

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, NOVEMBER 30, 2016**

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

ABSENT: Kenneth A. Lawrence, Providence District
Karen A. Keys-Gamarra, Sully District

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The meeting was called to order at 8:16 p.m., by Chairman Peter F. Murphy, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Hedetniemi announced that the Planning Commission's Transportation Committee would meet on Thursday, December 1, 2016, at 7:00 p.m. in the Board Conference Room of the Fairfax County Government Center to discuss the Reston Plan. She added that this meeting would be open to the public.

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Chairman Murphy announced that the Planning Commission had planned to conduct a seminar on Saturday, December 3, 2016, but this seminar had been subsequently canceled because an agenda had not been finalized. He then stated that staff had distributed a revised agenda to the Commission prior to tonight's meeting and requested that staff coordinate with the Commission to determine an appropriate date for the seminar in January 2017.

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Commissioner Hart said that the minutes for the June 2016 and July 2016 Planning Commission meetings had been distributed to Commissioners by John W. Cooper, Clerk to the Planning Commission. He then requested that Commissioners review these minutes and submit their revisions to Mr. Cooper in a timely manner, adding that he intended to move to approve these minutes at the Commission's meeting on Thursday, January 12, 2017.

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Chairman Murphy announced that at the Planning Commission's meeting on Thursday, December 1, 2016, Commissioner Hedetniemi would seek donations from Commissioners for the Commission's goodwill fund.

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Commissioner Ulfelder stated that the applicant for RZ 2015-DR-009, Gulick Group, Inc., was in the process of finalizing multiple revisions and additional time was needed; therefore, he MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR RZ 2015-DR-009, GULICK GROUP, INC., TO A DATE CERTAIN OF DECEMBER 8, 2016, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENTS.

Commissioner Hart seconded the motion, which carried by a vote of 10-0. Commissioners Keys-Gamarra and Lawrence were absent from the meeting.

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In the absence of Commissioner Keys-Gamarra, Commissioner Hart MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR PCA 95-Y-016-06 AND SEA 95-Y-024-06, COSTCO WHOLESALE CORPORATION, TO A DATE CERTAIN OF DECEMBER 7, 2016, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENTS.

Commissioner Sargeant seconded the motion, which carried by a vote of 10-0. Commissioners Keys-Gamarra and Lawrence were absent from the meeting.

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Commissioner Migliaccio MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR PCA 88-L-078, FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY, TO A DATE CERTAIN OF JANUARY 11, 2017.

Commissioner Sargeant seconded the motion, which carried by a vote of 10-0. Commissioners Keys-Gamarra and Lawrence were absent from the meeting.

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Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION DEFER THE JOINT PUBLIC HEARING FOR PCA 2003-HM-046-03/FDPA 2003-HM-046/CDPA 2003-HM-046/PCA 2000-HM-044-02/FDPA 2000-HM-044-02/CDPA 2000-HM-044, WOODLAND PARK PARCEL I, LP & NVR, TO A DATE CERTAIN OF JANUARY 11, 2017.

Commissioner Hart seconded the motion, which carried by a vote of 10-0. Commissioners Keys-Gamarra and Lawrence were absent from the meeting.

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Chairman Murphy MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR FDPA 2012-MV-008, LAUREL HILL DEVELOPMENT I, INC, TO A DATE CERTAIN OF JANUARY 11, 2017.

Commissioner Sargeant seconded the motion, which carried by a vote of 10-0. Commissioners Keys-Gamarra and Lawrence were absent from the meeting.

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ZONING ORDINANCE AMENDMENT – ARTICLES 3, 9, 18 AND 20 REGARDING FARM WINERIES, LIMITED BREWERIES, AND LIMITED DISTILLERIES (Countywide)
(Decision Only) (The public hearing on this item was held on November 16, 2016.)

(Start Verbatim Transcript)

Commissioner Hart: Thank you, Mr. Chairman. Before we go on the verbatim for the winery Amendment, staff is going to, I believe, answer three more questions.

Donna Pesto, Zoning Administration Division, Department of Planning and Zoning: Yeah, thank you very much. I'm Donna Pesto with Zoning Administration Division. At the public hearing on the 16th, the Commission asked a number of questions related to the winery Amendment proposed – well, what we're calling the winery, but it's wineries, breweries, and distilleries Amendment. Specifically, one of the questions were are there any uses that count some of the people in attendance, but not all of the people as part of the occupancy limits? And the quick answer is "no." The longer answer is that the – the official rated capacity is a very complicated methodology. It determines occupancy for floor-area based on how that floor-area is being used and, also, based on what obstructions, like tables or chairs or whatever, might be within that floor-area. So space is used for different things like storage areas or, maybe, a commercial kitchen, or a banquet area – things like that. They all have different rated capacities. There – there also can be – for an area that can be used differently – like, maybe, you have a banquet area and at sometimes it's used for standing room only type events. That's one rated capacity. And if it's a seated – maybe sit-down dinner event – that's a different rated capacity. For wineries, breweries, and distilleries, on the other hand, they aren't subject to that rating system cause they aren't subject to the building code, but if they were, a place like a tasting room could very easily have two different rated capacities, one for, you know, maybe just the day-to-day tasting where people are standing at a – at a bar or a table and others if there was an event there that had, maybe, a sit-down wedding with a served meal and tables and chairs. So it – it could be different. But one thing that we did learn is that it – it doesn't matter why the people are there. So if the people are coming for a wedding versus coming for a tasting, they would've all been included, so it isn't differentiated on those – on that factor. So that's sort of the building code/fire code type perspective. But from a Zoning Ordinance Amendment perspective, we are differentiating because that's the only thing the State Code lets us do. It says we're allowed to

establish a threshold for the special activities and events, but we are specifically precluded from establishing a limit for people who are there for tasting/purchasing of – of the – whichever alcoholic beverage they’re producing. Another question came up about whether or not the proposed buildings for these kinds of uses are identified on the ABC license for a farmery and that is a resounding “no” answer. They are not identified in the ABC license. The initial application, in fact, only has to designate the property on which the use is going to locate. From that point, the ABC Board gives the local jurisdiction – the County – thirty days to register an objection. So, essentially, our – our objecting to a proposal is based on only knowing where it’s going to locate and we would not have any knowledge about the scale of the buildings, the scale of the use, the location of those buildings, or really any other land use information that we would typically like to know. Breweries and distilleries are treated differently than wineries in the State Code for some reason. They are required, at some point – not with the initial application – but at some point, breweries and distilleries are required to submit a sketch plan that shows a layout of those buildings. And, again, the local jurisdictions give them thirty days to issue an objection if we choose to. That is – that is the closest we get to anything that would resemble a site plan, or a building plan, or even a survey of the property and those would only – those would not be applicable to wineries, just to the other uses. And then the last question was, does an ABC license allow wine that is made elsewhere to be brought in and sampled and sold. And that answer is “yes.” A farm winery license allows a winery to locate on a farm and they can manufacture wine, offer samplings and tastings, and they can sell wine by the glass, bottle, or case. I’m told by the ABC agent that most farm wineries also have an additional license that allows them to purchase wine from other licensed wine-makers. And they’re also then allowed to sample that – allow for tastings of that and they can sell it by the bottle, glass, or case. And they can also get what’s called a general winery license, which allows them to manufacture wine from grapes that are not grown in the State of Virginia. And they can also provide samples and tastings of that and sell it by the glass, bottle, or case. So the answer is definitely “yes.” When you get these permits, you can essentially offer those alcoholic beverages at will. So those were the specific questions that came at the last – at the public hearing, but I’d be happy to answer anything that you have tonight.

Chairman Murphy: Any other questions? Mr. Ulfelder, please.

Commissioner Ulfelder: Just on the last point. They can’t solely operate by bringing in wines that are produced elsewhere...

