

7/13/92

3:30 p.m. Item - ZONING ORDINANCE AMENDMENT
(Zoological Parks)

On Thursday, June 25, 1992, the Planning Commission voted 8-1-2 (Commissioner Baldwin opposed; Commissioners Huber and Sell abstaining; Commissioner Koch absent from the meeting) to recommend to the Board of Supervisors that it amend Articles 6, 7, 8 and 20 of the Zoning Ordinance, as contained in the staff report dated April 30, 1992 and modified as follows on June 25, 1992:

- amend Section 6-106, paragraph 4, to read in part: "Unless modified by the Board for Group 6 Outdoor Recreation Uses in conjunction with";
- amend Section 6-106, paragraph 10B and Section 8-612, #4 to change "annual" to "quarterly";
- amend Section 6-106, paragraph 10C; Section 8-612, #5; and Article 20 to read in part: "The keeping of all animals including wild or exotic animals"

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Planning Commission Meeting
June 25, 1992
Verbatim Excerpts

ZONING ORDINANCE AMENDMENT - ZOOLOGICAL PARKS

Decision Only During Commission Matters

Commissioner Bobzien: Mr. Chairman, before I go on verbatim on the Zoological Park Ordinance, Zoning Ordinance Amendment, I direct the Commission's attention to the three pieces of paper that I distributed a little bit earlier. One is some revisions to the amendment as proposed last week and that's dated 6/25/92. The second is a draft of the Virginia Senate Animal Welfare Act which was passed over to the 93rd session of the General Assembly and that provides some specificity on the standards that would be used in determining "adequacy". And thirdly we have a letter dated June 19th of 1992 from the gentleman that we heard from last week with the Humane Society of the United States, Stephen Dickstein, and I'll be referring to that when I go on verbatim. Mr. Chairman, last Thursday you'll recall we heard the public hearing on a proposed amendment to the Zoning Ordinance that has been prompted by a pending rezoning application which involves, in part, the retention of the existing Pet-A-Pet Farm facility near Reston. The proposed amendment establishes a new Group 6 Outdoor Recreation use of "zoological park" and proposes to allow this use as a permitted secondary use in the PDH District and as a special permit use in the R-E and the R-1 Districts. The amendment also revises certain limitations for secondary uses in the PDH District. Essentially I believe last week we were left with four issues that deserve to be addressed tonight. Mr. Byers raised the question of what standards should be applied by the Director of the Department of Animal Control in making her determination of adequacy regarding feed, water, shelter, enclosure size, and veterinary care. I have distributed, as I mentioned before we went on verbatim, a copy of the pertinent part of the Virginia Senate Animal Welfare Act and that sets out such standards. And it's my understanding that Ms. Snow has indicated that she will use these and any other appropriate objective standards in making such determinations. And I think if you'll look at those, they are quite detailed. Ms. Marsel raised a question of whether the definition for zoological park advanced by the staff is an appropriate one. And I'll ask Mr. Congleton to comment upon that.

Mr. Michael Congleton: Thank you, Mr. Bobzien. We appreciate Mr. Dickstein's help in sending us the information on this definition provided by the AAZPA. However, our review of it has indicated that some of the language is somewhat subjective in nature and --

Commissioner Bobzien: If I could interrupt. I think that the, the definition that is advanced by the AAZPA that fits both zoological parks and aquariums is contained on page 3 of Mr. Dickstein's letter.

Mr. Congleton: Yes, that's, that's correct. Unfortunately, it could be open to widely divergent interpretations and would be fairly difficult to administer. A definition contained in the proposed amendment is based in a

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large part on the current federal definition of a zoo and we feel that it is fairly simple and clear and to the point and easy to administer so we'd prefer that the Commission stayed with the proposed definition.

