

**MINUTES OF
PLANNING COMMISSION MEETING
FEBRUARY 10, 1993**

PRESENT: Lawrence C. Baldwin, Commissioner At-Large
John R. Byers, Mount Vernon District
Judith W. Downer, Dranesville District
Patrick M. Hanlon, Providence District
Suzanne F. Harsel, Braddock District
Ronald W. Koch, Sully District
Henry E. Strickland, Mason District
Alvin L. Thomas, Commissioner At-Large

ABSENT: Robert v. L. Hartwell, Commissioner At-Large
John M. Palatiello, Hunter Mill District
Peter F. Murphy, Jr., Springfield District
Carl L. Sell, Jr., Lee District

//

In the absence of Chairman Murphy, the meeting was called to order at 8:20 p.m. by Vice Chairman Patrick M. Hanlon.

//

COMMISSION MATTERS

Secretary Harsel MOVED FOR THE APPROVAL OF THE FOLLOWING SETS OF 1989 MINUTES:

1/19/89	5/11/89	9/6/89
2/9/89	5/25/89	9/20/89
2/23/89	6/7/89	9/28/89
3/9/89	6/8/89	10/21/89
4/6/89	7/13/89	11/30/89
4/12/89	7/27/89	12/14/89
4/27/89		

Commissioners Byers and Thomas seconded the motion which passed by a vote of 4-0-4 with Commissioners Byers, Harsel, Strickland, and Thomas in favor; Commissioners Baldwin, Downer, Hanlon, and Koch abstaining; Commissioners Hartwell, Murphy, Palatiello, and Sell absent from the meeting.

//

Commissioner Koch MOVED TO DEFER SE-87-Y-119, LA PETITE ACADEMY, INC., TO MARCH 11, 1993.

Commissioner Baldwin seconded the motion which passed unanimously with Commissioners Hartwell, Murphy, Palatiello, and Sell absent from the meeting.

//

ORDER OF THE AGENDA ITEMS

Secretary Harsel established the following order for tonight's agenda items:

1. Zoning Ordinance Amendment (Building & Construction Permits)
2. S92-I-B2 - Out-of-Turn Plan Amendment
3. RZ-92-W-037 - Board of Supervisors, Own Motion

This order was accepted without objection.

//

ZONING ORDINANCE AMENDMENT (Building & Construction Permits) - On the matter of an amendment to Chapter 112, The Zoning Ord. of the 1976 Code of the County of Fairfax, VA as follows:
 Amend Article 17 to revise the provisions regarding Site Plans, Agreements, Security & Fees; amend Article 18 to revise the provisions regarding required items to accompany an application for a Building Permit; &, amend Article 20, to add a definition of Construction Permit. PUBLIC HEARING.

Mr. Henry Schenke, Chief, Bonds and Agreements Branch, Department of Environmental Management, presented the staff report, a copy of which is in the date file. He stated that staff proposed the amendments to facilitate the administrative processing of site plans, provide clarification to the fee submission process requirements, and to delete those provisions of the Ordinance that were no longer applicable and for those reasons, staff recommended adoption of the proposed amendment.

Vice Chairman Hanlon noted that there were no listed speakers and asked if there was anyone present who wished to address this matter. Receiving no response, and because there were no further questions or comments, he closed the public hearing and turned to Commissioner Baldwin for action on this case. (Verbatim excerpts are in the date file.)

//

Following comments, Commissioner Baldwin MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS ADOPTION OF THE PROPOSED AMENDMENT TO THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA, CHAPTER 112 OF THE ZONING ORDINANCE, AS SET FORTH IN THE STAFF REPORT FOR THE FOLLOWING:

SECTION 17-108, AGREEMENTS, SECURITIES AND FEES....

SECTION 18-602, APPLICATIONS FOR A PERMIT....

AND AS REVISED, PAGE 7A: SECTION 18-603, PERMITS NOT TO BE ISSUED....

SECTION 20-300, DEFINITIONS....

Commissioner Thomas seconded the motion which passed unanimously with Commissioners Hartwell, Murphy, Palatiello, and Sell absent from the meeting.

//

S92-I-B2 - OUT-OF-TURN PLAN AMENDMENT (Skyline Center) -
To consider proposed revisions to the Adopted Comprehensive Plan for Fairfax Co., VA, in accord. with *Code of Virginia*, Title 15.1, Chap. 11. This amendment concerns Skyline Center, on property generally located S. of Rt. 7 between Gorham St. & the City of Alexandria in the Baileys Planning District. The property is planned for mixed use, The proposed Plan Amendment would provide additional flexibility for residential units in place of office space.
MASON DISTRICT. PUBLIC HEARING.

Ms. Barbara Carpenter, Planning Division, Office of Comprehensive Planning, presented the staff report, a copy of which is contained in the date file. She explained that the Out-of-Turn Plan Amendment, as directed by the Board of Supervisors, evaluated the option of allowing the flexibility to provide residential units in place of approved office space and noted that the proposed amendment would facilitate consideration of a proffered condition amendment and a final development plan amendment to allow the flexibility to provide residential units in place of currently approved office space.