Ms. Pesto: No.

Commissioner Ulfelder: ...and sell them. They still have to do some production and sale of – of – on – from their particular farm.

Ms. Pesto: Absolutely. They have to have the farm winery license first, which means that they have to actually grow some volume of grapes. There’s no threshold limit for how much they have to grow, but they do have to have some agricultural production on-site. They also have to manufacture on-site. In order to be able to do the other things, they have to do that first.

Chairman Murphy: Okay. Are there any other questions before we go on verbatim? Mr. Flanagan.

Commissioner Flanagan: Yes. Thank you, Mr. Chairman. It came to my attention during the interim period between the public hearing and the decision tonight that there's a substantial amount of R-C zoned land in the Mount Vernon District, particularly in the lower Potomac area. It's basically concentrated in the parcels that were of the former DC – District of Columbia – Prison. And there's also the landfill – the I-95 landfill – and the Workhouse Arts Center that's now on Lorton Road. And I have taken – been gone over all of that during the interim period and I'm satisfied that these changes that we're making tonight will not in any way, you know, prove to be a burden on any of the applications that might come forward from that area, particularly since most of them are over 20-acre sites, so it's going to be a very – I'm in favor of this Amendment.

Ms. Pesto: This Amendment will actually affect the R-C zoned property. The state law changed on – on July 1st to specify that no additional wineries, breweries, or distilleries – farm wineries, breweries, or distilleries – can locate on R-C zoned land. So if, indeed, something that's zoned R-C today wanted to do that, there isn't a – there isn't an opportunity to do that under the R-C zoning. It would have to be rezoned to something else. I'm not saying a rezoning would be approved, but I'm just saying it could not happen under the rezoning – under the R-C zoning category.

Commissioner Flanagan: Yes, well there's a lot of interest in the future, you know, of – of beautification and particularly of the landfill areas that we have out there and so, consequently, I think this is going to work out very – very nicely in that regard.

Chairman Murphy: Are there any other comments? All right. Go on verbatim. Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. On November 16, 2016, the Planning Commission held a public hearing on the proposed Zoning Ordinance Amendment entitled "Articles 3, 9, 18, and 20 Regarding Farm Wineries, Limited Breweries, and Limited Distilleries." The Commission deferred action on the proposed Amendment until tonight, with the record kept open for written and electronic comments, of which there have been many. Those comments have been reviewed by the Commission and staff and entered into the record. I have also worked with staff to address many issues raised, both at the public hearing and in the written comments, and will be suggesting some changes. I want to thank the many citizens and industry representatives who participated in the process and submitted comments for our consideration. These are very difficult issues and we appreciate very much the input we have received. I also want to thank staff very much, particularly Donna Pesto, the staff coordinator, Leslie Johnson, the Zoning Administrator, and Laura Gori in the County Attorney's office for all their fine work on another very difficult case. Fairfax County wants to remain a business-friendly jurisdiction and recognizes the importance of the alcohol industry, including wineries and other potential uses, to tourism and economic development. We also have a long tradition of carefully reviewing applications for non-residential uses in residential districts and evaluating development conditions to mitigate those impacts with citizen involvement. The General Assembly chose several years ago to make certain agritourism uses by-right and take away most local zoning authority over those uses. Earlier this year, it modified those provisions to allow limited local regulation, which the pending Amendment is intended to implement. While many of the site-specific comments we have received are not directly germane to the Zoning Ordinance Amendment under review, at least at this phase of the land use process, or are outside the scope

of the advertised Amendment, they may be much more pertinent in the context of any site-specific application. We are only establishing the framework for applications to be evaluated, not approving any particular use at any specific location. We also are not changing the adopted Comprehensive Plan criteria, which provide additional guidance regarding approval of non-residential uses in residential areas. For example, the adopted Comprehensive Plan text, for many areas in the R-C District, provides that not only will applications for non-residential uses be rigorously reviewed, that they also be of a size and scale compatible with the rural character of the area, that they be designed to mitigate impacts on the Occoquan Reservoir, and that they be oriented to an arterial roadway. Evaluation of any future application in those areas will be done in the context of these existing criteria. Throughout the comments we have received, many citizens have advocated the concept of balance, which I agree can be important, but balance is a more appropriate consideration in the context of evaluating a specific application, rather than a “one-size-fits-all” approach countywide. If the ABC board grants any licenses and if any future applications materialize, they can be vetted by staff and come through the public hearing process and I am confident they will be rigorously reviewed. It is important to recognize also that there is a significant difference between the two existing winery uses and the uses that will be regulated by this Amendment. The two existing wineries have certain vested rights and their level of activity remains unaffected by this Amendment. The General Assembly has forbidden Fairfax County from regulating these established agritourism uses, but going forward, future wineries, breweries, and distilleries will be subject to the ordinance provisions, whether in the R-C District, if the ABC Board grants any of the five pending applications, or in other districts within the scope of this Amendment. Some of the conditions or regulations that citizens have requested in the name of balance are aimed at the two existing wineries and do not account for the vesting provisions that the General Assembly included in its recent legislation. Specifically, there has been particular interest in the existing and future winery uses in the R-C District. I reside in the R-C District and have always been concerned about the mitigation of impacts from non-residential uses on this environmentally sensitive area, as well as the Board’s paramount objective of protecting water quality in the Occoquan Reservoir. Going forward, I am confident that with the County’s 34-year history of rigorous review of non-residential applications in the R-C District and the consistent application of the criteria in the adopted Comprehensive Plan that this Amendment is not opening up the R-C to unwanted uses in inappropriate locations. To the contrary, this Amendment allows the county to review and regulate a category of use otherwise prohibited by the General Assembly and allows for citizen input through the public hearing process, rather than allowing the uses by-right without opportunity for comment or imposition of development conditions. The Amendment also establishes thresholds for triggering special exception review in other residential districts which allow agriculture. As I mentioned, however, the State legislation did create vested rights in the existing wineries uses in the R-C District and the pending Amendment. Before making the motions, I want to review a number of conclusions and recommendations:

- Number one, with regard to all of the references in the proposed text to events and activities, I agree that concept should be addressed more specifically. But rather than delay then this Amendment for re-advertising, I will have a follow-on motion to the effect that the Planning Commission recommend to the Board that a definition of such events and activities should be more specifically clarified in the forthcoming Amendment that will deal with agriculture and related uses in a broader context than this farm winery, brewery, distillery Amendment;

- Second, with regard to traffic issues and, specifically, Paragraph 1D of Section 9-630, I will propose to add additional language regarding trip-generation, as shown in the revised handout from staff, to provide additional clarity as to mitigation of impacts;
- Third, with regard to fees, and, specifically, the proposed changes to Article 18, I will move that the Planning Commission recommend the fees proposed by staff, as set forth in the staff report. I believe the staff recommendations are appropriate and consistent with fees for analogous non-residential uses in these districts;
- Fourth, with regard to the definitions of farm winery, limited brewery and limited distillery, I generally agree with the staff recommendations, but also am persuaded by our experience to date and by testimony and comments submitted for the record that event attendance over – event attendance above 150 people, which is in addition to unlimited attendance for tastings, has a substantial impact on health, safety, and welfare. I am persuaded that the special exception process is appropriate and necessary to mitigate those impacts, which can be substantial. The threshold of 150 people, in my judgment, should trigger a case-by-case special exception review and is within the range advertised. The Board of Supervisors can determine site-by-site after input from industry and the community, whether more people should be allowed after a full public hearing process and consideration of appropriate development conditions. Therefore, I will suggest that the Planning Commission recommend approval of the following limitations in each of these three definitions:
 - That the minimum land area of a farm on which such uses could be established is 20 acres, which is consistent with our Agricultural/Forestral District standards;
 - That the maximum number of guests, invitees, or participants be established at 150 people, for the reasons stated;
 - That larger events or activities for over 150 people may be permitted by-right not more than 12 days per year for not more than 2 days in duration for each larger event or activity; and
 - That any events or activities for more people, more times per year, or longer duration shall require special exception approval.
- Fifth, for lots of less than 20 acres in the R-P, R-A, R-E, and R-1 Districts, which are 5 acres or greater in size and for which a license application is pending before the Alcoholic Beverage Control Board prior to the effective date of this Amendment, I will also recommend that the Planning Commission recommend to the Board of Supervisors that such lot would be able to establish a farm winery, limited brewery, or limited distillery on such property if the ABC license is ultimately granted, even though such lot does not meet the 20-acre minimum farm size.