Commissioner Bobzien: Mr. Chairman, Ms. Huber and several citizens who called me after the hearing questioned what is, what is trying to be done in the suggested amendment to Section 6-106, paragraph 4. And I have to admit that I share that concern. I don't necessarily disagree with the notion of providing flexibility to the Board of Supervisors to permit secondary uses of commercial and office in the PDH District with fewer than fifty residential dwelling units provided, as proposed in the Zoning Ordinance Amendment, that the modification be in conjunction with the approval of a conceptual development plan and furtherance of the implementation of the Comprehensive Plan. The problem is that the Zoning Ordinance Amendment advertised to the public -- that was advertised to the public deals with creating zoological parks as a new Group 6 Outdoor Recreation use. I think if staff wants to go further and propose that the modifications provided for in paragraph 4 be extended to office and all commercial secondary uses. That's fine but it should be done in the context of a proposal for a more comprehensive change to the PDH District or, at the very least, after adequate advertisement. This may be a small point but it is one that did not escape several individuals and I think it is enough for me to suggest tonight that we modify proposed paragraph 4 of Section 6-106 to make it applicable only to Group 6 Outdoor Recreation uses and I will do so as part my motion. We heard a great deal of very emotional testimony last week concerning conditions at the pet farm. I do not for a moment doubt the sincerity of those who testified against this ordinance. I know that they are all deeply concerned about the welfare of the animals about which they spoke. But I think that the reality is that in any facility where animals are kept, deficiencies will be found. I know the pet farm is not perfect but neither is the National Zoo. In deciding what to do tonight, I have had to balance that negative testimony with the countless letters I have received in the past and the many people I have spoken to in support of the pet farm. And I've also had to balance the negative testimony with my own observations having visited the site. I think had the Johnsons not acceded to my request that they not pack the house last week, we probably would still be here listening to testimony in praise of the pet farm. The people in support of the pet farm are neither uncaring or stupid. If animal abuse were taking place at the pet farm, the pet farm would not have the wide public support that it enjoys. When I visited the pet farm a week ago Monday, the single overwhelming impression I had was the pervasive gentleness toward the animals that is exhibited by the staff. When all is said and done, I think we should leave to the Director of the Department of Animal Control, whose daily job it is is to protect the well being of the animals in Fairfax County, to determine whether the animals at the pet farm, or for that matter at any other such facility which might be established in the future, are being adequately provided for. To that end I am suggesting two modifications based on the testimony that we heard last week. First I propose that we recommend a modification to the portion of the Ordinance dealing with the director's

review of the operation, the zoological park, to make that review quarterly instead of annually. And second, I propose we address the concern that was expressed by Doctor Cliver over the adequacy of the facilities for the farm animals at the park by extending the scope of the director's risk and adequacy assessment to include all animals and not just the wild and exotic ones. Ms. Snow and staff agree with these suggested modifications. Mr. Chairman, accordingly, I MOVE THAT WE RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT AMEND ARTICLE 6, 7, 8, AND 20, OF THE ZONING ORDINANCE, CONSISTENT WITH THE PROPOSAL CONTAINED IN THE STAFF REPORT DEALING WITH THE ZOOLOGICAL PARKS DATED APRIL 30TH, 1992 WITH THE FOLLOWING CHANGES. And I might note that the changes are indicated in the handout that I provided tonight dated 6/25/92. The changes would be:

SECTION 6-106, PARAGRAPH 4, ADD THE WORDS "FOR GROUP 6 OUTDOOR RECREATION USE" BETWEEN THE WORDS "BOARD" AND "IN";

SECTION 6-106, PARAGRAPH 10B AND 8-612 #4, CHANGE "ANNUAL" TO "QUARTERLY"; and lastly,

SECTION 6-106, PARAGRAPH 10C AND SECTION 8-612 #5, AND ARTICLE 20, ADD THE WORDS "ALL ANIMALS INCLUDING" BETWEEN THE WORDS "OF" AND "WILD."

Commissioner Hanlon: Second.

Commissioner Thomas: Second.

Chairman Murphy: Seconded by Mr. Hanlon and Mr. Thomas. Is there a discussion of the motion?

Commissioner Byers: Mr. Chairman?

Commissioner Baldwin: Mr. Chairman?

Chairman Murphy: Mr. Byers, then Mr. Baldwin.

Commissioner Byers: I would like to ask a question about the standards. The first question has to do with the second page which defines "adequate space." And it says it means "sufficient space to allow each animal to easily stand, sit, lie, turn about and make all other bodily movements in a comfortable normal position for the animal." My question is does that allow the animal to exercise itself? Or is this -- would this -- would a cage, for example, in which a tiger is put, an eight by eight cage, would allow the tiger to stand, sit, lie, turn about but it wouldn't exercise it, and that bothers me. Is there some way we can get that in? And my second question has to do with, if these are the standards that we're going to accept, why are these standards not included in the text of the Ordinance?

Commissioner Bobzien: Mr. Byers, my response to that would be that we rely on other directors in the employment of the County to make decisions and determinations and we do not fill up the Zoning Ordinance with the specific standards that are to be, to be applied by those directors and I don't see any need to do so here. And as I stated, these are standards which can be used by Ms. Snow, or anyone else who is involved with this assessment at the, at the office, it does not mean that she is precluded from using other standards to evaluate whether or not there has been adequacy. And I think it would probably be better to leave it in the general terminology that we have in the Zoning Ordinance if we are to be able to have some subjective evaluation of whether or not adequacy has taken place. If we were to load up the Zoning Ordinance with these specifics then I think that we'd be creating some loopholes and I think that if one were to ask, "Well, can this animal exercise?", the answer could be "Well, it's not in the Zoning Ordinance, so we don't really care."

Commissioner Byers: Mr. Chairman?

Chairman Murphy: Go ahead, Mr. Byers.

Commissioner Byers: Let me follow up on that. I, I agree that it really is improper to put all this in the Zoning Ordinance. I guess my concern is if you say that these are standards but the, the County is not held to these standards, we're right back to square one. We really haven't got any County standards then that we know that this park is going to be controlled by. Is that correct? These are standards we might like to have but these aren't the County standards.

