

Board Agenda Item
May 20, 2002

4:00 p.m. Item - RZ-2001-SP-041 - Centex Homes
Springfield District

On Thursday, May 16, 2002 the Planning Commission voted 6-0-2 (Commissioners DuBois and Smyth abstaining; Commissioners Byers, Hall, Harsel and Wilson absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of RZ-2001-SP-041, subject to execution of proffers consistent with those dated May 16, 2002 and as revised by the applicant on May 16, 2002 to add in proffer #29 that residents of the Fairfax Ridge community shall also be afforded the opportunity to acquire a membership in the community recreation facilities at the same cost as is allocated to each participating lot within the property.
- Modification of the transitional screening and barrier requirements in accordance with the CDP/FDP for the perimeter of the site and between the residential and public uses within the development.
- Waiver of the 200 square foot privacy yard requirement for rear-load single family attached units and waiver of the 600 foot maximum length of private streets.

The Planning Commission also voted 6-0-2 (Commissioners DuBois and Smyth abstaining; Commissioners Byers, Hall, Harsel and Wilson absent from the meeting) to approve FDP-2001-SP-041, subject to the development conditions dated May 1, 2002 and subject also to Board approval of RZ-2001-SP-041.

Planning Commission Meeting
May 16, 2002
Verbatim Excerpt

RZ-2001-SP-041/FDP-2001-SP-041 - CENTEX HOMES

Decision Only During Commission Matters
(Public Hearing was held on May 15, 2002)

Commissioner Murphy: I have a decision only this evening. Since I have been sort of deserted by my fellow officers, I will, without objection, handle this thing. I would like tonight to make a motion on -- I'd better start off by using the right number -- RZ/FDP-2001-SP-041. We had the public hearing last night. There were moments of heated discussion. I want to just make one point at the outset, that this does have a Board meeting on Monday. This is a neighborhood consolidation. As you know, neighborhood consolidations tend to be fragile and that is why tonight, quite frankly, I am going to make my motion to move it up to the Board of Supervisors for public hearing on Monday. I guess if this were a movie, it would be titled "Dix-Cen-Gato - The Film Twelve Years in the Making" because it has taken that long for this neighborhood consolidation to reach the point where it could come before the Commission and the Board of Supervisors for a public hearing. But first, let me get to an issue that was a recurring theme at last night's public hearing. And it was very disturbing to me and I think it was disturbing to most of the Commissioners, especially those who represent districts and have to interact with our citizens at meetings in the community prior to public hearing. The recurring theme was: "We didn't know about it -- we never got notified. We didn't hear about it until we saw the yellow sign go up." Well, there were a lot of people here last night that never heard about it, but notwithstanding all that, I had some research done today by both Supervisor McConnell's office and by our staff. As far as the Supervisor's office -- which as I mentioned last night -- as soon as the redistricting was complete and Supervisor McConnell's District, the Springfield District, was stretched out to border now on Stringfellow Road out to Chantilly High School and it takes in the complete Fairfax Center Area, Fair Lakes, Fair Oaks, Greenbriar, the whole nine yards -- in order for Supervisor McConnell to maintain close rapport and relations with her citizens, she opened up an office here in the Government Center which has been opened I think a little over a year. During that time, we have been assembling all the information on homeowners associations and civic associations. We have instituted both an APR Task Force and a Land Use Committee. We're on the move, we're here, we're in the Government Center. It is an office to serve the central part of our District, the Fairfax Center Area. Having said that, as far as the notification of community meetings and the public hearing last night, just from the Supervisor's office, 175 letters were mailed on 22 January for the community meeting. The 175 letters were sent to all the residents of Dix-Cen-Gato and letters to the Homeowners' Association Presidents of Windsor Mews, Glen Alden, Merrifield Garden Center, Cambryar and Fairfax Ridge. In addition to that, there was another meeting, a community meeting, and in addition to that, Supervisor McConnell's staff attended meetings at Cambryar Homeowners Association at the annual meeting, and the current Dix-Cen-Gato status of the application was consistently posted on the Springfield District website and was included in two quarterly newsletters sent out by Supervisor McConnell to all the residents and also that was included on the Supervisors website. Also email and the newsletter was sent to over 350 constituents in the area. As far as the legal notification is concerned, we get our addresses and we are mandated, I believe, by the State Code