These recommendations, after careful review, are supported by staff and I believe represent our wisest recommendations to the Board, given the limitations of the State legislation and our

limited authority in this area. Therefore, Mr. Chairman, I FIRST MOVE THAT THE COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS ADOPTION OF THE PROPOSED ZONING ORDINANCE AMENDMENT, AS SET FORTH IN THE STAFF REPORT DATED OCTOBER 18, 2016, AND AS AMENDED IN THE HANDOUT DATED NOVEMBER 30, 2016, DISTRIBUTED EARLIER TODAY TO THE COMMISSION.

Commissioners Sargeant and Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder and Mr. Sargeant. Is there a discussion of the motion? All those in favor – yes, Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. I seconded this. I'm supporting it. I'm particularly pleased about the recommendation for the events with 150 people. I represent Dranesville. When you look at the exhibit that staff gave us at the public hearing on zoning classifications, you can see a sea of R-E and R-1 in the Dranesville District, as well as some small R-A. So I'm not as concerned with the R-C because that is not in the Dranesville District, but I am focused on the other points. And the fact is that, particularly in parts of Great Falls and even McLean, there areas of low-density residential. The Comprehensive Plan recognizes that and recommends it, in part, because of the environmental sensitivity of that area. And I think that it would be important to protect some of the existing surrounding areas that have been subdivided in the past under the R-E classification from the potential problems that may occur in connection of an operation with a too large of a group. The area is not served by public water. It's not served by public sewer. And the roads are country roads in northern Great Falls. They're windy, they're narrow, they have very limited shoulders for parking, and I think that the – it's important to use the special exception process when someone wishes to establish a facility such as this, like a farm winery, in order to make certain that it is protective of the – of the neighborhoods and of the community up there in connection with any – anyone who wishes to come in with this type of facility. So I think it's extremely important to look at the number and that – that that helps establish a proper threshold to make sure that we're protecting the health, safety, and environment in that area.

Chairman Murphy: Further discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve Articles 3, 9, 18, and 20 regarding farm wineries, limited breweries, and limited distilleries based on the motion made by Mr. Hart this evening, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Hart.

Commissioner Hart: Yes, thank you, Mr. Chairman. Secondly, I MOVE THAT THE COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THE CONSIDERATION OF A DEFINITION OF THE PHRASE "EVENTS AND ACTIVITIES" BE EVALUATED BY STAFF IN THE CONTEXT OF THE UPCOMING ZONING ORDINANCE AMENDMENT ON THE TOPIC OF AGRICULTURE, ALREADY ON THE APPROVED WORK PROGRAM.

Commissioners Sargeant and Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder and Mr. Sargeant. Say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

(Each motion carried by a vote of 10-0. Commissioners Keys-Gamarra and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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ORDER OF THE AGENDA

Secretary Hart established the following order of the agenda:

1. RZ/FDP 2016-BR-013 – MHI-HERITAGE, LLC & BRISTOW SHOPPING CENTER, LTD.
2. SE 2016-DR-011 – H&M OF VIRGINIA, LLC
3. SE 2014-SU-042 – MONTESSORI MANSION/NAIMA QADIR DAR

This order was accepted without objection.

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RZ/FDP 2016-BR-013 – MHI-HERITAGE, LLC & BRISTOW SHOPPING CENTER, LTD. – Appls. to rezone from C-6 to PDC to permit-mixed use development with an overall Floor Area Ratio (FAR) of 0.5, approval of the conceptual and final development plan, and a waiver of the minimum privacy yard requirements for single family attached units. Located on the W. side of Heritage Dr., N. of Rectory Ln., on approx. 11.0 ac. of land. Comp. Plan Rec: Retail and Other Commercial Uses. Tax Map 70-2 ((1)) 1 D1, 2A, and 2C. BRADDOCK DISTRICT. PUBLIC HEARING.

Elizabeth Baker, Applicant’s Agent, Walsh, Colucci, Lubeley & Walsh, PC, reaffirmed the affidavit dated November 10, 2016.

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

Carmen Bishop, 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 RZ/FDP 2016-BR-013.

Ms. Baker gave a presentation wherein she explained the following:

- The Board of Supervisors had approved a Comprehensive Plan Amendment on June 21, 2016 to include an option for residential development on a portion of the subject property;
- The existing commercial development on the site had been in operation since 1967 and had been subject to significant renovations;
- The existing commercial development included a large parking lot, which was located in the western portion of the site;
- The subject applications would permit the construction of 67 single-family attached dwelling units on the subject property;
- The proposal did not include significant modifications to the existing commercial development, but did include provisions to improve pedestrian paths, the parking lot serving this development, and the community plaza;
- The proposal would install additional pedestrian paths, amenity areas, and open space areas;
- The applicant had coordinated with staff and the surrounding community to address concerns regarding the internal circulation within the site, the designs for the garages of the dwelling units, the design for the open space areas, the parking provisions, and the amenities for the handicapped to ensure compliance with the Americans With Disabilities Act;
- The proposal included contributions to parks and school in the surrounding area;
- The proposal included a 1,200 square-foot Community Resource Center that would be located in the commercial portions of the existing commercial development and this facility would be made available to the County rent-free for 30 years;
- The proposal included eight affordable dwelling units (ADU); and
- The proposal would generate a positive economic impact on the surrounding area, facilitate appropriate improvements throughout the area, and provide additional housing options for County residents.

Commissioner Strandlie pointed out that Annandale High School, which was located in the Mason District, was in close proximity to the subject property and children residing within the proposed residential dwelling units would likely attend this school and others throughout the area. She then expressed concern regarding the traffic impact generated by Annandale High School and how this traffic impact would be mitigated by the proposal. Ms. Baker acknowledged

the extent of this traffic impact and the impact that the proposed development would incur on this school. She then explained that the applicant had coordinated with the Fairfax County Department of Transportation (FCDOT) on possible mitigation measures, but indicated that it was determined that measures such as a traffic signal were not warranted. However, Ms. Baker noted that the applicant would install two additional high-visibility crosswalks across Heritage Drive, which would facilitate pedestrian traffic and improve safety conditions. She added that Heritage Drive had been subject to additional improvements, such as the installation of bicycle lanes, to slow vehicular traffic and improve pedestrian safety. Commissioner Strandlie then said she favored implementing additional traffic-mitigation measures, reiterating her concerns regarding the existing traffic patterns in this area.

Addressing concerns from Commissioner Strandlie regarding the traffic impact generated by Annandale High School and the adequacy of the traffic mitigation measures included in the proposal, Commissioner Hurley noted the unique traffic patterns in this area due to the presence of an existing 7-Eleven store located on the site. She then explained that the proposed residential development would not incur a significant traffic impact and the existing provisions for mitigating the traffic generated by the 7-Eleven would be sufficient. A discussion ensued between Commissioner Hurley and Commissioner Strandlie, with input from Ms. Baker, regarding the adequacy of the existing traffic mitigation provisions on the site and the possibility of conducting a traffic study wherein Ms. Baker indicated that a traffic study applications was not required because these applications did not meet the requirements to warrant such a study, but reiterated that the applicant had coordinated with FCDOT and the Virginia Department of Transportation to address this issue.

