



# County of Fairfax, Virginia

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November 17, 2014

**2014 Planning  
Commission**

**Peter F. Murphy**  
Chairman  
*Springfield District*

**Frank de la Fe**  
Vice Chairman  
*Hunter Mill District*

**Janet R. Hall**  
Secretary  
*Mason District*

**James R. Hart**  
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**John Ulfelder**  
*Dranesville District*

**Earl L. Flanagan**  
*Mount Vernon District*

**Janyce N. Hedetniemi**  
*At-Large*

**Ellen J. "Nell" Hurley**  
*Braddock District*

**John L. Litzenberger**  
*Sully District*

**Kenneth A. Lawrence**  
*Providence District*

**James Migliaccio**  
*Lee District*

**Timothy J. Sargeant**  
*At-Large*

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**Jill G. Cooper**  
*Executive Director*

**Kimberly A. Bassarab**  
*Assistant Director*

**John W. Cooper**  
*Clerk to the Commission*

Gregory A. Riegle, Esquire  
McGuireWoods LLP  
1750 Tysons Boulevard, Ste. 1800  
Tysons Corner, Virginia 22102

**Re: RZ/FDP 2014-BR-007 – NVR, INC.  
Braddock District**

Dear Mr. Riegle:

At its November 13, 2014 meeting, the Planning Commission voted 8-0 (Commissioners de la Fe, Flanagan, Lawrence, and Sargeant were absent from the meeting) to **RECOMMEND APPROVAL** of the above referenced rezoning application to the Board of Supervisors. A copy of the verbatim transcript is attached.

This letter serves as a record of the Planning Commission's recommendation to the Board of Supervisors and not as the final approval. The application is still subject to the final decision by the Board of Supervisors.

Concurrently, the Planning Commission voted 8-0 (Commissioners de la Fe, Flanagan, Lawrence, and Sargeant were absent from the meeting) to **APPROVE** the above referenced Final Development Plan application.

This action does not constitute exemption from the various requirements of this County and State. The applicant is responsible for ascertaining if permits are required and for obtaining the necessary permits.

Sincerely,

  
Jill G. Cooper, AICP  
Executive Director

Attachments (a/s)

cc: John Cook, Supervisor, Braddock District  
Ellen Hurley, Planning Commissioner, Braddock District  
Catherine A. Chianese, Assistant County Executive, Clerk to the Board of Supervisors, County Executive Office  
William O'Donnell, Staff Coordinator, ZED, DPZ  
Robert Harrison, ZED, DPZ  
November 13, 2014 date file

 To request special accommodations, call the Planning Commission office at 703-324-2865, TTY 703-324-7951. Please allow seven working days to make the appropriate arrangements.

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Planning Commission  
Verbatim Excerpt  
November 13, 2014

RZ/FDP 2014-BR-007 – NVR, INC.

Decision Only during Commission Matters  
(Public Hearing held on 11/06/14)

