate in the existing market conditions and the layout of these units

wherein Mr. Calabrese indicated that the majority of the units would be rental units, but the amount of rental units and the layout of each unit was subject to changes in market trends.

Commissioner Hurley expressed concern about the impact the proposed residential development would have on the local school system, noting that the applicant's school contribution per dwelling unit was \$1,174.90, which was significantly lower than the contribution required for residential development of a similar density. She added that changing market trends could result in additional children residing in the proposed development and such a contribution would not be sufficient to mitigate the impact. Mr. Calabrese explained that there would not be a significant number of school-age children residing in the proposed development due to the demographics of the surrounding area, citing similar developments in Reston. He also pointed out that there were numerous other communities in the surrounding area that could accommodate school-age children.

Commissioner Lawrence noted the popularity of developments similar to the one proposed by the applicant, such as the Mosaic development. He stated that such developments had the potential to become popular destinations and suggested that the applicant maintain flexibility in the parking provisions to accommodate additional traffic if the proposed development became popular.

A discussion ensued between Commissioner Hart and Mr. Calabrese regarding the location of the dog-related amenities for the proposed residential development, the sufficiency of these amenities, and the impact of dog-ownership on similar developments, such as Mosaic, wherein Mr. Calabrese explained that the proposed development did not include a specific area for dog-walking, noting that there was sufficient open space and trails located near the subject property to accommodate such activity, and indicated that the dog-related amenities included in the proposed residential development would be limited to features such as a dog washing area.

Commissioner Hart expressed concern regarding the potential by-right uses for the retail space of the proposed development, stating that certain uses might incur a negative impact on the surrounding community. He said that he supported precluding an adult video store for this retail space, but cited an instance in Arlington County where a gun store had incurred such an impact. He then suggested that the applicant articulate the uses that would be precluded in this retail space. Commissioner Migliaccio stated that he also supported precluding an adult video store for the retail space in the proposed development, but noted that he did not support precluding other uses such as gun stores because such a use was permitted in the nearby shopping area. A discussion ensued between Commissioner Hart and Mr. Calabrese, with input from Commissioner Migliaccio, regarding the potential impact of permitting a gun store in the retail space for the proposed development wherein Mr. Calabrese indicated that the applicant would coordinate with the residents of the surrounding community to address this issue, but noted that the applicant favored retaining sufficient flexibility for the use of the retail space.

When Commissioner Hart asked whether the residential dwelling units were located above the garage and retail areas, Mr. Calabrese confirmed that every residential dwelling unit was located above the garage and retail space.

Referring to Proffer Number 35D, Marketing to County Employees, which required the applicant to direct marketing efforts for the WDUs to certain employees and personnel of certain organization, Commissioner Strandlie asked why the Fairfax Education Association (FEA) had been included as one of the organizations. Mr. Calabrese said that the FEA had been included at the request of Lee District Supervisor Jeffrey McKay's office. Commissioner Strandlie then suggested that this language be modified to include Fairfax County Public Schools as an organization that would be a target for the applicant's marketing efforts. Mr. Calabrese said that he did not object to such a modification.

Commissioner Strandlie expressed concern about the potential installation of payday lenders or title loan businesses in the retail space, noting that certain developments in the Mason District had precluded such uses. She then suggested including these uses among those precluded for the retail space. Commissioner Migliaccio indicated that such a provision could be included prior to the Board of Supervisors' public hearing for the subject applications. A discussion ensued between Commissioners Hart, Migliaccio, and Strandlie, with input from Mr. Calabrese and Cathy Lewis, ZED, DPZ, regarding the issues associated with approving retail space for certain developments, the potential that this retail space could be subject to uses that would incur a negative impact on the surrounding community, and the extent to which the State of Virginia permitted the County to preclude certain commercial uses for a development wherein Mr. Calabrese indicated that the applicant would coordinate with staff, the Commission, and the community to determine whether certain uses for the retail space required additional provisions.

Referring to Proffer Number 33, Public Schools Contribution, Commissioner Migliaccio noted the potential circumstances in which the amount of children residing in the proposed residential development was greater than the applicant's current estimates. He then suggested that the applicant revise the language of this proffer during the deferral period to address such situations. Mr. Calabrese did not object to reviewing this language and incorporating appropriate modifications.

Chairman Murphy called for speakers from the audience, but received no response; therefore, he noted that no rebuttal statement was necessary. He then called for closing remarks from Ms. Gresham, who declined.

Referring to Proffer Number 28, Transportation Demand Management (TDM), which articulated the applicant's TDM plan for the proposed development, Commissioner Flanagan asked for additional information about the penalty the applicant would incur for not meeting the goals articulated in the TDM plan. Mr. Calabrese explained that there would be no penalty incurred by the applicant for not meeting the TDM plan, stating that an incentive fund would be utilized to implement this plan.

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

(Start Verbatim Transcript)

//

Chairman Murphy: Public hearing is closed. Mr. Migliaccio.

Commissioner Migliaccio: Thank you, Mr. Chairman. As I noted earlier and – we need a little more time with the proffers to get them right before we send it up to the Board. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION DEFER DECISION ONLY FOR PCA 84-L-020-25, CDB – CDPA 84-L-020-06/FDPA 84-L-020-02-14 TO A DATE CERTAIN OF APRIL 20TH, 2016, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENT.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Discussion of the motion? All those in favor of the motion to defer decision only on these Lee District applications, with the record remaining open for written comment, do a date certain of April 20th, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed, say nay? The motion carries.

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

(End Verbatim Transcript)

//

The meeting was adjourned at 9:41 p.m.
Peter F. Murphy, Chairman
James R. Hart, 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: Jacob Caporaletti

Approved on: October 6, 2016



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