When Commissioner Strandlie asked how the Community Resource Center included in the proposal would operate, Ms. Baker explained that the County would determine the appropriate manner in which to utilize this community center, noting that such determinations would be made by the Fairfax County Department of Neighborhood and Community Services.

Commissioner Strandlie pointed out that the applicant had included language in Proffer Number 6C, Architecture and Design, in the revised set of proffers dated November 30, 2016 to require that the garages of the dwelling units in the proposed residential development be utilized for the parking of vehicles. She also noted that this language also included provisions requiring that such restrictions would be articulated in the homeowners association's documents for this development. Commissioner Strandlie then said she supported including additional provisions to ensure that prospective homeowners were informed of these requirements. Ms. Baker did not object to such a modification.

A discussion ensued between Commissioner Ulfelder and Ms. Baker regarding the sufficiency of the applicant's contribution to the Fairfax County Park Authority wherein Ms. Baker acknowledged that the applicant's contribution was lower than what would typically be required of such a development, but noted that the inclusion of the Community Resource Center, the presence of nearby park facilities, and the improvements to the existing community plaza located within the existing commercial development were determined to be an appropriate substitutes for such a contribution.

Commissioner Hart stated that he had expressed concern regarding the availability of adequate parking provisions on the site during the public hearing for the previously-approved Comprehensive Plan Amendment for the subject property. He then asked whether there would be sufficient parking provisions for both the residential development and the existing commercial development on the site. Ms. Baker explained that under the proposal, 336 parking spaces would be reserved for the retail establishments within the existing commercial development on the site. She then described the existing retail establishments on the site, noting that the traffic and parking impact for certain uses was varied. In addition, Ms. Baker indicated that the existing commercial development had been subject to renovations and these renovations were designed to ensure adequate parking.

Commissioner Hart commended the applicant for including additional parking provisions after the publication of the staff report, stating that such provisions supplemented those provided by the garages of the dwelling units. He also noted that the driveways of most of the proposed dwelling units were sufficient to accommodate a vehicle. Ms. Baker concurred with the statement. Commissioner Hart also pointed out that these additional parking provisions would adequately accommodate the dwelling units that did not utilize driveways large enough for parking.

Commissioner Hart also commended the depiction of the garages, as shown in Figure 6 on Page 15 of the staff report. He also indicated that he had discussed the issue of garage designs in similar developments with Commissioner Lawrence prior to the public hearing. He then stated that he favored including depictions that showed the amount of space that open vehicle doors would occupy within the garage.

Commissioner expressed concern regarding the ability of the garages in the residential units within the proposed development to accommodate a trash can, noting that this issue had occurred in similar developments.

In reply to questions from Commissioner Flanagan, Ms. Baker explained the following:

- The proposed development would include eight ADUs;
- The ADUs would be dispersed throughout the proposed development and there would be no more than two units within a row of single-family attached dwelling units;
- The design of the ADUs would be different from the market-rate units in that these units would be approximately 16 feet wide while the market-rate units would be between 21 and 24-feet wide;
- The garages of the ADUs would be approximately 11 feet wide and 20 feet deep, which could accommodate no more than one vehicle; and
- The ADUs in the proposed development would be three-bedroom units.

A discussion between Commissioner Flanagan and Ms. Baker regarding the lack of landscaping provisions for the proposed development, the amount of trees that would be planted in conjunction with this development, and the types of trees that would be planted wherein Ms. Baker indicated that the provisions articulated in the subject applications were consistent with the County's requirements, as prescribed by the Public Facilities Manual.

Chairman Murphy called for speakers from the audience, but received no response; therefore, he noted that a rebuttal statement was not necessary.

Chairman Murphy called for closing remarks from Ms. Bishop, who declined.

Commissioner Strandlie echoed concerns from Commissioner Ulfelder regarding the adequacy of the applicant's parks contribution, stating that she supported deferring the decision only for the subject application to provide additional time for the applicant to secure a larger contribution. A discussion between Commissioner Strandlie and Chairman Murphy regarding the ability of the applicant to finalize such a modification prior to the Board of Supervisor's public hearing for these applications, which was scheduled for Tuesday, December 6, 2016.

Addressing concerns from Commissioner Ulfelder and Commissioner Strandlie regarding the adequacy of the applicant's parks contribution, Commissioner Hurley reiterated that since the proposal included a Community Resource Center and was located in close proximity to existing park facilities, a reduction in park contributions was warranted. She also indicated that she did not intend to defer the decision only on these applications. A discussion ensued between Commissioner Hurley and Commissioner Strandlie regarding the adequacy of park contributions for the subject applications and for similar applications.

Commissioner Hurley made a brief statement regarding the challenges associated with the subject applications wherein she explained the following:

- The proposed development was subject to unique conditions compared to other infill developments because the existing development on the site included significant amounts of paved areas, which were frequently occupied by large vehicles;
- The proposed development would improve the condition of the subject property by removing significant portions of paved areas and both the Braddock District Land Use Committee and the surrounding community concurred with this conclusion;
- The proposal would improve stormwater management provisions for the site because it would remove significant amounts of impervious surfaces;
- The presence of an existing 7-Eleven generated significant traffic impacts during certain morning hours;
- The proposal included provisions that would preserve the existing trees on the subject property.

Commissioner Hurley said that the Braddock District Land Use Committee had met to discuss these applications and subsequently voted to oppose the proposed development by a vote of 10 to 7 due to concerns regarding the adequacy of the parking provisions on the site, the size of the garages for the dwelling units, the amount of green space that would be installed, and the amenities that would be included. She then indicated that she did not concur with the Braddock District Land Use Committee's recommendation and addressed the concerns of the committee wherein she stated the following:

- The applicant had revised the previous parking provisions articulated in the subject applications to include 10 additional spaces to ensure adequate parking;
- The design of the garages for the dwelling units included sufficient space to accommodate vehicles and provide additional space for trash cans or miscellaneous storage;
- The subject property was located in close proximity to existing green space and park facilities;
- The design of the dwelling units for the proposed development was consistent with a more urban character and such design did not require significant amounts of green space;
- The design and location of the playground that would be included in the proposal, which was located on top of an underground stormwater detention facility, was appropriate and consistent with similar developments; and
- The access to the playground within the proposed development was sufficiently accessible by residents of the proposed development.

Commissioner Flanagan asked for additional information on the designs of the garages for the dwelling units in the proposed development and the ability of residents to enter and exit these garages. Ms. Baker pointed out that these garages included both interior and exterior methods of access to these areas.

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

(Start Verbatim Transcript)

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

Commissioner Hurley: Thank you. Well, first of all, I thank the applicant than for working long and intensively with and listening to and, whenever possible, accommodating the concerns of the

community. They've met with the community. They've met with the Land Use Committee several time and have changed their plans repeatedly in response to community concerns. Second, let's express our appreciation for Carmen Bishop, who has carried this through for a long time and has dealt with some very unusual issues and have – that you don't even see anymore because they've all been taken care of so professionally. Third, I must mention Marsha Pape, who is new to the job as Supervisor John Cook's land use aide, but has learned a lot on this case and is now an expert. And fourth, I must again compliment the Land Use Committee – the Braddock Land Use Committee. The report, as you can read, it was well-researched and well-written. And, you know, I addressed – I disagree with their decision for the reasons I've already discussed. And I ask the applicant to come one more time to ask you if you concur with the development conditions, as stated in the staff report.

Elizabeth Baker, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, PC: We do.

Commissioner Hurley: That's one small page.

Ms. Baker: Yes.

Commissioner Hurley: And then, with that Mr. Chairman, I request that the applicant – I already said that – I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2016-BR-013 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED 30 NOVEMBER, 2016.

