

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, JANUARY 24, 2002**

PRESENT: Walter L. Alcorn, Commissioner At-Large
Frank de la Fe, Hunter Mill District
Joan M. DuBois, Dranesville District
Janet R. Hall, Mason District
John B. Kelso, Lee District
Ronald W. Koch, Sully District
Ilryong Moon, Commissioner At-Large
Peter F. Murphy, Jr., Springfield District
Linda Q. Smyth, Providence District

ABSENT: John R. Byers, Mount Vernon District
Suzanne F. Harsel, Braddock District
Laurie Frost Wilson, Commissioner At-Large

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The meeting was called to order at 8:28 p.m. by Chairman Peter F. Murphy, Jr.

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COMMISSION MATTERS

Commissioner DuBois MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING ON APPLICATIONS RZ-2001-DR-013, RZ-2001-DR-038, AND SEA-97-D-038, TEMPLE RODEF SHALOM AND THE FAIRFAX COUNTY PARK AUTHORITY, TO BE HEARD CONCURRENTLY, TO A DATE CERTAIN OF MARCH 14, 2002.

Commissioner Hall seconded the motion which carried unanimously with Commissioner de la Fe not present for the vote; Commissioners Byers, Harsel and Wilson absent from the meeting.

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Commissioner Murphy, to allow more time for citizen review, MOVED THAT THE PLANNING COMMISSION DEFER 2232-S00-28, SPRINT PCS, INDEFINITELY.

Commissioner Koch seconded the motion which carried by a vote of 8-0-1 with Commissioner Kelso abstaining; Commissioners Byers, Harsel and Wilson absent from the meeting.

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Commissioner Alcorn announced that the Development Criteria Review Committee would meet on Thursday, February 21; Wednesday, February 26; Wednesday, March 6; and Wednesday,

March 13, 2002. He noted that all of these meetings would take place at 6:30 p.m. in the Board Conference Room and that the Board of Zoning Appeals (BZA) members had been invited to the March 6 meeting to discuss how the development criteria would apply to BZA cases.

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Commissioner Smyth, to allow time for staff to review the drainage calculations, MOVED THAT THE DECISION ONLY ON RZ/FDP-2001-PR-032, STANLEY MARTIN HOMEBUILDING, BE (FURTHER) DEFERRED TO A DATE CERTAIN OF FEBRUARY 7, 2002.

Commissioner Hall seconded the motion which carried unanimously with Commissioners Byers, Harsel and Wilson absent from the meeting.

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Commissioner Smyth noted that Area Plans Review item APR-01-II-4V would be heard on Thursday, February 7, 2002 rather than Thursday, January 31, 2002 due to advertising problems.

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Commissioner DuBois, in order to provide an opportunity for further community discussion by all interested parties, MOVED, IN ACCORDANCE WITH ADOPTED AREA PLANS REVIEW PROCEDURES, THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING ON APR-01-II-21M AND APR-01-II-43M (FROM WEDNESDAY, JANUARY 30, 2002) TO A DATE YET TO BE DETERMINED.

Commissioner Hall seconded the motion which carried unanimously with Commissioners Byers, Harsel and Wilson absent from the meeting.

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Chairman Murphy reminded the Commission that the next four meetings of the Planning Commission would begin at 7:30 p.m. for public hearings on Area Plans Review items as follows:

- Wednesday, January 30, 2002 - Dranesville District items
- Thursday, January 31, 2002 - Springfield and Providence District items
- Wednesday, February 6, 2002 - Hunter Mill and Sully District items
- Thursday, February 7, 2002 - carryover items from the previous three meetings.

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PCA-82-P-069-12 - TRW, INC.

FDPA-82-P-069-1-2 - TRW, INC. (Springfield District) (Decisions Only)

(The public hearing on these applications was held on January 23, 2002. A complete verbatim transcript of the decisions made is included in the date file.)

Commissioner Murphy MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA-82-P-069-12, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED JANUARY 24, 2002, AS AMENDED.

Commissioner Koch seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers, Harsel and Wilson absent from the meeting.

Commissioner Murphy MOVED THAT THE PLANNING COMMISSION APPROVE FDPA-82-P-069-1-2, SUBJECT TO THE BOARD'S APPROVAL OF PCA-82-P-069-12, WITH THE AMENDED PROFFERS DATED JANUARY 24, 2002.