Commissioner Bobzien: These are standards which can be employed by the director in making her evaluation. She can, she can --

Commissioner Byers: Well, it can also not be followed (unintelligible).

Commissioner Bobzien: That's correct, and we have to rely on the fact that she is going to do a thoroughly professional job and I have no reason to believe that she will not.

Commissioner Byers: Okay, thank you.

Chairman Murphy: Mr. Baldwin.

Commissioner Baldwin: Thank you, thank you, Mr. Chairman. I cannot support this amendment for, for really two reasons. One is, to follow up on what Mr. Byers has mentioned, adequate space as is defined in this document is, in my view, completely inadequate for, particularly for ruminants, for cattle, and I don't know about sheep, where on the farm of which I own and operate where we carry cattle, we have about a hundred head on three hundred acres, that's about one animal per three -- for three acres and this is no way

approached in, in, in the type of a -- of operation that the Pet-A-Pet Farm provides. Ruminants are herd animals; they aggregate and wander around; they can be alarmed. I can't see that, that type of an operation being pursued in, in this type of a park. My main reason, however, for opposing this is I do not believe that this is, is an appropriate use in a PDH District and that's a fundamental issue which we are addressing tonight. A zoological park has its place and it should be used. I don't oppose the Pet-A-Pet Farm or the concept. I do oppose its location in a, in a place which is as dense as a PDH, where fifty, whatever the number is, fifty, a minimum of fifty homes exist. It's just not the proper location for that kind of an operation. So on that grounds I'm going to oppose it. Thank you.

Chairman Murphy: Further discussion of the motion?

Commissioner Harsel: Mr. Chairman?

Chairman Murphy: Mrs. Harsel.

Commissioner Harsel: I have a question, Mr. Bobzien. Mr. Bobzien, once again, these standards that you've passed out today, are these state minimum standards? Where are these standards from? I was not listening, I was hearing but not listening to you, I'm sorry.

Commissioner Bobzien: These standards, and I, I can't emphasize this enough, are illustrative of the kinds of standards that Ms. Snow may want to apply in making her determination. They come from the Senate version of the Virginia Animal Welfare Act which did not pass in this session. I think that there was some confusion about that during the hearing last week. It has been -- my understanding is that the bill has been carried over to the 93rd session. It is not state law and as I've said, these standards can be used. There may be references that are also available for Ms. Snow in her determination. Perhaps the, the criticisms that Mr. Baldwin have -- has made, those criticisms could also be taken into account. There are any number of standards that can be employed in the, in the making of the determination.

Commissioner Harsel: All right. Then I have one follow-up question. On number 10B where you mention the quarterly inspection review, but nothing happens. Do we have anything in this ordinance that says what might happen if the inspection turns up problems?

Commissioner Bobzien: My understanding is that those problems will either be rectified or else the establishment will be in violation of the Zoning Ordinance.

Chairman Murphy: Sure, just like any other law.

Commissioner Bobzien: Just as, as we would have in any other situation.

Commissioner Harsel: But it doesn't say that. There's no way; we don't have a time limit as to how long they have, like 30 days to take care of it or 60 days or ---. It just says you can go out and inspect it. Am I correct on that?

Chairman Murphy: Well --

Commissioner Bobzien: Mr. Chairman?

Chairman Murphy: All right Mr. Byers -- Mr. Bobzien.

Commissioner Bobzien: Well, I think that's correct. And the Director of the Department of Animal Control, I suppose, can work with the, with the land owner or the pet zoo owner to correct these deficiencies and if she's not satisfied or if these are repeated deficiencies, I suppose that she can ask the Zoning Administratrix to go right into court. So, it's the same old thing, that if you, if you leave it loose enough you can, you can accomplish quite a lot. If you tie yourself down to, well, they have 30 or 60 or 90 days to comply, I'm not so sure you're going to have the desired effect.

Commissioner Harsel: But still, if we could have staff reply to that about anything happens for these inspections, I mean, you and I could go out and look at it under the -- the way this is written.

Mr. Congleton: Yes, the Director of Animal Control would make quarterly inspections. And probably, in most circumstances, any violations would be handled under Chapter 41 which is -- of the Code, which, which deals with animals. Since this is a new use and if it's conducted in the residential districts, it will be under special permits. So there may be additional conditions that are proposed by the BZA on a particular use. In the PDH District, I would hesitate to guess, there may be some conditions established as part of the rezoning or as a proffer that would further define the use of a property as a zoological park. These are just basic standards; it doesn't state what happens if she doesn't like the inspection. As I said, it most likely'd be handled through 41 probably in coordination with the, with the zoning enforcement people dealing with specific special permit or a proffer.

Commissioner Harsel: That they're in violation --

Mr. Congleton: They, they could be --

Commissioner Harsel: -- they'd say but you don't know for sure.

Mr. Congleton: No ma'am, I don't know for sure 'cause we don't have one right now.

Commissioner Hanlon: Mr. Chairman?

Commissioner Huber: Mr. Chairman?