Commissioners Hedetniemi and Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio and Ms. Hedetniemi. Is there a discussion of the motion? All those in favor of the motion to – I'm sorry – all those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2016-BR-013, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Strandlie: Mr. Chairman, I'd like to abstain. I support the – the application. I support the concept. It's a great improvement to the community. I think some work can be done, so I just want to go on record.

Chairman Murphy: Ms. Strandlie abstains. Ms. Hurley.

Commissioner Hurley: Second, I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2016-BR-013, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED 16 NOVEMBER, 2016 AND THE BOARD OF SUPERVISORS' APPROVAL OF RZ 2016-BR-013 AND THE ASSOCIATED DEVELOPMENT.

Chairman Murphy: Conceptual development.

Commissioners Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of that motion? All those in favor of the motion to approve FDP 2016-BR-013, subject to the Board's approval of the rezoning and the conceptual development plan, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Strandlie: Same abstention.

Chairman Murphy: And same abstention.

Commissioner Hurley: And lastly, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE MODIFICATIONS AND WAIVERS DATED 30 NOVEMBER OF 2016, WHICH SHALL BE MADE PART OF THE RECORD OF THIS CASE.

Commissioners Migliaccio: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstention. Thank you very much.

(Each motion carried by a vote of 9-0-1. Commissioner Strandlie abstained from the vote. Commissioners Keys-Gamarra and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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SE 2016-DR-011 – H&M OF VIRGINIA, LLC – Appl. under Sect. 9-610 of the Zoning Ordinance to permit a reduction in the lot width requirement from 100 ft. to 40 ft. Located at 7072 Idylwood Rd., Falls Church, 22043, on approx. 1.27 ac. of land zoned R-2. Tax Map 40-1 ((1)) 12. DRANESVILLE DISTRICT. PUBLIC HEARING.

Lynne Strobel, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, PC, reaffirmed the affidavit dated September 1, 2016.

Commissioner Sargeant disclosed that he was an employee for Virginia Dominion Power and had provided information in response to requests from citizens involved in this case regarding utility service; therefore, he would recuse himself from this public hearing.

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

Casey Gresham, 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 SE 2016-DR-011.

Ms. Strobel gave a presentation wherein she explained the following:

- The subject property was approximately 1.2 acres in size, zoned R-2, and rectangular in shape;
- The existing lot width of the subject property was approximately 152 feet and a special exception was required to permit a subdivision of this property in a manner that was consistent with the Zoning Ordinance and the surrounding community;
- The proposed subdivision would divide the site into two lots, one of which would be approximately 20,000 square feet in size and the other of which would be approximately 30,000 square feet;
- The size of the two lots in the proposed subdivision for the site was consistent with the lots in the surrounding area;
- The subject property had not been subject to significant redevelopment compared to the surrounding community;
- The applicant had coordinated with staff to address concerns such as stormwater management and tree preservation;
- The proposal included the installation of a bio-retention facility;
- The stormwater management provisions articulated in the subject application would exceed the minimum requirements prescribed by the County;
- The proposal included environmental and tree-preservation provisions that exceeded the requirements prescribed by the County;
- The applicant had coordinated with the surrounding community and the Lemon Road Civic Association (LRCA) to address outstanding concerns;

- The applicant incorporated multiple modifications to the proposal after coordinating with the community and the LRCA, which included a reduction of the footprint of the dwelling units on the lots and the installation of additional plantings on the site;
- The applicant coordinated with the Fairfax County Department of Transportation and the Virginia Department of Transportation to incorporate frontage improvements along Idylwood Road in a manner that would mitigate the traffic impact on this road;
- The applicant would vacate an existing outlet road that was partially located on the subject property;
- The applicant had committed to removing existing gravel roads on the subject property and adjacent properties that were associated with the outlet road;
- The applicant had committed to participate in ongoing efforts to underground the existing utility structures in the area;
- The community had expressed support for the subject application; and
- The revised set of development conditions dated November 29, 2016 included the removal of a condition that required a contribution to the effort to underground existing utility structures, which had been removed because the applicant had committed to securing a private agreement on this issue.

(A copy of the revised development conditions is in the date file.)

Commissioner Ulfelder announced his intent to defer the decision only on the subject application at the conclusion of the public hearing until January 2017 to provide additional time for the applicant to secure a private agreement for the undergrounding of existing utility structures. He also stated that the deferral was also intended to provide additional time for the McLean Citizens Association to review the subject application.

Commissioner Ulfelder pointed out that the applicant's landscaping plan for the site was not reflected in the staff report and neighboring residents had requested additional provisions, such as the planting of trees to improve the screening on the site. Ms. Strobel concurred with this statement and indicated that this issue would be addressed during the deferral period.

Referring to Development Conditions Number 13 in the revised set, which required the applicant to record a deed of vacation for the existing outlet road on the site within six months the subject application's approval, Commissioner Hart expressed concern that this condition did not contain provisions articulating the applicant's recourse in the event that the necessary signatures for the deed of vacation was not obtained within the six-month timeframe. He then asked for additional information on how the applicant would address such a scenario. Ms. Strobel indicated that the applicant had secured support for this document from the majority of the surrounding property owners prior to the public hearing, adding that these neighboring owners supported the vacation of this outlet road. She then stated that the six-month timeframe articulated in Development

Condition Number 13 was determined in conjunction with residents of the surrounding community and the applicant had determined that this timeframe was sufficient to secure the deed of vacation. A discussion ensued between Commissioner Hart and Ms. Strobel regarding the impact that not securing the deed of vacation for the outlet road would incur on the site and the function of this road in such a scenario wherein Ms. Strobel indicated that in the event of such a scenario, the applicant would still remove the existing gravel on the site and incorporate additional improvements to this road.

Commissioner Hart requested that the applicant finalize an appropriate recourse that would be implemented in the event that the existing outlet road was not vacated during the deferral period. Ms. Strobel did not object to this request. Commissioner Ulfelder added that the applicant would be afforded a degree of flexibility in obtaining the necessary signatures for the deed of vacation and the timeframe articulated in Development Condition Number 13 was intended to provide incentive for the applicant to secure this document. Ms. Strobel concurred with this statement.

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

Ronald Ferek, 2006 Friendship Lane, Falls Church, voiced support for the subject application because it would improve the condition of the subject property. He described the history and existing condition of the site, noting that the existing outlet road had been subject to illegal dumping and the presence of this road incurred a negative impact on neighboring properties. Mr. Ferek said that he supported efforts to redevelop the site, noting that other neighboring properties had redeveloped and the existing condition of this site negatively impacted these properties. He pointed out that the existing development on the site limited the size of the back yards for neighboring properties and the presence of above-ground utilities incurred a negative visual impact on the neighborhood. Mr. Ferek indicated that the applicant had coordinated with staff and the surrounding community to address various outstanding concerns, such as the presence of above-ground utilities. He also stated that he supported the vacation of the existing outlet road, the removal of the gravel on this road, and the undergrounding of the utility structures on the site. Mr. Ferek added that the residents of the neighboring properties would share in the cost of undergrounding the utility structures and additional efforts would be conducted to secure support from other residents. In conclusion, he said that the subject application would improve the condition of the subject property and permit a residential development that was compatible with the surrounding neighborhood. (A copy of Mr. Ferek's statement is in the date file.)

Bruce Jones, 1902 Miracle Lane, Falls Church, representing the LRCA, spoke in support of the subject application. He echoed remarks from Mr. Ferek regarding the benefits of the subject application, adding that he supported the applicant's provisions for improving the stormwater management on the site and enhancing the pedestrian paths in the surrounding area. Mr. Jones also pointed out that the applicant's Statement of Justification indicated that the proposed dwelling units would be compatible with the surrounding community, but the language in this statement did not reflect the language of Development Condition Number 15, which stated that the two units on the site would be, "generally compatible with regard to architecture and building materials." He then suggested that this development condition be modified to adequately reflect the language of the Statement of Justification. (A copy of Mr. Jones' statement is in the date file.)