to get our addresses from the tax records in the County, and to notify the people who should be notified, and the homeowners associations and the civic associations. A list is prepared by the applicant and checked over by our staff and those are sent out certified mail. The Planning Commission applicants sent 112 letters, two to three weeks prior to the public hearing. The County staff posted notices on Dixie Hill Road and Legato Road 30 days prior to the public hearing and posted public hearing particulars in the *Washington Times* for 15 calendar days prior to the period as required by law. So there was a really comprehensive three-pronged effort -- the electronic media of the Supervisor's office, the mail system from the Supervisor's office, and the certified mail from the County -- our staff -- the Planning Commission staff, and the applicant, as required by law. As I looked through the list today, the number of letters that were sent out certified mail and were not picked up is sort of mind-boggling. In addition to that, we have found, by looking at the returned mail, we don't have good addresses for the homeowner associations presidents or their principal contacts. What can we do about that? We can't do much unless the citizens in those homeowners associations notify the Supervisor's office and the Board Clerk's Office of what the correct address is. There are some homeowners' associations that are still listing the developer as the principal contact for that homeowners association. So if you are within the sound of my voice, either here in the room or listening on television, if you would like to check your records, call Supervisor McConnell's office here at the Government Center and bring your records up-to-date, so we can make our mailings good. And then we won't be hearing at these public hearings "I didn't know about it." Her telephone number is 703-324-2500. I'm going to enter all this information into the record if anybody wants to look at it. First, Mr. Mayland, if you could help me out here and put a tax map up -- I want to take you on a little tour of the Fairfax Center Area and the subject property. Maybe if you could just point out these developments as I call them out. This is what has happened in this area. And a lot of it happened in the early Springfield District when the Springfield District represented this part of the County back in the 1980s. Then in the 1990s it went over to Supervisor Frey and Commissioner Koch. Now we are back in 2000. The Post Forest development was approved by the Board of Supervisors on October 27, 1986. The Cambryar Homeowners Association was approved on May 22, 1989. Fairfax Ridge was approved on January 9, 1995. Fair Oaks Hill was approved on October 16, 2000. Windsor Mews was approved by the Board of Supervisors on May 22, 1989. The Price Club, which is now Costco, and that whole shopping center area was approved by the Board on August 5, 1991. Alden Glen was approved in February 1983 and the Government Center, with its two buildings, the Herrity Building and the Pennino Building, were approved on March 10, 1986. While all this development was going on, Dixie Hills was sitting there and the citizens who have been in this County since the 1950s and 60s were watching the trees come down, watching more cars being put on the road, watching more families move in with more children for our schools, because that is what development is all about. They have been sitting patiently for the last twelve years waiting for some developer to come in and attempt a neighborhood consolidation so they could finally move from the area they live now and we could develop an area that could be part of the Fairfax Center/50/66 area and would be impressive. That particular area went through three Plan amendments, two in the Sully District and one in the Springfield District. All those Plan amendments that brought the density up to what the Plan states at the current time were subject to annual Plan Review Task Force meetings, community meetings, citizens meetings, homeowners association meetings and finally, public