Chairman Murphy: Mr. Hanlon.

Commissioner Hanlon: If I could ask --

Chairman Murphy: -- and then Mrs. Huber, I'm sorry.

Commissioner Hanlon: The way I read the ordinance, it's not as hard as Mr. Congleton said, and I want to make sure that the way I am reading it is the intent. Under Paragraph 10C, it says that: "The keeping of all animals including wild or exotic animals may be permitted upon a determination that the animal does not pose a risk to the public health, safety, and welfare, and that there will be adequate feed and water, adequate shelter, adequate space in the primary enclosure for the particular type of animal depending upon its age, size and weight and adequate veterinary care." And I assume that that is the basic requirement with respect to use. In other words, a use that doesn't meet that requirement where the animals, for example, are not given adequate shelter would be out of compliance with the Zoning Ordinance and that the purpose of the inspection in Paragraph 10B is, at, at a minimum, to determine whether or not the use is in compliance with Paragraph 10C. Now I understand that there is considerable amount of professional judgment that goes into the determination of all those things in 10C but it's my understanding of the way this would work is that if it were found that the use as implemented did not meet the requirements of 10C there would be a violation of the Zoning Ordinance regardless of what special conditions have been attached to a special permit and at that point the remedial provisions of the Zoning Ordinance would come into play. And the question I have for Mr. Bobzien is whether I have accurately read the intention of this language in his view.

Commissioner Harsel: Mr. Chairman?

Chairman Murphy: Ms. Huber, then Mrs. Harsel.

Commissioner Huber: Thank you, Mr. Chairman. My question is somewhat different; it does not address the Zoning Ordinance per se that we have in front of us but it addresses the premises under which the Zoning Ordinance comes before us. Basically we all know that we are doing this for one particular case and one rezoning that's in front of us fairly soon. We have a letter in front of us from Sally Mann with a copy of a memorandum by Mr. Crippen that sets forth what they would do on the site and I think that these things are incorporated in the Plan and it states that there would not be any commercial uses except for the Reston Farm Market. All the citizens of the area seem to feel that this is another commercial use; this is a second commercial use. And of course, as far as it relates to the ordinance in front of us tonight, this is exacerbated by the fact that the definition of zoological park in Article 20 says that it may include related uses and activities such as gift shops. So we have, maybe, two commercial uses although related, but the basic understanding as far as I know was that the Park Authority would get 30 acres where a pet-a-pet something could continue

but it was really going to be run by the Park Authority or a concessionaire under the Park Authority --

Commissioner Bobzien: Mr. Chairman?

Commissioner Huber: -- guidance.

Chairman Murphy: Mr. Bobzien.

Commissioner Huber: It's a question, basically.

Commissioner Bobzien: It is a question and it's a question I think that we're going to have to address when we come to the rezoning application. The -- any kind of assurances, and I haven't seen Sally Mann's memorandum there and I haven't seen that document from Mr. Crippen, but any assurances or, or, I guess assurances or commitments, that were made during the planning stage, I suppose are subject to change. We may not like what has been done and we may hold the applicant's feet to the fire because of it. But I must say that those assurances did not make their way, per se, into the plans so we do not have a situation where we're doing something in violation of the Comprehensive Plan. But I think those are legitimate concerns and I'm sure that Sally Mann will raise them at the rezoning application but I don't think that they're particularly germane right now.

Chairman Murphy: Further -- Did you have anything else, Mrs. Huber?

Commissioner Huber: Yeah, I just have a question on the, on the gift shops. I mean, yes, in a national zoo or something like that we've got a gift shop; we've also have a cafeteria. But on a very small scale is this -- should we have, should we allow gift shops by-right in one of these establishments? Again, it's a question.

Commissioner Bobzien: I don't, I don't know how to respond to that. It's --

Commissioner Huber: Problem.

Commissioner Bobzien: -- it's an extremely, from my understanding, the, the gift shop aspect of the Pet-A-Pet Farm is a very small aspect of the, of the operation and, of course, it is a, it is a commercial enterprise. Now Mr. Crippen may have made a representation at one time that there'd only be one commercial enterprise on the property and that's something that we're going to have to deal with with the rezoning. But I don't see why it should necessarily cause the defeat of the Zoning Ordinance Amendment because of that aspect, commercial aspect.

Chairman Murphy: Well, it'd be sort of like approving a church with a religious article store inside or something, a little store inside.

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Commissioner Harsel: But --

Chairman Murphy: Further discussion of the motion?

Commissioner Harsel: Yes, Mr. Chairman.

Chairman Murphy: Ms. Huber -- Ms. Harsel.

Commissioner Harsel: Very quickly, either Mr. Congleton or Mr. Bobzien. What do we have currently in place that has been regulating the Pet-A-Pet Farm? Do we have a zoning ordinance? Do we have a definition? Do we have a special permit? What do we have that is different from what we're doing tonight? I know tonight is for the PDH but --

Mr. Congleton: There's --

Commissioner Harsel: -- what is currently controlled?