Commissioner Hurley: Thank You, Mr. Chairman. This is regarding the case that was deferred a week ago; RZ/FDP 2014-BR-017 [*sic*], which is NVR, Inc. Most elements of this application have received overwhelming, though not unanimous, approval from the staff, the community, and the Braddock Land Use Committee. The general layout, the number of houses, the plans for open space, tree preservation, and stormwater management have all received few, if any, adverse comments. Retaining walls were added to the plans during the last week, but they should have no adverse impact. They will not even be visible outside the development. There are three outstanding matters – matters, but I believe the Planning Commission should vote on this application this evening so that it can move forward to the Board of Supervisors. The first outstanding matter is how much stormwater detention ponds can be enhanced yet still be accepted by the County for public maintenance. This judgment call affects the amount of HOA escrow funds that might be proffered. This question has a larger implication beyond this particular development because the issue will affect future developments that also will have some sort of stormwater detention pond. I urge staff to create some sort of PFM guidelines on this matter. The second matter is reimbursement of design fees to relocate the traffic signal at Forest Hill and Lee Highway. As shown in Proffer 16 and, at the request of the community, the applicant has proffered to add a right turn lane from Forest Hill to Lee Highway. This additional lane does not appear to be warranted merely by the addition of these forty houses, especially if the development connects to Delsignore Road and thence to Shirley Gate Road. Therefore this lane is a public benefit. The traffic signal at Forest Hill and Lee Highway – – the pole is being moved anyway because of the current widening of Lee Highway. As shown in the third bullet of Appendix 10, FCDOT is seeking \$13,875 from the applicant as reimbursement for design and coordination fees to relocate the traffic signal mast arm light pole to accommodate the proffered right turn lane. At this point staff has not determined the design fees if the design fees are a public benefit. And staff is working with the County Attorney to resolve this issue. The third outstanding matter, and the most contentious issue in this rezoning application, is whether the new subdivision road should be connected through the existing cul-de-sac, that has been in existence in the southeast corner of the property for decades, and thereby create connectivity from Forest Hill Drive through to Shirley Gate Road. Although some neighbors believe the impact of the future connection should be studied in more detail, VDOT does not require a traffic study for such a relatively small increase in overall traffic on adjacent roads. With Option A of this application, a full public road connection would be built and open to public use after the new roads are accepted by VDOT or in about two to three years. Back in 1979 this body, the Planning Commission, recommended approval of the development to the east, now called Deerfield Forest, with the understanding that when the acreage that is part of the current rezoning was eventually developed, connectivity would then be established. In contrast, under Option B no allowance would be made for the connection ever to be built. Connection C [*sic*] is a hybrid, with the necessary roads built in the new development, but no completed connection until some future

about a hundred additional vehicle trips per day would be added to Delsignore with a date. If 20 percent of the traffic from the new development were to use the proposed connection, corresponding 100 fewer trips on Forest Hill, which currently carries about 500 cars a day. These numbers are miniscule compared to the 21,000 vehicles a day that Shirley Gate was already carrying, according to a VDOT report from 2012. We have heard and read and carefully considered the concerns of the neighbors who would be most affected by such a connection. Several speakers expressed concern that if these streets were to be connected then vehicles from not only these 40 new houses would use the connection but also the immediate neighbors, both to the east and west, who would use the new connection to get into and out of their neighborhoods. It is noted that some of the speakers who spoke in opposition to a connection also stated that if it were available, they would use it. A greater connection to the neighborhood is that other Lee Highway traffic and particularly traffic using Shirley would use the new connection to bypass heavy traffic jams. Some speakers requested some sort of traffic calming devices, perhaps even new stoplights at the intersection at Nancyann and Shirley Gate Road. Developers are not permitted on their own initiative to install speed bumps or stop signs or traffic signals on public roads. Those are all part of a formal process in which the county partners with VDOT, which also requires the community petition for such measures after certain minimum thresholds are achieved. However, developers are permitted to install stop signs on private roads and this applicant is offering to do so at the proposed "T" intersection at the tot lot. In addition, HOAs may limit parking on their private roads to HOA members and their guests, which will ease proposed – potential parking problems for the new residents in this development. My fellow commissioners who use Lee Highway are aware of the widening project currently under construction. When complete, eastbound 29 will gain not only an additional through lane but also a dedicated right-turn lane. These two additional traffic lanes should greatly approve – improve traffic flow and alleviate the desire to seek a bypass through neighborhood streets. As for traffic in the opposite direction – northbound Shirley Gate traffic seeking to make a left turn onto westbound Lee Highway – I am very familiar with the current pattern. This is how I got to this meeting this evening. Previous traffic studies are not clear regarding possible impacts from all these combinations and permutations and to add to the complications of predicting future traffic volumes. The County has funded and is about to begin a feasibility study regarding a potential connection from the Fairfax County Parkway to Shirley Gate at its intersection with Braddock Road. An additional, longer-term project is a potential grade-separated interchange at the intersection of Shirley Gate, Waples Mill, and Lee Highway. While the combined impact of all these projects is unknown, what is known is that Lee Highway is the site of all too many accidents. Last night, at about 6:40, was the third time in about as many months that my own trip was delayed by such an accident. Dozens of cars heading north on Shirley Gate Road chose to make U-turns back to Braddock Road to escape the jam. On such occasions the traffic through a new connection would become very heavy indeed; yet, an emergency bypass would be of great value to the entire central Fairfax community and that's something we have to consider also – is the entire community. Even with the current Lee Highway widening, the proposed connection from Shirley Gate to the Parkway, and the more distant grade separation at the intersection of Shirley Gate and Lee Highway, we - the county - need more connectivity. With this application, we have a developer who is proffering to build a connection that the county planned 35 years ago. Traffic is much heavier now. Option C, to build the future connecting roads, yet block the