A discussion ensued between Commissioner Ulfelder and Mr. Ferek regarding the differences between the original development conditions shown in Appendix 1 of the staff report and the revised set of conditions that had been distributed prior to the public hearing wherein Mr. Jones acknowledged these revisions and Commissioner Ulfelder indicated that the LRCA's requested modification would be evaluated during the deferral period.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Ms. Strobel, who indicated that the applicant would address Mr. Jones' concerns regarding modifications to the language of Development Condition Number 15 during the deferral period.

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 Ulfelder for action on this case.

(Start Verbatim Transcript)

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

Commissioner Ulfelder: Thank you. You couldn't hear me, anyway. Thank you, Mr. Chairman. As I mentioned, I think we're going to defer this decision for the reasons I explained earlier. So I'M GOING TO MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR SE 2016-DR-011 TO A DATE CERTAIN JANUARY 19TH, 2017, WITH THE RECORD REMAINING OPEN FOR FURTHER COMMENTS – WRITTEN COMMENTS.

Commissioner Migliaccio: Seconded by Mr. Migliaccio. Is there a discussion of the motion? All those in favor of the motion to defer this application with a deferred decision only to a date certain of January 19th, with the record remaining open for comments, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

(The motion carried by a vote of 9-0. Commissioner Sargeant recused himself from the vote. Commissioners Keys-Gamarra and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

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SE 2014-SU-042 – MONTESSORI MANSION/NAIMA QADIR DAR – Appl. under Sects. 6-105, 6-106, and 8-305 of the Zoning Ordinance to permit a home child care facility. Located at 14018 Rose Lodge Pl., Chantilly, 20151 on approx. 8,793 sq. ft. of land zoned PDH-2 and WS. Tax Map 44-2 ((20)) 32. SULLY DISTRICT. PUBLIC HEARING.

Naima Qadir Dar, Applicant/Title Owner, reaffirmed the affidavit dated October 6, 2014.

There were no disclosures by Commission members.

Commissioner Hart announced his intent to defer the decision only on this application at the conclusion of the public hearing to permit additional time for the Sully District Land Use Committee to meet on this application and to allow citizens to submit additional testimony.

Michael Lynskey, 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 SE 2014-SU-042.

In response to questions from Commissioner Hart, Mr. Lynskey stated the following:

- The applicant had obtained the necessary permits and inspections for the existing deck on the site;
- The status of permits and inspections for the basement area of dwelling unit would be evaluated during the deferral period;
- The 14.1-foot driveway for the dwelling unit was sufficient to accommodate a vehicle, but larger vehicles could potentially encroach upon the sidewalk;
- The applicant had modified the hours of operation for the existing home child care facility on the site, which currently operated from 7:00 a.m. to 6:00 p.m., Monday through Friday, and these hours would be retained under the subject application;
- The hours of operation articulated in the development conditions in Appendix 1 of the staff report did not reflect the hours articulated on the applicant's website for the home child care facility because this website had not been updated; and
- The applicant's website also contained information regarding a previous effort to open a larger child care facility, but this information was also inaccurate and did not reflect the provisions for the proposed home child care facility.

Referring to Appendix 3 in the staff report, which listed the pick-up/drop-off schedule for the children attending the proposed home child care facility, Commissioner Sargeant pointed out a typographical error on this schedule. In addition, he indicated that this schedule was staggered in a manner to ensure that a maximum of three children were picked up or dropped off in a given timeframe. He then asked whether this process was sufficiently flexible to accommodate the amount of children that would be attending this facility. Mr. Lynskey stated that the Development Condition Number 9 required that the applicant stagger the pick-up/drop-off schedule and the intent of this provision was to mitigate the traffic impact on the surrounding neighborhood. He added that this provision would be enforced by the Zoning Inspector. A discussion ensued between Commissioner Sargeant and Mr. Lynskey regarding the language of Development

Condition Number 9 wherein Commissioner Sargeant suggested revising this language to ensure that the staggered pick-up/drop-off procedures were appropriately articulated.

A discussion ensued between Commissioner Sargeant and Mr. Lysnkey regarding the width of Rose Lodge Place and the ability of vehicles to navigate or park along this road during peak traffic periods wherein Mr. Lysnkey noted that Rose Lodge Place was a public street and operated under the standards of a public street.

Ms. Dar gave a presentation wherein she explained the following:

- The applicant operated an existing home child care facility on the site, but this facility had a maximum attendance of seven children;
- The applicant had received multiple requests to care for additional children and the subject application would increase the maximum attendance of the home child care facility to 12 children;
- The hours of operation for existing home child care facility on the site were from 7:00 a.m. to 6:00 p.m. from Monday through Friday;
- The home child care facility would utilize Montessori education methods and the applicant was certified in such methods;
- The applicant had created a website prior to the submission of the subject application and this website contained inaccurate information regarding the operation of the home child care facility;
- The operation of the home child care facility on the site would be consistent with the appropriate standards for such a facility and would not function as a commercial school;
- The applicant did not intend to open or operate a commercial school facility on the subject property and concurred with the conclusions of the surrounding community that such a facility was not appropriate;
- The proposed home child care facility would utilize the service of one assistance and this assistant's vehicle would be the only vehicle that remained parked at the site during the operation of the facility;
- The applicant owned two vehicles, but these vehicles would be parked inside the garage during the hours of operation of the proposed home child care facility;
- The applicant would modify the parking arrangements for the home child care facility in an appropriate manner in the event that the service of an additional assistant was required;

- The parents of the children attending the home child care facility would utilize the driveway or the street parking available in front of the existing dwelling unit during pick-up/drop-off procedures;
- The parents of the children attending the home child care facility were informed of the applicant's parking policies and these policies ensured that vehicles of parents did not remain parked for a significant period of time;
- The staggered pick-up/drop-off procedures utilized by the home child care facility would mitigate the traffic impact of the facility on the surrounding community;
- The applicant was committed to enforcing appropriate policies for pick-up/drop-off that minimized the impact of the home child care center on the surrounding neighborhood;
- The instances of vehicles that parked inappropriately within the surrounding neighborhood were not associated with the option of the applicant's home child care facility and parents of children who did not follow the appropriate pick-up/drop-off procedures were notified accordingly;
- The applicant would schedule the staggered pick-up/drop-off schedule for the home child care facility in a manner that would not interfere with children accessing the existing school bus stop located on Morningdale Drive;
- The proposed home child care facility would comply with County policies for inclement weather and would not operate when Fairfax County Public Schools were closed;
- The children attending the proposed home child care facility would not impact the yards of neighboring residents and recreation activities would occur exclusively in the backyard of the dwelling unit;
- The operation of the proposed home child care facility would not negatively impact the property values of the surrounding neighborhood;
- The applicant was aware of the petition opposing the subject application that had been submitted prior to the public hearing, but the information in this petition was inaccurate because it indicated that a school would be operating on the property, which was not consistent with the provisions of the subject application; and
- The applicant would coordinate with the surrounding neighborhood to address their concerns and intended to comply with the applicable provisions, as prescribed by the County.

Commissioner Hart informed Ms. Dar that there was still an active website for the home child care facility on the site that, which still contained inaccurate information about this facility. A discussion ensued between Commissioner Hart and Ms. Dar regarding the status of this website, the accuracy of the existing information for the proposed home child care facility, and the

number of vacancies at the existing home child care facility on the site wherein Ms. Dar said that the information regarding this facility would be updated.