Mr. Congleton: -- there's a special permit from 1975.

Commissioner Harsel: With conditions.

Mr. Congleton: Yes, ma'am.

Commissioner Bobzien: And as a matter of fact, I think that's contained, Ms. Chianese delivered her report on the rezoning that comes up two weeks from now, and I believe that that is an appendix item in her report; that -- a copy of the special permit.

Commissioner Harsel: And then how will this be different from what is currently in this zoning ordinance? Will this give us additional standards to judge (unintelligible).

Mr. Congleton: If the zoological park was developed in accordance with these standards the County would have more control over its operation than it currently does.

Commissioner Harsel: Okay.

Chairman Murphy: Further discussion of the motion? I just have one question. If I were following correctly, you brought us through changes on the June 25th amendment through page 2. There are some minor amend -- changes on page 3 and 4, did you want to incorporate them into the motion too?

Commissioner Bobzien: Mr. Chairman, I think when I made the motion I enumerated those changes. I did state the, the numbers that correspond.

Chairman Murphy: Okay.

Commissioner Bobzien: But, as I also said, that they're all as, as contained in the 6/25/92 --

Chairman Murphy: All right.

Commissioner Bobzien: -- version of the proposed amendment.

Chairman Murphy: Okay, just want to make sure. All right, all those in favor of the motion to recommend to the Board of Supervisors that it approve the changes to Article 6, 7, 8, and 20, Zoological Parks of the Zoning Ordinance, as amended by Mr. Bobzien this evening, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Baldwin: Nay.

Chairman Murphy: Motion carries. Mr. Baldwin --

Commissioner Huber: I abstain.

Commissioner Sell: Abstain.

Chairman Murphy: Mr. Baldwin votes no, Mr. Sell abstains and Mrs. Huber abstains. Thank you very much.

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(The motion passed by a vote of 8-1-2 with Commissioner Baldwin opposed; Commissioners Huber and Sell abstaining; Commissioner Koch absent from the meeting.)

PAM

7/27/92

5:00 p.m. Items - RZ-91-C-026 - GEORGE H. RUCKER REALTY CORPORATION
SE-91-C-042 - GEORGE H. RUCKER REALTY CORPORATION
Centreville District

On Thursday, July 16, 1992, the Planning Commission voted unanimously (Commissioner Byers not present for the votes; Commissioners Baldwin, Hanlon, and Harsel absent from the meeting) to make the following recommendations to the Board of Supervisors pertinent to the subject applications:

- 1) approval of RZ/CDP-91-C-026, subject to the execution of proffers consistent with those dated July 14, 1992, and the proposed development conditions in Appendix 2 of the staff report, with the following changes to the proffers:
 - add to the preamble: ". . . subject to a possible reduction of lots on Parcel B pursuant to paragraph 1 of the development conditions dated June 24, 1992, pertaining to relocation of the stormwater facility . . ."
 - add to proffer #14, a last sentence to read: "With respect to the landscaping along Baron Cameron Avenue and Lake Fairfax Drive, at the time of planting, the minimum caliper of the deciduous trees will be two (2) inches and the minimum height of the evergreen trees will be eight (8) feet."
 - add to proffer #21: "The yards of the interior lots on Parcel B, excluding Lot 27, will conform to the respective yard requirements of the R-2 cluster district."
- 2) approval of FDP-91-C-026, subject to Board approval of RZ/CDP-91-C-026, and subject to the applicant making the physical changes to the plan concerning:
 - a) 50-foot building setback along the Ascot border;
 - b) 25-foot buffer of trees along the panhandle border of Ascot;
 - c) transitional screening shown on the common boundary with the Amoco station;
 - d) 8-foot wide trails throughout the development and trail links along Baron Cameron to Route 7 along parcel C and along the frontage of parcels C & D and Hunter Mill Road;
 - e) move the ADU units 89 and 90 along the border with the Bettius property to lot 116;

- f) provide access easement across the Crippen property to connect Bettius parcels 22 and 24; and
 - g) add a note that no bicycle or pedestrian connection between the subject property and the Ascot subdivision will be allowed.
- 3) approval of SE-91-C-042, subject to the proposed development conditions in Appendix 3 of the staff report.
 - 4) modification of the open space requirement on parcel B, paragraph 1, Section 6-110 of the Zoning Ordinance, to permit open space to be used as grazing land for the Reston Pet Farm Park until the Park ceases operations;
 - 5) waiver of the PFM requirement for paved parking for Phases one and two of the Reston Farm Market, pursuant to paragraph 7 of Section 16-401 of the Zoning Ordinance;
 - 6) waiver of the service drive requirement on Route 7;
 - 7) waiver of the 600-foot maximum length for private streets;
 - 8) waiver of the interparcel connection to Bishopsgate Way.