hearings before the Board of Supervisors and the Planning Commission. We had two Mr. McDonalds testify last night. Tom McDonald who lives across the street in Buckner Forest has been around a long time -- and I wouldn't say that if he were here -- but he has been around, and I think he summed it up when he said this part of Lee Highway, where the subject property is being developed, has been planned for a higher density because that's the way Fairfax Center is going to be developed. The other Mr. McDonald, whose first name I can't recall, but is in the Dix-Cen-Gato Homeowners Association, testified that all they were asking for is a level playing field -- we have put up with all this development around us and now it's our turn. But what was significant about this development was the fact that the County and the concept embodied in 50/66 was to create a consolidated development that would not be developed piecemeal to make it a more efficient development for transportation needs and for public facilities. The language of the Comprehensive Plan for this subunit calls for: "An alternative at the overlay level and may be developed with a mixture of housing types including single family and multi-family units at an overall density of 12 dwelling units per acre. Development intensity should taper down from the northern edge of the area near the Fairfax Government Center towards Route 29." Now when you hear all the folks testify about we shouldn't be doing this, what happens to the animals, what happens to the trees, we have road problems -- all those are legitimate because we are all concerned about them, but when we make a judgment here, we have certain restrictions, if you will, we have to look basically in the Fairfax Center Area at three documents. We have to look at the language of the Comprehensive Plan of the Fairfax Center Area that was adopted in the early 1980s. We have to look at the Zoning Ordinance because the Zoning Ordinance is applicable in the PDH development which this is submitted as. And we have to look at a very stringent Fairfax Center Checklist because the Fairfax Center Checklist is a very, very important document, because this is a very, very important part of town. So when you read the Comprehensive Plan and look at the density, and then realize that this consolidation has 1,087 dwelling units for a density of 12.0, it is in conformance with the Comprehensive Plan. But there is another kicker there, because the Zoning Ordinance that we have to look at says that when you have a development of this size and magnitude you have to kick in the Affordable Dwelling Unit Ordinance. That isn't by choice. That's by law -- by Fairfax County law. With that formula, I believe 89 dwelling units, affordable dwelling units, were added to the mix, boosting that overall density to 13.6 dwelling units per acre, which is in conformance with the Comprehensive Plan because you go by the 12 units per acre. The bonus density units don't count. So number one, on the references we have, it is in conformance with the Comprehensive Plan. Part of that Plan puts some other things on the developer since there is going to be a consolidation. Two of the more important elements dealt with public facilities. And there was a third public facility. So these landowners and the developer had to cope with three County agencies -- I wouldn't wish that on anyone -- the School Board, the Park Authority and the Fire Department, because, as you know, the site on Legato Road has been approved for a fire station. But it's on the periphery of this and will rely on this development for stormwater management. The Comprehensive Plan called for that: "If it is determined that an elementary school site is required to serve the increased population in this area, adequate land for such a facility should be dedicated." And the School Board said: "Yes, we need a school." And so the developer proffered the school land for this site. This would not happen if this were not a consolidated development. It would not happen. We would not have that school site. The applicant has a tremendous proffer package.

The school site alone has an estimated cash value of over ten million dollars. The Park Authority wanted open space and parks. Couldn't cram it all in to make the development work. So the applicant agreed to put in ballparks at a site on Popes Head/Braddock Road. Five hundred and forty thousand dollars to do that. In addition to the normal road improvements, the construction of Legato Road and the turns and all that kind of stuff, the applicant was subject to the Fairfax Center Road Fund which is levied on each developer that develops residentially or commercially. This developer is required to pay over \$900 per unit. There are over a thousand units. Throw in another \$950,000 into the mix. So far we are doing pretty good when it comes to public facilities. We got improved roads, we got ballfields, we got parkland, we have a school site. If you read the staff report, and I am not going to go through the Zoning Ordinances, because I'm sure you would be fascinated, but I don't think I'll take the time to do that, you will notice that after each Zoning Ordinance that is applicable to this application, the staff has annotated the staff report by saying the applicant meets the standard. So as far as the Comprehensive Plan is concerned, it is in conformance with the Plan. As far as the Zoning Ordinance is concerned, the applicant has met the standards. And that third, very important piece of information is contained in the Fairfax Center Checklist. If you look at the Checklist and see in that Checklist, in Appendix 16, those items that are applicable to this application, you will see that the applicant has basically maxed out. So the three guides we go by, the Comprehensive Plan, it's in conformance; the Zoning Ordinance Amendment, they have been addressed; and the Fairfax Center Checklist Area, congratulations, the applicant and all those folks who own the property have a great report card. This evening we have a set of new proffers. I just want to call your attention to three additions that came as a result of our public hearing last night. The first is on page 11 where the applicant is now proffering for an additional tot lot. The location will be determined by the Department of Public Works and at least two of the four tot lots should include swings which makes me very happy. On page 13, Item 23, the applicant has deleted the last sentence at the request of the staff where it initially read: "The County shall be responsible for its pro-rata share as determined by the Department of Public Works of the ongoing stormwater management maintenance obligation for any portion of the said dedication area..." and so forth. And Proffer Number 27, on page 14, you can see what's underlined there. It's basically some changes regarding the public sewer. Then the new proffer on page 18 to address some of Cambryar's concerns called the Cambryar interface: "Notwithstanding the applicant's right to construct within any peripheral yard, an optional bonus room on the rear of each front-loading townhouse unit consistent with the 'Typical Townhouse Lot Layout' shown ...". What this does is takes off a portion of the house which gives more open space between the house and the neighboring community. They couldn't engineer it to shift it around, but they could make the backyard bigger by taking off the room. Okay. Also, I have received a letter, if I can find it -- this deals with Proffer 29 where Patricia Wood, President of the Fairfax Ridge Homeowners Association, asked if her homeowners association could join with, I believe it is Cambryar, in Proffer 29 for using the swimming pool. Mr. McDermott, can you come down here and for the record agree that that could be added to Proffer 29?