Answering questions from Commissioner Hart, Ms. Dar stated the following:

- The applicant's family owned three vehicles and two of these three vehicles would not be present on the site during the operation of the home child care facility;
- The assistant that would be working at the home child care facility utilized a vehicle and would park on-site;
- The number of assistants that would be working at the home child care facility was dependent on the ages of the children attending the facility with infants requiring more assistants under the provisions prescribed by the State of Virginia;
- The applicant had not determined how many infants would be cared for at the home child care facility;
- The applicant did not object to utilizing the driveway exclusively for pick-up/drop-off during the hours of operation of the proposed home child care facility;
- The applicant supported provisions to utilize the garage of the dwelling unit or existing street parking for vehicles not associated with the pick-up/drop-off procedures of the home child care facility;
- The applicant had obtained a license from the State of Virginia to care for a maximum of 7 children at the existing home child care facility on the site and an another license would be obtained to care for the maximum of 12 children that would be permitted by the subject application; and
- The applicant had resided in the dwelling unit for approximately three years and the basement area had been finished prior to purchase.

A discussion ensued between Commissioner Hart and Ms. Dar, with input from Mr. Lynskey, regarding the ownership history of the dwelling unit on the site, the potential for further revisions to the development conditions, and the scheduled Sully District Land Use Committee Meeting that would discuss the subject application wherein Mr. Lynskey indicated that the development conditions would be revised during the deferral period and Ms. Dar stated that she had been informed about the land use committee meeting for this application.

A discussion between Commissioner Sargeant and Ms. Dar regarding the extent to which she referenced Montessori education methods when applying for a state license for the existing home child care facility, the impact that referencing Montessori education methods incurred on this license, and the unique attributes associated with Montessori education methods wherein Ms. Dar indicated that the State of Virginia did not require additional review procedures for

Montessori education methods and Commissioner Sargeant asked staff to review whether further review on this issue was warranted.

A discussion ensued between Commissioner Sargeant and Ms. Dar regarding the width of Rose Lodge Place, the availability of street parking along this road, and the ability of this road to accommodate two-way traffic wherein Commissioner Sargeant said that he favored evaluating this issue be evaluated during the deferral period.

Commissioner Hurley said that she had coordinated with other Montessori schools in the County and had been informed that there were no copyright or licensing issues associated with utilizing the name for the proposed home child care facility. Ms. Dar concurred with this statement.

Commissioner Hurley noted that the existing home child care facility on the site cared for three infants. She then asked for additional information regarding the duration for which these children would be cared for at this facility. Ms. Dar said that the proposed home child care facility would not care for children older than six years old.

Commissioner Flanagan asked for additional information regarding the parking provisions available at the subject property. Ms. Dar explained that the existing dwelling unit on the site could accommodate four vehicles, two of which would park in the driveway and two of which would park on the garage. She then added that two additional vehicles could park along the curb along the frontage of the dwelling unit. A discussion ensued between Commissioner Flanagan and Ms. Dar, with input from Mr. Lynskey, regarding the locations along the curb in which vehicles could park on the site and the size of the driveway for the dwelling unit.

Commissioner de la Fe pointed out that the staff report had been published in October 2014 and asked whether an addendum had been published since then. Mr. Lynskey stated that an addendum had not been published since this date, but indicated that the development conditions and the standard language would be revised during the deferral period.

Chairman Murphy called the first listed speaker.

Jennifer Miner, 14025 Rose Lodge Place, Chantilly, representing the Walney Road Homeowners Association (WRHOA), voiced opposition to the proposal because of concerns regarding its safety and traffic impact. She stated that the WRHOA did not object to the operation of a home child care facility on the site, but expressed concern that the maximum attendance permitted by the subject application would incur a negative impact on the surrounding community. Ms. Miner said that Rose Lodge Place was approximately 30 feet wide and was subject to significant street parking. She also indicated that Morningdale Drive, which was the only road that accessed Rose Lodge Place, was also subject to significant street parking and this hindered the flow of two-way traffic. Ms. Miner noted that the WRHOA bylaws contained provisions that precluded the operation of activities within a dwelling unit that was determined to be hazardous, obstructive, or inconsistent with the County Code. She pointed out that the operation of a home child care facility had been granted to the applicant by the WRHOA in 2013, but the WRHOA did not support expanding the service to the extent articulated in the subject application. Ms. Miner then described the WRHOA's safety concerns regarding the operation of the proposed home child care facility, noting the amount of young children that resided in the surrounding neighborhood

and the absence of sidewalks during pick-up/drop-off periods. In addition, she noted that street parking for the facility would be limited during inclement weather and expressed concern regarding the impact that such events would incur on pick-up/drop-off procedures. Ms. Miner also indicated that the existing home child care facility on the site had not been in operation long enough for the WRHOA to determine the scope of its impact on the surrounding community. In addition, she said that the provisions articulated in the staff report had not been revised since October 2014. She then stated that the existing traffic congestion on the surrounding roads could not accommodate the traffic impact that the proposed home child care facility would incur, adding that she favored additional study of this traffic impact during the deferral period. (A copy of Ms. Miner's statement is in the date file.)

A discussion ensued between Chairman Murphy and Ms. Miner regarding the standard operation of a home child care facility in the County.

Commissioner Hart informed Ms. Miner that the Sully District Land Use Committee meeting that would discuss the subject application was scheduled for Tuesday, December 6, 2016, and recommended that she and other concerned residents attend this meeting. He also explained that the Planning Commission's decision for the subject application would not be impacted by a community's covenants, stating that covenants were private agreements that were enforced by the County Courts. A discussion ensued between Commissioner Hart and Ms. Miner regarding the scope of the WRHOA's covenants, the extent to which a home child care facility complied with these covenants, and the mechanisms for enforcing these covenants.

When Chairman Murphy asked whether there were other home child care facilities operating within the community, Ms. Miner stated that there were no such facilities in the community.

A discussion ensued between Commissioner Flanagan and Ms. Miner regarding the operation of the WRHOA, the extent to which the WRHOA utilized a management company, and the ability of the WRHOA to enforce the covenants prescribed to the community wherein Ms. Miner indicated that the WRHOA utilized a management company and Commissioner Flanagan echoed Commissioner Hart's suggestion that the WRHOA attend the Sully District Land Use Committee meeting for the subject application.

When Commissioner Hurley asked for additional information regarding the impact that the existing home child care had generated since it began operation, Ms. Miner explained that increased traffic associated with this facility had been observed in the surrounding neighborhood, adding that additional traffic would be generated during the summer months when college students returned home.

A discussion ensued between Commissioner Hurley and Ms. Miner regarding the pedestrian paths utilized by children to access the nearby bus stop, the condition of the pedestrian path that ran along the frontage of the dwelling unit, the absence of pedestrian paths on certain portions of the cul-de-sac, and the safety impact incurred by the additional traffic generated by the proposed home child care facility.

Michelle Breslin, 14038 Eagle Chase Circle, Chantilly, voiced opposition to the subject application due to safety concerns associated with the operation of the proposed home child care

facility. She noted the proximity of her residence to the subject property. She then indicated that one of her children was handicapped and expressed concern that the additional traffic generated by the facility would incur additional safety hazards for her child while accessing the nearby bus stop. Ms. Breslin added that the Virginia Department of Transportation had determined that no additional signage identifying the presence of a handicapped child would be installed near the site.

A discussion ensued between Commissioner de la Fe and Ms. Breslin, with input from Chairman Murphy, regarding the County's policies for school buses accommodating handicapped children wherein Ms. Breslin indicated that since her child did not attend a public school, the policies for pick-up/drop-off from school buses were different.

A discussion ensued between Commissioner Strandlie and Ms. Breslin, with input from Commissioner Hurley, regarding the school that Ms. Breslin's children attended, the pick-up/drop-off policies of this school, and the pick-up/drop-off procedures prescribed for public schools.

A discussion ensued between Chairman Murphy and Ms. Breslin, with input from Commissioner Flanagan, regarding the distance from Mr. Breslin's property to the bus stop utilized by her children, the location of this bus stop relative to her property, and the extent to which the traffic generated by the subject application would impact this bus stop.

