

**MINUTES OF  
PLANNING COMMISSION MEETING  
MARCH 3, 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  
Robert v. L. Hartwell, Commissioner At-Large  
Ronald W. Koch, Sully District  
John M. Palatiello, Hunter Mill District  
Carl L. Sell, Lee District  
Henry E. Strickland, Mason District

ABSENT: Peter F. Murphy, Jr., Springfield District  
Alvin L. Thomas, Commissioner At-Large

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The meeting was convened at 8:30 p.m. by Vice Chairman Patrick M. Hanlon.

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**COMMISSION MATTERS**

Commissioner Baldwin reminded the Commissioners that the markup for the Chesapeake Bay Preservation Ordinance, Phases I and II, was currently scheduled for March 4, 1993.

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Commissioner Koch called attention to RZ-88-Y-043 and PCA-88-S-109, David L. Hunter, scheduled for public hearing this evening. He then MOVED THAT WE DEFER THESE APPLICATIONS TO MAY 5, 1993.

Commissioner Byers seconded the motion which passed unanimously with Commissioner Sell not present for the vote; Commissioners Murphy and Thomas absent from the meeting.

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Commissioner Koch also called attention to PCA-74-2-077, RZ-92-Y-003 and SE-92-Y-016, Exxon Corporation, scheduled for public hearing this evening. He then DEFERRED THESE APPLICATIONS FOR PUBLIC HEARING ON APRIL 29, 1993.

Commissioner Byers seconded the motion which passed unanimously with Commissioner Sell not present for the vote; Commissioners Murphy and Thomas absent from the meeting.

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Commissioner Harsel announced that she would move approval on the recently submitted 1992 minutes on March 4, 1993.

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Commissioner Hanlon called attention to SE-92-P-033, Christian Assembly Church, scheduled for public hearing this evening. He then MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING ON THIS CASE TO A DATE CERTAIN OF APRIL 22, 1993.

Commissioner Byers seconded the motion which passed unanimously with Commissioner Sell not present for the vote; Commissioners Murphy and Thomas absent from the meeting.

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In Commissioner Murphy's absence, Commissioner Hanlon MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY ON PLAN AMENDMENT S92-III-P1 TO A DATE CERTAIN OF MARCH 4, 1993.

Commissioner Palatiello seconded the motion which passed unanimously with Commissioner Sell not present for the vote; Commissioners Murphy and Thomas absent from the meeting.

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Commissioner Sell announced that the Engineering Proving Ground (EPG) Committee would meet on Tuesday, March 9, 1993 at 7:30 p.m. in the Board of Supervisors Conference Room.

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ORDER OF THE AGENDA ITEMS

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

1. 456-Y92-17 - Fairfax County Water Authority
2. RZ-92-V-032 - Starr Management Corporation

This order was accepted without objection.

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456-Y92-17 - FAIRFAX COUNTY WATER AUTHORITY - Under provisions of Sect. 15.1-456 of the *Code of Virginia*, as amended, to extend a 36-inch water main approx. 9,800 ft. along the S. side of Lee Jackson Memorial Hwy. (Rt. 50), from Sully Rd. (Rt. 28) to the Fairfax County/Loudoun County line, & to install two pressure reducing vaults & one metering facility. Tax Maps 33-2, 34-1, 34-3. Area III, SULLY DISTRICT. PUBLIC HEARING.

Commissioner Koch requested that Vice Chairman Hanlon call for speakers from the audience for this case. Receiving no response and there being no comments or questions from the Commission, Commissioner Koch asked that presentation of the staff report be waived. No objection was expressed and Vice Chairman Hanlon closed the public hearing on this application.

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Commissioner Koch MOVED THAT, IN ACCORDANCE WITH SECTION 15.1-456 OF THE *CODE OF VIRGINIA*, AS AMENDED, WE FIND THE PROPOSED 36-INCH WATER TRANSMISSION MAIN PRESENTED IN APPLICATION NUMBER 456-Y92-17, IN SUBSTANTIAL ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioner Strickland seconded the motion which passed unanimously with Commissioner Sell not present for the vote; Commissioners Murphy and Thomas absent from the meeting.