Commissioner Koch seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers, Harsel and Wilson absent from the meeting.

Commissioner Murphy MOVED THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE WAIVER OF THE 600-FOOT MAXIMUM LENGTH OF PRIVATE STREETS; APPROVAL OF THE WAIVER OF THE REQUIREMENT TO PROVIDE A 200-SQUARE FOOT FENCED PRIVACY YARD FOR EACH UNIT; AND A MODIFICATION OF THE TRANSITIONAL SCREENING AND WAIVER OF THE BARRIER REQUIREMENT ON THE NORTH IN FAVOR OF THE EXISTING VEGETATION AS SHOWN ON THE AMENDED CDP/FDP.

Commissioner Koch seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers, Harsel and Wilson absent from the meeting.

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ORDER OF THE AGENDA

In the absence of Secretary Harsel, Chairman Murphy set the following order for the agenda:

1. SE-01-V-035 - LANDMARK PROPERTY DEVELOPMENT, LLC
2. RZ-2000-LE-023 - TAVARES CONCRETE COMPANY, INC.
3. CODE AMENDMENTS (Chesapeake Bay Preservation Ordinance)

This order was accepted without objection.

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Chairman Murphy noted that Commissioner Byers had asked him to handle the Mount Vernon District case tonight. He therefore turned the Chair over to Parliamentarian Hall.

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SE-01-V-035 - LANDMARK PROPERTY DEVELOPMENT, LLC -
Appl. under Sect. 2-904 of the Zoning Ord. to permit uses in the floodplain on property located at 6310 Potomac Ave. on approx. 16,395 sq. ft. of land zoned R-3. Tax Map 83-4((2))(29) 28, 28A, 29 & 30. MT. VERNON DISTRICT. PUBLIC HEARING.

Mr. John Thillmann, agent for the applicant, reaffirmed the affidavit dated January 2, 2002. There were no disclosures by Commission members.

Commissioner Murphy asked that Parliamentarian Hall ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived and the public hearing closed. No objections were expressed, therefore Parliamentarian Hall closed the public hearing and recognized Commissioner Murphy for action on this case. (A verbatim transcript is in the date file.)

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In the absence of Commissioner Byers, Commissioner Murphy MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE SE-01-V-035, SUBJECT TO THE DEVELOPMENT CONDITIONS CONTAINED IN APPENDIX 1 OF THE STAFF REPORT.

Commissioner Kelso seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote; Commissioners Byers, Harsel and Wilson absent from the meeting.

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Prior to the next public hearing, Chairman Murphy resumed the Chair.

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RZ-2000-LE-023 - TAVARES CONCRETE COMPANY, INC. - Appl. to rezone from R-1 to I-5 to permit industrial uses w/an overall FAR of 0.20 on property located on the E. side of Cinder Bed Rd., approx. 1,500 ft. N.

of Hill Park Dr. on approx. 3.36 ac. Comp. Plan Rec: Industrial (Parcel 17); 3-4 du/ac w/option for industrial (Parcel 18 & 19). Tax Map 99-2 ((1))17, 18 & 19. LEE DISTRICT. PUBLIC HEARING.

David Houston, Esquire, with Shaw, Pittman LLP, reaffirmed the affidavit dated September 12, 2002. There were no disclosures by Commission members.

Ms. Cathy Lewis, 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 denial of the application because of the applicant's failure to meet the following three conditions outlined in the Comprehensive Plan:

- provision of substantial vegetated buffers and screening adjacent to parcels planned or developed for residential or public park use;
- prohibition of outdoor storage and heavy industrial uses; and
- provision of access from Cinder Bed Road and the discontinuance of use of the 50-foot wide access easement through Parcel 24.

Commissioner Kelso briefly reviewed the land use history of the subject property. (A copy of the application chronology is in the date file.)

In response to questions from Commissioner Kelso, Ms. Lewis confirmed that staff's concern was mainly for the buffering along the southern boundary of the property.

Ms. Lewis responded to further questions from Commissioner Kelso regarding staff's position on the buffering issue.