Rick Monson, 4551 Morningdale Drive, Chantilly, spoke in opposition to the subject application, echoing concerns from previous speakers regarding the traffic and safety impact incurred by the proposed home child care facility. He stated that the applicant's provisions for curb parking were not consistent with those prescribed by the County, adding that vehicles that parked along the curb near the subject property frequently parked in close proximity to the driveway. Mr. Monson then noted the limited availability of street parking in the surrounding neighborhood and the safety concerns generated by the vehicles accessing the cul-de-sac. In addition, he said that the applicant had not obtained the necessary permits from the State of Virginia for the care of infants at the home child care facility, adding that providing such care would require the employment of additional assistants and the limited availability of parking for these assistants would intensify the impact of the facility. Mr. Monson also expressed concern that the applicant's staggered pick-up/drop-off procedures would not sufficiently mitigate the traffic impact generated by the proposed home child care facility. He then suggested that the applicant pursue a home child care service on a commercial site and cited potential locations for such a facility.

Chairman Murphy informed Mr. Monson that the scope of the subject application was limited to subject property and the Commission's decision would not be rendered on the basis of the availability of other commercial sites for operating a child care service.

A discussion ensued between Commissioner Hurley and Mr. Monson regarding the number of assistants required by the State of Virginia for the care of infants at a home child care facility, the number of infants that would be cared for at the proposed facility, and the existing traffic patterns on the surrounding road network wherein Commissioner Hurley pointed out that the applicant was permitted to care for a maximum of four infants at the facility with one assistant.

Neville Crenshaw, 14019 Rose Lodge Place, Chantilly, voiced opposition to the subject application, aligning himself with previous speakers regarding the concerns pertaining to the traffic and safety impact of the proposed home child care facility. He also concurred with remarks from Ms. Minder regarding the number of children in the area, adding that these children frequently utilized the cul-de-sac as a play area. Mr. Crenshaw described the traffic impact generated by the existing home child care center, noting that vehicles did not park in appropriate areas during pick-up/drop-off. In addition, he said that the traffic impact generated by the proposed home child care center would negatively impact the character of the surrounding community.

Chairman Murphy called for speakers from the audience.

Mari Estrada, 14169 Royal Oak Lane, Centreville, spoke in support of the subject application. She said that her two children attended the existing home child care facility on the site and noted the quality of the care provided by the applicant. Ms. Estrada also noted the effectiveness of the applicant's parking policies and pick-up/drop-off procedures, adding that these procedures were organized in a manner to ensure that no more than two parents arrived for pick-up/drop-off at a given time. In addition, she stated that the applicant made appropriate accommodations for events conducted by the home child care facility and indicated children were sufficiently supervised while playing outside. Ms. Estrada also said that the operation of the home child care facility did not incur significant safety or traffic impacts on the surrounding community. (A copy of Ms. Estrada's statement is in the date file.)

When Commissioner Migliaccio asked for additional information regarding Ms. Estrada's address, Ms. Estrada indicated that she resided in a townhouse community located approximately five miles from the subject property.

Jennifer Monson, 4551 Morningdale Drive, Chantilly, spoke in opposition to the subject application. She indicated that she had coordinated with neighbors throughout her community and a significant number of residents opposed the proposed home child care facility. She echoed remarks from previous speakers regarding the traffic patterns in the surrounding neighborhood, noting that Morningdale Drive was difficult to navigate while vehicles were parked on both sides of the road. Ms. Monson added that traffic along Walney Road was significant during peak traffic periods and the pick-up/drop-off procedures for the proposed home child care facility would occur during these periods. She also expressed concern that approval of the subject application would establish a precedent for approving other non-residential uses, such as tutoring services, throughout the surrounding community. In addition, Ms. Monson echoed remarks from previous speakers regarding the proposed home child care facility's impact on the character of the neighborhood.

A discussion ensued between Commissioner Flanagan and Ms. Monson regarding the extent to which she was involved with the WRHOA, the location of her residence, and the mechanisms for enforcing community policies on non-residential uses, such as home child care facilities, wherein Commissioner Flanagan encouraged Ms. Monson to coordinate with the WRHOA to address her concerns.

Commissioner de la Fe informed Ms. Monson that the WRHOA had determined that the applicant could operate a home child care facility on the subject property with a maximum attendance of seven children and the subject application would permit five additional children. A discussion ensued between Commissioner de la Fe and Ms. Monson, with input from Chairman Murphy, regarding the scope of the subject application and the extent to which the County permitted the operation of such facilities by-right wherein Chairman Murphy explained that the State of Virginia permitted an applicant to pursue a special exception to increase the maximum attendance of a home child care facility, subject to the approval of the local jurisdiction.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Ms. Dar, who stated the following:

- The applicant was committed to enforcing appropriate policies to preserve the safety and character of the surrounding community; and
- The applicant would commit to organizing the pick-up/drop schedule in a manner that did not conflict with the schedules for school buses during the school year.

Chairman Murphy called for closing remarks from Mr. Lynskey, who declined.

Commissioner Hurley echoed remarks from Commissioner de la Fe regarding the applicant's ability to operate a home child care facility by-right. She then explained that the subject application included development conditions, which provided an additional mechanism for the community to enforce parking, safety, and traffic policies associated with the operation of the facility.

Commissioner Sargeant requested that staff revise the language of the subject application during the deferral period to ensure it adequately reflected the provisions articulated in the Zoning Ordinance for home child care facilities during the deferral period. He also requested that staff coordinate with the Fairfax County Department of Transportation on providing additional information regarding the width, parking provisions, and traffic patterns on Rose Lodge Place.

There were no further comments or questions from the Commission; therefore, Chairman Murphy closed the public hearing and, in the absence of Commissioner Keys-Gamarra, recognized Commissioner Hart for action on this case.

(Start Verbatim Transcript)

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

Commissioner Hart: Thank you, Mr. Chairman. These are difficult cases and anything on the end of the court is always difficult on top of that. This – I think that the Land Use Committee needs to look at this and we – we may need a little more time. Mr. Lynskey, between the 7th and the 8th, does staff have a preference? We might – I know we've got – we do – we were doing a lot of Sully things on the 7th, but it seems like the night – if we make it the 7th, it's the night after the

Committee meeting and maybe one more day would... I'm not sure we're going to make it by the 7th or the 8th, no matter what. But between the two days, is the 8th a possibility?

Michael Lysnkey, Zoning Evaluation Division, Department of Planning and Zoning: Yeah, I have no preference, personally. And I just – those are the last dates of this year. Otherwise, it'll be January, so that's the only reason that we were shooting for – for next week.

Commissioner Hart: Ms. Dar, tentatively, is December the 8th a clear night for you? A week from tomorrow?

Naima Qadir Dar, Applicant/Title Holder: Yes.

Commissioner Hart: All right. Therefore, Mr. Chairman, I move that the – hold on, let me say, also – let me thank the folks for coming out and speaking and patiently listening to – to our deliberations tonight. It helps – it helps to have input from the community on these cases. I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR SE 2014-SU-042 TO A DATE CERTAIN OF DECEMBER 8, 2016, WITH THE REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENT.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to defer decision only on SE 2014-SU-042 to a date certain of December 8th, with the record remaining open for comments, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

(The motion carried by a vote of 10-0. Commissioners Keys-Gamarra and Lawrence were absent from the meeting.)

(End Verbatim Transcript)

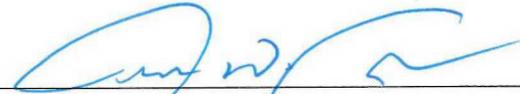
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The meeting was adjourned at 11:05 p.m.
Peter F. Murphy, Chairman
James R. Hart, Secretary

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: May 4, 2017



John W. Cooper, Clerk
Fairfax County Planning Commission