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RZ-92-V-032 - STARR MANAGEMENT CORPORATION - Appl. to rezone approx. 7.05 ac. located in the N.E. quadrant of the intersection of Huntington Ave. & Metroview Pkwy. from C-3 (temporary Metro lot) to C-3 to permit office development with an overall FAR of 0.65. Comp. Plan Rec: Office with service retail use. Tax Map 83-1((1))53A & 538 [formerly 83-1((1))178, 17C, 47, 48, 49, 50, 51, 52, 53.] MOUNT VERNON DISTRICT. PUBLIC HEARING.

John Farrell, Esquire, of Odin, Feldman & Pittleman, P.C., reaffirmed the affidavit. There were no disclosures by Commission members.

Ms. Regina Murray, Zoning Evaluation Division (ZED), Office of Comprehensive Planning (OCP), presented the staff report, a copy of which is contained in the date file. She said that the application was in harmony with the Comprehensive Plan and in conformance with the Zoning Ordinance; however, the introductory paragraph of the proffers was a concern to staff. She added that the proffers stated that the site would be developed in accordance with the proffers and "for so long as the property is subject to regulations which do not eliminate, or materially

restrict, reduce, or modify the uses, the floor area ratio, or the density of use permitted in the current C-3 district as modified in these proffers." Ms. Murray said that staff had consulted with the County Attorney's Office and was concerned that the language would infer that any future amendment to the Zoning Ordinance which modified the current provisions of the C-3 District could render all proffers associated with this application null and void. She said that the end result would be that the site would be designated in the C-3 District without proffers. Ms. Murray noted that it was the original intent of the application to accomplish the equivalent of a proffered condition amendment to make minor modifications to the structures approved pursuant to the two rezoning applications approved in 1989. She added that the proffers which currently governed the site pursuant to the original rezonings did not contain any language similar to that proposed with this application. She said that given the potential risk of losing all proffers associated with this rezoning, staff believed that this language should be deleted.

Mr. John Farrell said that the original intent of the application focused on the need to reduce the number of parking spaces shown on the original GDP. He added that the applicant was currently examining the possibility of leasing the property to the General Services Administration, Mr. Farrell said that in the course of processing the site plan the problems and changes discussed by staff were identified. Pertaining to the proffer language in dispute, Mr. Farrell said that he had been in contact with an Assistant County Attorney and felt confident that language could be worked out that would be mutually acceptable to the County Attorney's Office and the applicant. He added that in view of the fact that there was no current plan to develop the property for an extended period of time, there needed to be some way of addressing the problem that was presented by the last sentence of the *Code of Virginia*, Section 15.1, paragraph a.

Following discussion between Commissioner Byers and Mr. Farrell, Commissioner Byers said that he could not recommend approval of the application with the proposed language preceding the proffers.

In responding to Commissioner Sell's question, Mr. Farrell said that, in his opinion, the language of the Statute was clear that if the County decided to rewrite its Zoning Ordinance in a way that a court ruled was the comprehensive implementation of a new or substantially revised Ordinance, the County would then be free to rezone the property to any category it wanted. Further, he noted that the proffers and the economic impact of the proffers would stay in place, which he did not think would not be fair to any applicant.

Ms. Murray, in responding to Commissioner Harsel's question, said that staff was not aware of any application before the Planning Commission or Board of Supervisors with similar proffer language.

There being no speakers, no rebuttal, and no closing staff comments, Vice Chairman Hanlon closed the public hearing and recognized Commissioner Byers for action on the case. (Verbatim excerpts are contained in the date file.)

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Commissioner Byers MOVED THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT RZ-92-V-032 BE DENIED.

Commissioner Baldwin seconded the motion.

Commissioner Palatiello asked whether the application could be deferred in order to give the applicant time to work out the remaining issues.

Following a discussion, Commissioner Byers agreed to withdraw his motion and then MOVED THAT THE PLANNING COMMISSION DEFER DECISION ON RZ-92-V-032 FOR A PERIOD OF SIXTY DAYS, TO MAY 6, 1993, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENT.

Commissioners Koch and Downer seconded the motion which passed unanimously with Commissioners Murphy and Thomas absent from the meeting.

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The meeting was adjourned at 9:26 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: Sandra L. Stever

Approved on: July 29, 1993

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