Planning Commission Meeting
July 16, 1992
Verbatim Excerpts

RZ-91-C-026 - GEORGE H. RUCKER REALTY CORPORATION
FDP-91-C-026 - GEORGE H. RUCKER REALTY CORPORATION
SE-91-C-042 - GEORGE H. RUCKER REALTY CORPORATION

Decision Only During Commission Matters

Commissioner Bobzien: Mr. Chairman, I wonder now if we have everyone in attendance, if I could bring up for decision the companion cases George H. Rucker Realty Corporation, RZ and FDP-91-C-026 and SE-91-C-026.

Commissioner Thomas: Mr. Chairman?

Chairman Murphy: Mr. Thomas.

Commissioner Thomas: If I may say something first, Commissioner. Last week I was not here for the -- for the public hearing. However, this evening I did view the tape and so I do plan on a vote tonight.

Chairman Murphy: Thank you very much. Mr. Bobzien.

Commissioner Bobzien: Mr. Chairman, we held the public hearing on these companion applications last Wednesday, and virtually all of the speakers were in agreement that this constituted a good, if not perfect application, and certainly one that was greatly improved over the many proposals that have been made, over the many years, on Crippen's corner, which is the major portion -- a major portion of remaining undeveloped land in western Fairfax County. Mr. Chairman, this is a large tract of land. And although it is not burdened by the insurmountable environmental constraints that often characterize what we call infill parcels, because of its sheer size, I think that it does have another characteristic of infill and that is the potential for intrusion on existing neighborhoods, and I believe what has really been driving the concern of the neighbors in this particular case. Alice Burns from Ascot I think said it very well and very succinctly last week when she said that the people in the surrounding neighborhoods are going to miss greatly the open fields that they have enjoyed viewing for so long. But the neighbors understand that development had to come eventually and through their hard work and that of the applicant and the staff, we have a plan in which they can take pride, and a plan that I think is worthy of approval tonight. At the conclusion of last Wednesday's hearing, Mr. Strickland observed that he couldn't recall an application in which so many speakers seemed to be in general agreement as to the acceptability of the proposal but had individual concerns that I -- over certain aspects of it. And it was because of those individual concerns that I moved for a deferral of the decision until tonight so that we could have a period of about eight days to try to fine-tune the application. And through the work of the neighbors, the applicant, the staff, and Supervisor Dix,

I think we were able to do a great deal in a fairly short period of time. On Friday when I went through my notes on each and every piece of testimony, I developed an all-inclusive list of the concerns that were voiced, and in some instances, the specific suggestions which were made to address those concerns. While I did not agree with the propriety or the wisdom of some of them, in many instances I did, and we have prevailed upon the applicant to incorporate many of them. The Planning Commissioners received at home Tuesday night -- at least, I think most of them did, a copy of the revised proffers. I'd like to briefly highlight the significant changes that have been made to the proffers and the changes the applicant has committed to physically make on the development plan before it goes to the Board of Supervisors for a public hearing that is now scheduled for July the 27th. In the preamble of the proffers I will move to insert language to the effect that the number of lots on parcel B may be reduced if the on-site stormwater management is required. The farm market proffers have been changed to remove the phrase "without limitation", a phrase that was of concern to a great many people. And the proffers prohibit gasoline engine machinery from being sold at the farm market. If the pet farm ceases operation, the property will be conveyed to the County for park "or open space" as requested by two of the speakers. Also, concerning the pet farm, proffers have been added to regulate the hours of operation, parking, and to acknowledge that any expansion of existing buildings or construction of new buildings can only occur if a proffered condition amendment and a final development plan amendment are first obtained. In addition acknowledging the authority of the Director of the Department of Animal Control to inspect and to make determinations concerning the adequacy of the facility, as provided for in the Zoning Ordinance Amendment that passed the Board on Monday, the applicant has proffered to undertake significant upgrading in the veterinary care of the animals. A licensed veterinarian technician will be on full-time staff, a veterinarian will be on call twenty-four (24) hours a day, a monthly veterinarian inspection will take place and any deficiencies the veterinarian finds will be corrected. And this has been proffered. As requested by a number of the citizens, the applicant has agreed to a pro rata contribution to a traffic light at the intersection of Lake Fairfax Drive and Baron Cameron Avenue. The applicant has agreed to the suggestion that Joe Stowers made that shielded, metal halite street lamps be utilized throughout the proffer -- throughout the project, and he has proffered that. The panhandle tree save proposed by the Ascot homeowners has been proffered and there has been a strengthening of the proffers relating to buffering and supplemental plantings on the borders with Ascot and Lake Fairfax Estates. In addition, certain yard requirements and set backs have been proffered on lots near Ascot and Lake Fairfax Estates. The exterior noise attenuation measures requested by staff have now been proffered. And lastly, Mr. Chairman, this afternoon the applicants agreed to yet another of several proffers that have been suggested with respect to the Lake Fairfax Estates. The applicants have agreed to plant trees in the landscape area along Baron Cameron and Lake Fairfax Drive at a

he has given me in working out the problems of this application. And I might say that he has kept himself fully aware of the issues and has helped in the resolution when help was needed. Mr. Chairman, I think it's time to vote on this application which enjoys a recommendation by staff for approval and the support of the neighboring communities. I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE RZ-91-C-026 AND CDP-91-C-026 SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED JULY 14, 1992, AND THE PROPOSED DEVELOPMENT CONDITIONS CONTAINED IN APPENDIX 2, WITH THE FOLLOWING ADDITIONS TO THE PROFFERS: And if you will turn to the sheet that was handed out tonight, you will see it is marked summary of 7/16/92 changes made to proffers -- to draft proffer for RZ-91-C-026, Crippen's Corner.