Commissioner Strickland commented on proposed administrative language changes he intended to make when he made his motion.

Vice Chairman Hanlon called for speakers from the audience and outlined the Planning Commission's rules for speakers.

Martin D. Walsh, Esquire, Walsh, Colucci, Stackhouse, Emrich and Lubeley, 2200 Clarendon Boulevard, Courthouse Plaza, 13th Floor, Arlington, stated that he represented a property owner in the vicinity. As stated in the staff report, he said, the proposed amendment was a request for flexibility in the Comprehensive Plan in order to provide a residential option and, after meetings with the representatives of condominium associations and residents of the Skyline area, there were no objections to the proposal. In response to Vice Chairman Hanlon's question, Mr. Walsh said that a proffered condition amendment would be necessary to procedurally implement the residential option.

Mr. Walsh answered questions from Commissioner Baldwin regarding overall density for residential units.

Discussion followed among Commissioners Baldwin, Byers, Harsel, Mr. Walsh, and Ms. Carpenter regarding density levels within the Skyline area and the situation of residential areas within mixed use areas.

Ms. Carpenter responded to Vice Chairman Hanlon's question regarding the site's configuration.

Ms. Kristen Abrahamson, Branch Chief, Rezoning and Special Exception Applications Branch, Zoning Evaluation Division, Office of Comprehensive Planning, answered Commissioner Harsel's question concerning floor area ratios in mixed use developments and she noted that the Fair Lakes project was an example which used mixed use development.

There being no further discussion, Vice Chairman Hanlon closed the public hearing and turned to Commissioner Strickland for action on the case. (Verbatim excerpts may be found in the date file)

//

Following summation remarks and prior to making a motion on this application, Commissioner Strickland suggested addition of the following language to the text on page 4 of the staff report:

IN THE SIXTH LINE FROM THE TOP, CHANGE THE NUMBER
36 TO "37".

IN THE SECOND TO THE LAST SENTENCE, AFTER THE
WORDS: "...LIMITS OF THE APPROVED OFFICE PLAN",
INSERT A COMMA AND THE WORDS: "...SUBJECT TO
REVIEW BY THE PLANNING COMMISSION."

Commissioner Strickland then MOVED THAT THE PLANNING COMMISSION
RECOMMEND TO THE BOARD THAT IT APPROVE PLAN AMENDMENT S92-I-B2,
SUBJECT TO THE CHANGES I'VE JUST MENTIONED.

Commissioner Byers seconded the motion which passed by a vote of 6-2 with Commissioners Hanlon and Harsel opposed; Commissioners Hartwell, Murphy, Palatiello, and Sell absent from the meeting.

//

Prior to the final case in the Providence District, Vice Chairman Hanlon asked Secretary Harsel to take the Chair.

//

RZ-92-W-037 - BOARD OF SUPERVISORS, OWN MOTION -

Appl. to rezone approx. 56.81 ac. from RC, R-1, R-2 & R-3 to R-1, R-2, R-3 & R-8 to permit adjustments to the Fairfax County/Town of Vienna boundary line.

Detailed information on affected parcels of land is contained in the following table:

AREA	TAX MAP	ACREAGE	MAG. DIST.	EXISTING ZONING	COMP. PLAN	PROP. ZONING	MAX. DENSITY/INTEN.
A	28-4 ((14))A	10.34 A	H	RC, R-2	Pub. Fac.	R-2	0.20 FAR
B	38-2 ((1))5	1.00 A	H	RC, R-1	2-3 du/A	R-1	1 du/A
C	38-2 ((22))12	0.28 A	H	RC, R-3	2-3 du/A	R-3	3 du/A
D	38-2 ((22))22	0.29 A	H	RC, R-3	2-3 du/A	R-3	3 du/A
E	39-1 ((3))p55A	0.04 A	H	RC	Park	R-8	8 du/A
F	39-1 ((3))65	3.00 A	H	RC, R-1	Park	R-1	1 du/A
G	39-1 ((3))65A	3.78 A	H	RC, R-1	Park	R-1	1 du/A
H	39-3 ((8))26	0.68 A	P	RC, R-1	1-2 du/A	R-1	1 du/A
I	39-3 ((8))27	0.59 A	P	RC, R-1	1-2 du/A	R-1	1 du/A
J	39-3 ((8))28	0.52 A	P	RC, R-1	1-2 du/A	R-1	1 du/A
K	39-3 ((8))29	0.56 A	P	RC, R-1	1-2 du/A	R-1	1 du/A
L	38-1 ((1))31	3.54 A	H	RC, R-1	1-2 du/A	R-1	1 du/A
M	38-1 ((14))13D	0.44 A	H	RC	1-2 du/A	R-1	1 du/A
N	38-3 ((1))11	6.00 A	H	RC, R-1	1-2 du/A	R-1	1 du/A
O	38-3 ((1))52	25.37 A	H	RC, R-1	Pub. Fac.	R-3	0.25FAR
P	38-3 ((29))141	0.33 A	H	RC, R-2	2-3 du/A	R-2	2 du/A
Q	38-2 ((48))1A	2,615 SF	H	RC	2-3 du/A	R-3	3 du/A
R	38-2 ((48))5A	259 SF	H	RC	2-3 du/A	R-3	3 du/A

HUNTER MILL & PROVIDENCE DISTRICTS. PUBLIC HEARING.