connection until needed, is not feasible in part because any developer-proffered funds to connect the roads later cannot be held in escrow for longer than seven years. In any case, it would be poor planning to build a connection but not use it until after nearby roads approach gridlock. As it is, Option A, to build through this new subdivision a full public road connection to be open for public use after the issuance of the last occupancy permit, would still not be implemented until two to three years from now. This developer has made significant modifications to this application in response to suggestions and concerns raised by the staff, by the community, and by the Braddock Land Use Committee. Therefore, Mr. Chairman,

I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE RZ 2014-BR-007, OPTION A ONLY, AS DEPICTED ON THE CDP/FDP, INCLUDING A FULL PUBLIC ROAD CONNECTION AND EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED 13 NOVEMBER, 2014.

Commissioners Hall, Hedetniemi, and Migliaccio: Second.

Chairman Murphy: Seconded by Ms. Hall and Mr. Migliaccio. Is there a discussion – and Ms. Hurley [*sic*].

Commissioner Hart: Mr. Chairman?

Chairman Murphy: – and Mrs. Hedetniemi. Yes, Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. I was not here the night of the public hearing, but I did watch the video afterwards and I do intend to participate in the decision. I was going to make one observation. It was interesting watching the public hearing, rather than sitting in the room and hearing it. I think if we had a chance to do over some of the decisions that – that the county has made over the last 40 or 50 years on residential development, we probably would not have so many communities with single-ended or long, convoluted ways in and out. There would be more connections back and forth. And I think part of the effort in Tysons has been to try and retrofit a grid of connecting streets onto an area that had bigger loops and less direct connections. We create more problems when we leave the connections out. We tend to intensify the congestion on the choke points that are remaining and when this kind of thing comes up, I think we're better off completing the connections that were planned, in this case in 1979. I think we're better off with the connection, and so I'm going to support the motion tonight.

Chairman Murphy: Further discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2014-BR-007, Option A only, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Hurley.

Commissioner Hurley: I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS WAIVE THE 600 FEET MAXIMUM LENGTH REQUIREMENT FOR A PRIVATE STREET AND WAIVE THE SERVICE DRIVE REQUIREMENT ALONG ROUTE 29.

Commissioners Hall and Hedetniemi: Second.

Chairman Murphy: Seconded by Ms. Hall and Ms. Hedetniemi. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Hurley.

Commissioner Hurley: I move that the Planning Commission recommend that the Board of Supervisors direct the Director of DPWES to approve a deviation from the tree preservation target, in accordance with the deviation request letter included on the CDP/FDP.

Commissioners Hall and Hedetniemi: Second.

Chairman Murphy: Seconded by Ms. Hall and Ms. Hedetniemi. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Commissioner Hurley: And last-

Chairman Murphy: Opposed? Motion carries.

Commissioner Hurley: And lastly, I move that the Planning Commission approve FDP 2014-BR-007, Option A only, as depicted on the CDP/FDP, including a public road connection –

Chairman Murphy: Hold on just a minute. Do we have development conditions on this application?