Mr. Houston explained that this minority-owned business had been operating for 20 years in Fairfax County and was a certified contractor for the Virginia Department of Transportation. He noted that the applicant purchased additional property on Cinder Bed Road and would be relocating their headquarters to that site as soon as the site plan approval and construction processes could be completed. He spoke about the applicant's efforts to meet staff's concerns, including acquisition of Lots 18 and 19 and removing illegally dumped debris on those lots. He added that the three restrictions listed in the Comprehensive Plan had been added after the subject application had been accepted by the County. Mr. Houston stated that industrial uses were a vital part of Fairfax County's economy and efforts should be made to retain industrially zoned parcels, which were getting fewer and fewer as development and redevelopment occurred. Regarding the outdoor storage issue, he explained that the applicant was requesting permission to continue outdoor storage only until its headquarters site was available for occupancy, a period of time which was not expected to exceed two years. Regarding the buffer issue, he noted that there was an existing fence on the property that would be supplemented with vegetative

landscaping and that the applicant would comply with Noise Ordinance provisions. He pointed out that there were no residences abutting Lot 17. Regarding the access issue, he stated that the applicant's plans showed access off of Cinder Bed Road and that there would be no use of the outlet road by the applicant. In conclusion, Mr. Houston stated that the applicant's plans represented an improvement to the neighborhood.

In response to questions from Commissioner Smyth, Mr. Houston confirmed that the Lee District Land Use Advisory Committee representative, Mr. Bob McLaren, had walked the site and found one oak tree worth saving and noted that the applicant, as outlined in Proffer Number 12, would coordinate its efforts to preserve the tree with the Urban Forestry Division of the Department of Planning and Zoning.

There being no further comments or questions from the Commission, Chairman Murphy called the only listed speaker and recited the rules for public testimony.

Mr. Andrew Miller, engineering manager for Centex Homes, 14121 Parke Long Court, Suite 201, Chantilly, applauded the applicant for attempting to clean up this section of Cinder Bed Road. However, he also concurred with the concerns expressed in the staff report, especially regarding the outlet road. He requested that the applicant vacate the outlet road and plant landscaping to further buffer the homes adjacent to Lots 18 and 19. He noted that the existing wall was only 4 feet high and that a higher wall and more landscaping was needed to screen the residences.

Commissioner Kelso noted that more time was needed to work out the details and suggested that Mr. Miller leave his phone number so that he could be included in future meetings.

In her closing staff comments, Ms. Lewis clarified that staff did not object to a period of time for the outdoor storage to continue, but felt that two years was too long. In response to a question from Commissioner Hall, Ms. Lewis declined to offer an alternative time frame. Commissioner Kelso commented that the site plan process could be expedited.

Commissioner Kelso and Mr. Houston discussed the applicant's intentions regarding outdoor storage and a fence on the southern border of the subject property.

Commissioner Smyth and Mr. Houston discussed the fence and the hours of operation.

Ms. Lewis responded to questions from Commissioner de la Fe regarding staff's efforts to get adjacent properties to clean up their sites.

There being no further comments or questions from the Commission, Chairman Murphy closed the public hearing and recognized Commissioner Kelso for action on this case. (A verbatim transcript is in the date file.)

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Commissioner Kelso MOVED THAT THE PLANNING COMMISSION DEFER DECISION ON RZ-2000-LE-023, TAVARES CONCRETE COMPANY, INC., TO A DATE CERTAIN OF FEBRUARY 13, 2002, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENT.

Commissioner Hall seconded the motion which carried unanimously with Commissioners Byers, Harsel, and Wilson absent from the meeting.

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CODE AMENDMENTS (Chesapeake Bay Preservation Ordinance) - To amend Chap. 118 concerning issues related to violations & penalties, restoration of Chesapeake Bay Preservation Areas, & removal of indigenous vegetation from RPAs. The proposed amendments add a new article, Art. 8 (Violations & Penalties), that: 1) specifies administrative procedures for the issuance & correction of violations incl. requirements for the submission of Water Quality Impact Assessments & restoration plans; 2) specifies requirements for restoration of Chesapeake Bay Preservation Areas; 3) makes criminal violations a Class 1 misdemeanor; 4) provides for a civil penalty of up to \$5,000 for each day of violation or a one-time payment of civil charges not to exceed \$10,000 for each violation; and 5) provides for injunctive relief. The proposed amendments to Art. 3 (Land Use & Development Performance Criteria) modify existing provisions that permit the removal of indigenous vegetation from RPA buffers for various activities & incorporate planting requirements for the establishment of RPA buffers. The proposed amendment to Art. 5 (Administrative Waivers & Exemptions) limits the width of boardwalks, pathways, & paved paths serving individual residential properties to four ft. except as necessary for handicapped access. PUBLIC HEARING.