Frank McDermott, Esquire: Frank McDermott, attorney for the applicant.

Commissioner Murphy: We don't have a mike at the podium again?

Mr. McDermott: For the record, my name is Frank McDermott. I'm the attorney for the applicant. At Mr. Murphy's request, before the Commission meeting started tonight, I've agreed, on behalf of the applicant, that we will amend that Proffer before we get to the Board on Monday to include Fairfax Ridge residents as being provided the opportunity to join that recreational facility.

Commissioner Murphy: Thank you very much. There was a question last night concerning the EQC. I have -- I believe we have circulated around the dais a sheet that looks like this that says "Dix-Cen-Gato" which actually reinforces what Mr. Mayland was saying last night that there ain't no EQC there -- it's a mistake on the map and therefore it should not have to be addressed by the applicant. I think the letter dated December 5, 2000 from Bruce Douglas says that.

Commissioner Alcorn: Mr. Chairman?

Chairman Murphy: Mr. Alcorn.

Commissioner Alcorn: Just to follow-up. Commissioner Wilson couldn't be here tonight, but she wanted me to let the Commission know that she also checked on this. Apparently the floodplain was not registered on the USGS map nor on the FEMA map, but it was a mistake solely on the County map, therefore, it could be waived. If it has shown up on the other maps, then it couldn't be. But clearly it is a mistake and it's rectified.

Commissioner Murphy: Thank you very much. Let me just for a moment, read a couple of sentences from a letter I received from Charles T. Thomas who lives on Legato Road. He says, in part: "My wife and I have lived here for almost 30 years. The community has changed over the years with the development of the Fairfax County Government Center, Alden Glen townhouses, the fire training facility and the bus maintenance facility on West Ox Road, Price Club/Costco, Home Depot and other retail stores, Windsor Mews townhouses on Piney Branch, the Post Forest apartment complex on Legato, Cambryar on Ruffin Drive, Fairfax Ridge and Fair Oaks Hill with 16 townhouses on the Allstate motel property. Our community voted two to one against segmented development several years ago." That's in Dix-Cen-Gato. "We have no control over the developments that have occurred around us. If this consolidation does not get approved, the next step will be further segmented development of the various portions of our community." One last point: "If segmented development occurs, and it surely will if this effort to consolidate fails, there will be no land for a school. The segmented sections will be too small to force a developer..." which we don't do, by the way, "...to give up the amount of space needed for a school." And Barbara and George Friemann says: "My wife and I have been property owners on Dixie Hill Road since 1972 and have witnessed many assemblage attempts. What makes the Centex Homes assemblage different was the approach exercised by the company and its professional handling of the numerous questions associated with building a mutually acceptable formula. They conducted open forum discussions, arranged numerous informal meetings with Centex Homes' representatives, invited owners to voice their concerns and reservations, negotiated individually with each owner as to his or her personal needs and demands and above all worked towards creating a beneficial outcome for all parties involved."