Secretary Harsel noted that this case had no affidavit to affirm.

In the absence of Commissioner Palatiello, Commissioner Hanlon announced that he would handle the case. He then called attention to a memorandum in the Commissioners' packets from Ms. Bette Zirkle, Legal Assistant with the Office of the County Attorney, which noted that the affidavit prepared by Walsh, Colucci, Stackhouse, Emrich & Lubeley, P.C., on behalf of Stanley Martin Westwood Limited Partnership, was incomplete. (A copy is in the date file.) He asked Martin D. Walsh, Esquire, if the affidavit would be in order within a week.

Martin D. Walsh, Esquire, of Walsh, Colucci, Stackhouse, Emrich & Lubeley, P.C., assured the Commission that a corrected affidavit would be forthcoming within the next two days.

Commissioner Hanlon explained that the purpose of an affidavit was to ascertain whether any Commissioner had an interest in an application that merited disclosure and since the affidavit in question related to one of the property owners and not to the applicant and because of the assurance that it would be quickly remedied, he proposed to proceed with the public hearing with the expectation of resolving the affidavit problem before going to decision.

Commissioner Hanlon then announced his intent to move for deferral of the decision for those reasons.

Secretary Harsel asked for disclosures from the Commission regarding any of the involved parcels and there were none.

Stating he had no disclosures, Commissioner Hanlon then asked that staff consult with the County Attorney and provide guidance as to whether the Commission should have concern over the absence of actual land owner input into the affidavits.

In response to Commissioner Hanlon's query, Ms. Kristen Abrahamson, Branch Chief, Rezoning and Special Exception Applications, Zoning Evaluation Division, Office of Comprehensive Planning, assured the Commission that, with regard to this affidavit, staff had worked extensively with the County Attorney in the determination of the format to follow and, as agreed upon by the County Attorney's office, what was before them that night was their determination. She conceded that all necessary information should be available at the time the application was to be heard by the Board of Supervisors.

Ms. Lorrie Kirst, Zoning Evaluation Division, Office of Comprehensive Planning, presented the staff report, a copy of which is contained in the date file. She noted that staff recommended approval on this boundary adjustment.

Secretary Harsel called the first listed speaker and reiterated the Commission's rules for presenting oral testimony.

Mr. Robert W. Atwood, 1927 Beulah Road, Vienna, submitted written testimony, a copy of which is in the date file. He requested that his parcel be rezoned to R-3 instead of R-1 as proposed and explained: the background for his request. In response to Commissioner Byers' question, Mr. Atwood stated that the Comprehensive Plan called for his property to be zoned R-3.

Mr. John Heffern, 412 Blair Road, Vienna, pointed out the difficulty in understanding the Planning Commission's letter notifying citizens of the proposed rezoning and suggested that future mailings denote zoning designation explanations. He submitted a petition, a copy of which is in the date file, from neighbors and adjoining property owners opposing the proposed R-1 rezoning of land in the "L" section stating that they would prefer residential/conservation designation. He pointed out a privately owned parcel which he and his neighbors did not want to be developed and listed property values and potential problems with erosion as reasons for their position.

Commissioner Strickland pointed out that the owner of the property indicated by Mr. Heffern had a vested interest in his land with his own property rights.

Commissioner Hanlon noted that there was no other land zoned RC in the area and if there was a situation to "spot zone" one parcel it could raise potential claims against the County.

In response to Commissioner Hanlon, Ms. Abrahamson pointed out that the vast majority of the parcel was already zoned R-1 and to spot zone an area could indeed open up a case for a "downzoning." She explained that the purpose of this rezoning exercise was to make the parcel whole with a consistent zoning rather than a split zoning.

In response to Commissioner Byers' question, Ms. Abrahamson stated that the intent of the application was to provide a consistent zoning of the properties should an owner want to sell or make changes requiring a bank loan where the zoning may come into question.

There being no further questions or comments and Ms. Kirst declined closing staff comments, Secretary Harsel closed the public hearing and recognized Commissioner Hanlon for action on the case. (Verbatim excerpts are in the date file.)

//

Noting the aforementioned Stanley Martin Company's affidavit problem with an allowance of time for its correction as well as time for the Commission to evaluate its participation in this case in light of that, Commissioner Hanlon MOVED TO DEFER DECISION ONLY ON THIS APPLICATION WITH THE RECORD TO REMAIN OPEN FOR WRITTEN COMMENTS TO A DATE CERTAIN OF FEBRUARY 17, 1993.

Commissioner Byers seconded the motion which passed unanimously with Commissioners Hartwell, Murphy, Palatiello, and Sell absent from the meeting.

//

At the conclusion of this case, Secretary Harsel returned the Chair to Vice Chairman Hanlon who adjourned the meeting.

//

The meeting was adjourned at 9:50 p.m.
Peter F. Murphy, Jr., Chairman
Suzanne F. Harsel, Secretary

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

Minutes by: Paula A. McFarland
Approved on: May 5, 1993


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