Commissioner Hurley: No.

Chairman Murphy: We do.

Commissioner Hurley: No, not in the -- the new staff report does not have them.

Kris Abrahamson, Zoning Evaluation Division, Department of Planning and Zoning:  
Commissioner Murphy, in the original staff report there were actually development condition. The applicant, in subsequent proffers proffered to those, so they've been deleted. So there's no conditions at the present time.

Chairman Murphy: Okay, should we change the motion, then, that says “proposed development conditions” and –

Ms. Abrahamson: Yes.

Chairman Murphy: – and make it –

Commissioner Hurley: Correct, yes.

Chairman Murphy: I’m sorry to interrupt. I thought we might need a declaration here. I’m sorry. Go ahead.

Commissioner Hurley: I’ll restate –

Chairman Murphy: Yes, go ahead.

Commissioner Hurley: I’ll restate the last one.

Chairman Murphy: Try to keep it straight here, okay.

Commissioner Hurley: I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2000 - - again, FDP 2014-BR-007, OPTION A ONLY, AS DEPICTED ON THE FDP - - CDP/FDP, INCLUDING A PUBLIC future [sic] ROAD CONNECTION, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED NOVEMBER 13, 2014 AND FURTHER CONDITIONED UPON BOARD OF SUPERVISORS APPROVAL OF RZ 2014-BR-007.

Commissioners Hall and Hedetniemi: Second.

Chairman Murphy: Seconded by Ms. Hall and Ms. Hedetniemi. Is there a discussion of that motion?

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Hart: On that one, not “public future connection” but a “full public connection.”

Commissioner Hurley: “FULL PUBLIC ROAD CONNECTION.” Correct.

Commissioner Hart: You said “future” and I don’t think “future” is in the motion.

Commissioner Hurley: “Future,” - - correct; a full public road connection.

Chairman Murphy: Okay, so noted. All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Hurley.

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(Each motion carried by a vote of 8-0. Commissioners de la Fe, Flanagan, Lawrence, and Sargeant were absent from the meeting.)

JN



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November 17, 2014

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Gregory A. Riegler, Esquire  
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1750 Tysons Boulevard, Ste. 1800  
Tysons Corner, Virginia 22102

**Re: RZ/FDP 2014-BR-007 – NVR, INC.  
Braddock District**

Dear Mr. Riegler:

At its November 6, 2014 meeting, the Planning Commission voted 10-0 (Commissioners Hart and Lawrence were absent from the meeting) to **DEFER THE DECISION ONLY** on the above-referenced application to a date certain of November 13, 2014. A copy of the verbatim transcript is attached.

Sincerely,

Jill G. Cooper, AICP  
Executive Director

cc: John Cook, Supervisor, Braddock District  
Ellen Hurley, Planning Commissioner, Braddock District  
Catherine A. Chianese, Clerk to the Board of Supervisors, County Executive Office  
William O'Donnell, Staff Coordinator, ZED, DPZ  
Robert Harrison, ZED, DPZ  
November 6, 2014 date file



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Planning Commission Meeting  
November 6, 2014  
Verbatim Excerpt

RZ/FDP 2014-BR-007 – NVR, INC.

After Close of the Public Hearing

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

Commissioner Hurley: Thank you Mr. Chairman. While we have - - while I have heard very little opposed to the project overall tonight, because of this significant question about whether the road should connect or not – and I understand that the applicant is willing to go either of – any of the three options, but I think we have enough to talk about here that we – I - - Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY WITH THE RECORD TO REMAIN OPEN FOR WRITTEN INPUT FOR CASES RZ 2014-BR-007 AND FDP 2014-BR-007 TO A DATE CERTAIN OF 13 NOVEMBER, 2014.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of the motion? All those in favor of the motion to defer decision only on RZ and FDP 2014-BR-007 to a date certain of November 13<sup>th</sup> with the record remaining open for comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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

JN