Mr. John Friedman, Department of Public Works and Environmental Services, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of the language outlined on pages 5 through 9 of the staff report.

In response to questions from Commissioner Kelso, Mr. Friedman explained that the proposed amendment to Article 5 regarding path widths applied to individual residential properties only.

Chairman Murphy called the first listed speaker.

Ms. Katie Goldberg, representing the Northern Virginia Conservation Trust, 4022 Hummer Road, Annandale, spoke in support of the proposed amendments. (A copy of Ms. Goldberg's statement is in the date file.)

Ms. Betsy Martin, 8707 Stockton Parkway, Alexandria, supported the proposed amendments. She suggested a further modification to include provisions for public notice and hearings before approval of requests for exceptions to the resource protection area (RPA) requirements of the Chesapeake Bay Preservation Ordinance. She said that the fact that there were no provisions for public input reinforced a cynical view of County government and how approvals were granted. (A copy of Ms. Martin's statement is in the date file.)

In response to questions from Commissioner Alcorn, Ms. Martin said that she didn't believe that money changed hands in the approval process, but that she had heard that view from others and maintained that the lack of public review reinforced those opinions. Commissioner Alcorn said he wasn't sure that adding a public hearing process would be within the scope of advertising for these Code Amendments.

In response to questions from Commissioner Alcorn, Mr. Friedman confirmed that the Ordinance currently provided for administrative approvals only. He added, however, that the Chesapeake Bay Local Assistance Board had adopted new regulations on December 10, 2001 that included requirements for public hearings and adjoining property owner notifications for exceptions that encroached into an RPA. He explained that these requirements were not immediately effective, but would most likely be published in the *Virginia Register* in March, following which Fairfax County had one year to incorporate the requirements into its local Ordinance.

Mr. Matt Berres, representing the Potomac Conservancy, 1730 North Lynn Street, Suite 403, Arlington, spoke in support of the proposed amendments. He applauded the inclusion of criminal and civil penalties for violations. (A copy of Mr. Berres' letter is in the date file.)

In response to questions from Commissioner Moon, Mr. Friedman explained that the penalties outlined in Section 118-8.3(a) would be imposed upon a violator after a finding of fault by the appropriate circuit court and that the penalties outlined in Section 118-8.3(b) could be imposed by the County. He explained that the language was copied directly from State legislation that authorized such penalties. He added that the County Attorney's Office had reviewed the language and expressed no objections.

In response to a request from Commissioner Alcorn, Mr. Friedman agreed to ask the County Attorney to review the language once again.

There being no further comments or questions from the Commission and Mr. Friedman having no closing staff remarks, Chairman Murphy closed the public hearing and recognized Commissioner Alcorn for action on this case. (A verbatim transcript is in the date file.)

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Commissioner Alcorn MOVED TO RECOMMEND THAT THE BOARD OF SUPERVISORS ADOPT THE PROPOSED AMENDMENTS TO CHAPTER 118, CHESAPEAKE BAY

PRESERVATION ORDINANCE, OF THE *CODE OF THE COUNTY OF FAIRFAX*, REGARDING VIOLATIONS AND PENALTIES, RESTORATION OF CHESAPEAKE BAY PRESERVATION AREAS AND REMOVAL OF INDIGENOUS VEGETATION FROM RESOURCE PROTECTION AREAS, AS CONTAINED IN THE STAFF REPORT DATED DECEMBER 3, 2001.

Commissioner de la Fe seconded the motion which carried unanimously with Commissioners Byers, Harsel, and Wilson absent from the meeting.

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The meeting was adjourned at 10:10 p.m.
Peter F. Murphy, Jr., Chairman
Suzanne F. Harsel, Secretary

For a verbatim record of this meeting, reference may be made to the audio and video recordings which may be found in the Office of the Planning Commission of Fairfax County, Virginia.

Minutes by: Gloria L. Watkins

Approved on: June 12, 2003

Mary A. Pascoe, Clerk to the
Fairfax County Planning Commission