As I mentioned before, Supervisor McConnell instituted the Springfield District/Fairfax Center Land Use Committee. This application did go before the Land Use Committee on January 22 and again on March 27 and I have a letter I will enter into the record from Emerson Cale, the Land Use Chairman: "Our Land Use Committee unanimously supports the application." Also I have letters I've received basically in support of the application. I will also submit them into the record. I think it is a good package. I think the people have been waiting a long time for this development to occur. I think it is going to be a good development. We can nitpick developments all night long, but I think this touches the three bases we have to touch -- the Comprehensive Plan, the Zoning Ordinance and the Fairfax Center Checklist, plus the amenities and its dedication to supporting the public facilities we need, especially the school site, in my opinion, makes the application laudatory. I congratulate all the citizens if this is approved by the Board of Supervisors. Your tenacity has been outstanding. You've also seen on that same street, although not too close to you, two other neighborhood consolidations that have occurred, one on Random Hills Road and one in Centreville Farms. We all know that this is not an easy chore. It takes a lot of pulling together. I want to thank the applicant and Mr. McDermott and Centex Homes for the effort. I can't say enough about Bill Mayland. I'm sure Mr. McDermott thinks that Bill is a dentist because he pulled some teeth every now and then. But he has really been with this application from the beginning and has -- and the lights are going down and you're on Bill -- really done an outstanding job. You have been tremendously responsive and professional and I think I can use the term now that it is over, or almost over, enjoyed working with you on this application. Therefore, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ-2001-SP-041, SUBJECT TO THE EXECUTION OF THE PROFFERS CONSISTENT WITH THOSE DATED MAY 16, 2002, WITH THE FOLLOWING ADDITION AND THAT WOULD BE IN PROFFER 29 WHICH NOW READS: "AT THE TIME OF THE ISSUANCE OF THE NON-RUP FOR THE COMMUNITY RECREATION FACILITIES, RESIDENTS OF THE CAMBRYAR AND FAIRFAX RIDGE COMMUNITIES SHALL BE AFFORDED THE OPPORTUNITY TO ACQUIRE A MEMBERSHIP IN THE COMMUNITY RECREATION FACILITIES AT THE SAME COST AS IS ALLOCATED TO EACH PARTICIPATING LOT WITHIN THE PROPERTY."

Commissioner Koch: Second.

Chairman Murphy: Seconded by Mr. Koch. Is there a discussion of the motion?

Commissioner Smyth: Mr. Chairman?

Chairman Murphy: Ms. Smyth.

Commissioner Smyth: Mr. Chairman, I certainly appreciate all the work that goes into a consolidation. We have these things in Providence too. I congratulate everyone on their patience in working through these things. My one concern here is the stormwater wet ponds. I know that in my own district these things have been very difficult experiences for HOAs and I'm concerned that we have five here. I don't think that we have really had the time to do a lot of

analysis on these or if they can be converted successfully to dry ponds. But with that caveat, I'm going to abstain. Thank you.

Chairman Murphy: All right. Further discussion of the motion?

Commissioner Alcorn: Mr. Chairman?

Chairman Murphy: Mr. Alcorn.

Commissioner Alcorn: Just to clarify the change to Proffer 29, just for the record -- that was proffered by the applicant, right? You are just reflecting that in your motion?

Commissioner Murphy: Right. Okay.

Chairman Murphy: All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ-2001-SP-041, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Smyth: Abstain.

Chairman Murphy: Ms. Smyth abstains.

Commissioner DuBois: I abstain. I wasn't here for the public hearing.

Chairman Murphy: Ms. DuBois was not present for the public hearing.

Commissioner Murphy: I MOVE THE PLANNING COMMISSION APPROVE FDP-2001-SP-041, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED MAY 1, 2002 -- that's the right date -- May 1 -- AND THE BOARD'S APPROVAL OF RZ-2001-SP-041.

Commissioner Koch: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners DuBois and Smyth: Abstain.

Chairman Murphy: Motion carries. Same division.

Commissioner Murphy: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS IN ACCORDANCE WITH THE CDP/FDP FOR THE PERIMETER OF THE SITE AND BETWEEN THE RESIDENTIAL AND PUBLIC USES WITHIN THE DEVELOPMENT.

Commissioner Koch: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners DuBois and Smyth: Abstain.

Chairman Murphy: Motion carries. Same division.

Commissioner Murphy: Finally, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF THE 200 SQUARE FOOT PRIVACY AND YARD REQUIREMENT FOR REAR-LOAD SINGLE FAMILY ATTACHED UNITS AND A WAIVER OF THE 600 FOOT MAXIMUM LENGTH OF PRIVATE STREETS.

Commissioner Koch: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners DuBois and Smyth: Abstain.

Chairman Murphy: Motion carries. Same division.

Commissioner Murphy: The movie is almost over. Thank you very much.

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(The motions carried by a vote of 6-0-2 with Commissioners DuBois and Smyth abstaining;
Commissioners Byers, Hall, Harsel and Wilson absent from the meeting.)

LBR