The first is a change to the preamble that I mentioned before, and the additional words are:
". . . SUBJECT TO A POSSIBLE REDUCTION OF LOTS ON PARCEL B PURSUANT TO PARAGRAPH 1 OF THE DEVELOPMENT CONDITIONS DATED JUNE 24, 1992, PERTAINING TO RELOCATION OF THE STORMWATER MANAGEMENT FACILITY, . . . "

Another addition is to proffer #14, the additional language will be the last sentence, "WITH RESPECT TO THE LANDSCAPING ALONG BARON CAMERON AVENUE AND LAKE FAIRFAX DRIVE, AT THE TIME OF PLANTING, THE MINIMUM CALIPER OF THE DECIDUOUS TREES WILL BE TWO (2) INCHES AND THE MINIMUM HEIGHT OF THE EVERGREEN TREES WILL BE EIGHT (8) FEET."

And lastly, the change to parcel -- to proffer #21, dealing with the Parcel B Yards, a sentence has been added to say, "THE YARDS OF THE INTERIOR LOTS ON PARCEL B, EXCLUDING LOT 27, -- parenthetically, the reason for the exclusion is that there is a sewer easement across that lot, WILL CONFORM TO THE RESPECTIVE YARD REQUIREMENTS OF THE R-2 CLUSTER DISTRICT."

Commissioner Hubbard: Second.

Chairman Murphy: Seconded by Mr. Hubbard. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ-91-C-026 and CDP-91-C-026, say aye.

Commissioners: Aye.

height of eight feet and a caliper of two inches. This will be essentially a doubling of the landscaping, or at least the cost of the landscaping, in those areas. Concerning modifications of the development plan itself, I've been assured by the applicant and I will make it a part of my motion, that the Planning Commission's approval of the final development plan will be contingent upon the following physical additions to the plan being made between now and the Board of Supervisor's hearing: First, a note indicating a fifty (50) foot building setback along the Ascot border and a twenty-five (25) foot buffer of trees to be preserved along the panhandle border of Ascot; transitional screening shown on the common boundary with the Amoco station. Eight foot wide trails throughout the development and missing trail links will be provided along Baron Cameron to Route 7 along parcel C and along the frontage of C and D and Hunter Mill Road. The affordable dwelling units 89 and 90 will be taken off the border with the Bettius property and will be moved to what is now lot 116. And an access easement will be provided across Crippen property to connect Bettius parcels 22 and 24. And lastly, a note will be placed on the plan to clearly indicate that there will be no bicycle or pedestrian connection between the subject property and the Ascot subdivision. And I think that bares a little more explaining. That, I think, was a crucial and a very contentious issue that we heard last Wednesday. It really comes down to a choice of satisfying the concerns of the close-in neighbors, or satisfying the concerns of the more distant neighbors. And I think a persuasive case was made over the weekend by the people in Ascot, that if there is such a connection, if one were shown, if one were permitted, what would happen is that you would have people coming from the development into Ascot. And once there, they would not have the benefit of trails that are being provided in the development. There is no trail system, there are no sidewalks, and history has been that children have come up from that area have gotten onto Bishops Gate Way, have traversed Bishops Gate Way without the benefit of sidewalks or trails, and have gone down and attempted to cross Route 7, on foot, to get to Niki Park. And that certainly is a safety concern that I do not think should be exacerbated on balance by the inclusion of this easement. It was a close call but it's one that, I think, is the right call. Mr. Chairman, before I make my motions, I want to thank all of the citizens who have so diligently followed this application. Those of you who took part in the effort know that your voice does count, and that in many cases, the very language you have suggested has been adopted and will become part of the rezoning. The applicant and counsel have been extremely responsive and have kept the citizens apprised throughout the process. Cathy Chienese and Fred Seldon have done just a magnificent job. I think we tend to take the excellence of their -- the way they perform their job for granted. In this case, they made countless creative suggestions which we would not -- without which we wouldn't even be close to coming to a resolution on this case. And I can't even begin to guess the number of phone calls they fielded from citizens and the meetings they attended to make sure that everyone knew exactly what was going on. And lastly, I want to thank Supervisor Dix for the support that

Chairman Murphy: Opposed? The motion carries. Mr. Bobzien.

Commissioner Bobzien: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS WAIVE THE PFM REQUIREMENT FOR PAVED PARKING FOR PHASES ONE AND TWO OF THE RESTON FARM MARKET, PURSUANT TO PARAGRAPH 7 OF SECTION 16-401 OF THE ZONING ORDINANCE.

Commissioner Hubbard: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? The motion carries. Mr. Bobzien.

Commissioner Bobzien: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS WAIVE THE SERVICE DRIVE REQUIREMENT ON ROUTE 7.

Commissioner Hubbard: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? The motion carries. Mr. Bobzien.

Commissioner Bobzien: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS WAIVE THE 600 FEET MAXIMUM LENGTH OF A PRIVATE STREET REQUIREMENT.

Commissioner Hubbard: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? The motion carries. Mr. Bobzien.

Commissioner Bobzien: Mr. Chairman, lastly, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS WAIVE THE INTERPARCEL CONNECTION TO BISHOPS GATE WAY.

Chairman Murphy: Opposed? The motion carries. Mr. Bobzien.

Commissioner Bobzien: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION APPROVE FDP-91-C-026, SUBJECT TO THE BOARD OF SUPERVISORS APPROVAL OF RZ-91-C-026 AND CONCEPTUAL DEVELOPMENT PLAN 91-C-026, AND SUBJECT TO THE APPLICANT'S MAKING THE CHANGES STATED IN MY VERBATIM BETWEEN NOW AND THE BOARD OF SUPERVISORS HEARING.

Commissioners Hubbard and Thomas: Second.

Chairman Murphy: Seconded by Mr. Hubbard and Mr. Thomas. Discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? The motion carries. Mr. Bobzien.

Commissioner Bobzien: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SPECIAL EXCEPTION 91-C-042, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS CONTAINED IN APPENDIX 3 OF THE STAFF REPORT.

Commissioners Hubbard and Thomas: Second.

Chairman Murphy: Seconded by Mr. Thomas and Mr. Hubbard. Is there a discussion of that motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE-91-C-042, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? The motion carries. Mr. Bobzien.

Commissioner Bobzien: Mr. Chairman, I have five (5) more motions. I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS MODIFY THE OPEN SPACE REQUIREMENT ON PARCEL B, PARAGRAPH 1, OF SECTION 6-110, OF THE ZONING ORDINANCE TO PERMIT THE OPEN SPACE TO BE USED AS GRAZING LAND FOR THE RESTON PET FARM PARK ANIMALS UNTIL THE PARK CEASES TO OPERATE PURSUANT TO PARAGRAPH 8, OF SECTION 16-401 OF THE ZONING ORDINANCE.

Commissioner Thomas: Second.

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

Commissioners: Aye.

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Chairman Murphy: All right. Thank you very much.

Commissioner Sell: Mr. Chairman?

Chairman Murphy: Mr. Sell.

Commissioner Sell: Mr. Bobzien did such a great job while I was out on the Centennial case with Ms. Chianese, and they did such a great job on this case that I'm thinking about letting them handle a few Kingstowne cases from now on.

Chairman Murphy: Okay, thank you very much.

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(The motions passed unanimously with Commissioner Byers not present for the votes; Commissioners Baldwin, Hanlon and Harsel absent from the meeting.)

SLS

Commissioner Hubbard: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? The motion carries. Mr. Sell.

Commissioner Sell: Mr. Chairman, not to nit-pick, just to make an observation. I notice the motion was that -- to be consistent with the proffers, and I have -- note that the proffers say that B1 -- B2 will go to the Board of Supervisors and if the pet farm ceases operation that parcel B1 will go to the Board of Supervisors. I would be much more comfortable if those parcels went to the Park Authority for park purposes. And I don't think -- I know the Board likes to exercise it's power, however I'd be much more comfortable, just the way I feel from a philosophical standpoint that those went to the Park Authority and somebody would have to fight with the Park folks if they decided to try to do anything else with it.

Commissioner Bobzien: Well, Mr. Chairman, Mr. Sell's druthers are duly noted.

Chairman Murphy: Okay. I -- I would be remiss, I think, if I didn't take this opportunity to complement and congratulate Mr. Bobzien for doing a tremendous job in getting this very difficult application through. It wound up there was a lot of quid in this pro quo, I think. And he deserves a lot of congratulations for working this out. It's very complex; there are a lot of diversive opinions and issues, and again, complements to the staff. I said a few weeks ago we shouldn't be complementing Ms. Chianese in public so often because they'll take it seriously and they'll promote her to senior staff. And you know what happens when they get promoted to senior staff, but she does deserve a lot of credit as does Mr. Seldon and the applicant too. I was very pleased to know that we were going to make the decision tonight on the proffers, as revised and reflecting these great changes were delivered in plenty of time to me anyway, and the members of the Commission who had a chance to review them. So I think everybody deserves a lot of credit for this application.

Commissioner Hubbard: Mr. Chairman?

Chairman Murphy: Mr. Hubbard.

Commissioner Hubbard: Mr. Chairman, I would like to second that particular comment, as well as a sigh of relief and thank goodness for redistricting. You will remember that this was a split parcel, and I rather enjoyed sitting this one out.