

**MINUTES OF  
FAIRFAX COUNTY PLANNING COMMISSION  
THURSDAY, APRIL 22, 1999**

PRESENT: Walter L. Alcorn, Commissioner At-Large  
John R. Byers, Mount Vernon District  
Carl A. S. Coan, Jr., Providence District  
Janet R. Hall, Mason District  
John B. Kelso, Lee District  
Peter F. Murphy, Jr., Springfield District  
Alvin L. Thomas, Commissioner At-Large  
Laurie Frost Wilson, Commissioner At-Large

ABSENT: Judith W. Downer, Dranesville District  
Suzanne F. Harsel, Braddock District  
Ronald W. Koch, Sully District  
John M. Palatiello, Hunter Mill District

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The meeting was called to order at 8:31 p.m. by Chairman Peter F. Murphy, Jr., in the Board Auditorium of the Fairfax County Government Center at 12000 Government Center Parkway, Fairfax, Virginia 22035.

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**COMMISSION MATTERS**

Commissioner Wilson, at the request of the applicant, MOVED THAT THE PUBLIC HEARING ON SE-98-L-063, MOBIL OIL CORPORATION, BE DEFERRED AGAIN TO A DATE CERTAIN OF APRIL 29, 1999.

Commissioner Byers seconded the motion which carried by a vote of 7-0-1 with Commissioner Kelso abstaining; Commissioners Downer, Harsel, Koch, and Palatiello absent from the meeting.

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Commissioner Wilson, to allow time for Commissioners to receive additional information, MOVED THAT THE PUBLIC HEARING ON THE PROPOSED ZONING ORDINANCE AMENDMENT, PLACES OF WORSHIP, ORIGINALLY SCHEDULED FOR MAY 6, 1999 BE MOVED TO A DATE CERTAIN OF JULY 15, 1999.

Commissioners Alcorn and Byers seconded the motion which carried unanimously with Commissioners Downer, Harsel, Koch, and Palatiello absent from the meeting.

Commissioner Wilson also MOVED THAT THE BOARD OF SUPERVISORS DEFER ITS PUBLIC HEARING ON THE PROPOSED ZONING ORDINANCE AMENDMENT, PLACES OF WORSHIP, PENDING THE PLANNING COMMISSION'S RECOMMENDATIONS.

Commissioners Byers and Hall seconded the motion which carried unanimously with Commissioners Downer, Harsel, Koch, and Palatiello absent from the meeting.

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Chairman Murphy noted that, with the previous deferral of the Zoning Ordinance Amendment, Places of Worship, there were no agenda items left on the schedule for Thursday, May 6, 1999 and that the Commission would therefore not meet on that date.

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Commissioner Coan, citing unresolved issues, MOVED THAT WE FURTHER DEFER THE DECISION ONLY ON PCA-85-P-038-2 AND FDPA-85-P-038-2, TYSONS CORNER PROPERTY, LLC, TO A DATE CERTAIN OF APRIL 29, 1999.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Downer, Harsel, Koch, and Palatiello absent from the meeting.

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Commissioner Murphy announced his intent to defer the public hearing on SE-98-S-024, Trustees of Knollwood Baptist Church, from its currently scheduled date of May 19, 1999 to June 17, 1999.

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Chairman Murphy, in Commissioner Downer's absence and at the request of the applicant, MOVED THAT WE DEFER THE PUBLIC HEARING ON SE-98-D-047, CHESTERBROOK-MCLEAN LITTLE LEAGUE, TO A DATE CERTAIN OF APRIL 29, 1999.

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

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RZ-1998-MA-029 - DAVCO RESTAURANTS, INC.

SE-98-M-031 - DAVCO RESTAURANTS, INC. (Decisions Only)

(The public hearing on these applications was held on April 15, 1999. A complete verbatim transcript of the decisions made is included in the date file.)

Commissioner Hall RECOMMENDED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THEY APPROVE RZ-1998-MA-029, SUBJECT TO THE EXECUTION OF PROFFERS DATED APRIL 20, 1999.

Commissioner Byers seconded the motion which carried by a vote of 7-0-1 with Commissioner Kelso abstaining; Commissioners Downer, Harsel, Koch, and Palatiello absent from the meeting.

Commissioner Hall RECOMMENDED THAT WE RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE-98-M-031, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED APRIL 21, 1999.

Commissioner Byers seconded the motion which carried by a vote of 7-0-1 with Commissioner Kelso abstaining; Commissioners Downer, Harsel, Koch, and Palatiello absent from the meeting.

Commissioner Hall RECOMMENDED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS MODIFICATION OF THE TRANSITIONAL SCREENING ALONG THE SOUTH PROPERTY LINE TO THAT SHOWN ON THE GDP/SE PLAT.

Commissioner Byers seconded the motion which carried by a vote of 7-0-1 with Commissioner Kelso abstaining; Commissioners Downer, Harsel, Koch, and Palatiello absent from the meeting.

Commissioner Hall RECOMMENDED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS WAIVER OF THE BARRIER REQUIREMENT ALONG THE SOUTH PROPERTY LINE.

Commissioner Byers seconded the motion which carried by a vote of 7-0-1 with Commissioner Kelso abstaining; Commissioners Downer, Harsel, Koch, and Palatiello absent from the meeting.

Commissioner Hall RECOMMENDED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS WAIVER OF THE TRAIL REQUIREMENT ALONG ROUTE 236.

Commissioner Byers seconded the motion which carried by a vote of 7-0-1 with Commissioner Kelso abstaining; Commissioners Downer, Harsel, Koch, and Palatiello absent from the meeting.

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RZ-1 998-PR-023 - NATIONAL CAPITAL LAND & DEVELOPMENT CO.

FDP-1998-PR-023 - NATIONAL CAPITAL LAND & DEVELOPMENT CO. (Decisions Only)

(The public hearing on these applications was held on November 11, 1998. A complete verbatim transcript of the decisions made is included in the date file.)

Commissioner Coan MOVED THAT WE RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE RZ-1 998-PR-023 AND THE CONCEPTUAL DEVELOPMENT PLAN, SUBJECT TO THE EXECUTION OF PROFFERS DATED TODAY.

Commissioner Hall seconded the motion which carried by a vote of 7-0-1 with Commissioner Wilson abstaining; Commissioners Downer, Harsel, Koch, and Palatiello absent from the meeting.

Commissioner Coan MOVED THAT WE APPROVE FDP-1 998-PR-023, SUBJECT TO THE BOARD'S APPROVAL OF RZ-1 998-PR-023 AND THE CDP.

Commissioner Hall seconded the motion which carried by a vote of 7-0-1 with Commissioner Wilson abstaining; Commissioners Downer, Harsel, Koch, and Palatiello absent from the meeting.

Commissioner Coan MOVED THAT WE RECOMMEND APPROVAL OF THE REQUESTED TRAIL REQUIREMENT MODIFICATION.

Commissioner Hall seconded the motion which carried by a vote of 7-0-1 with Commissioner Wilson abstaining; Commissioners Downer, Harsel, Koch, and Palatiello absent from the meeting.

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ORDER OF THE AGENDA

In Secretary Harsel's absence, Chairman Murphy established the following order for the agenda items:

1. SEA-94-L-004 - KINGSTOWNE SHOPPING CENTER I LP  
PCA-C-448-20 - KINGSTOWNE SHOPPING CENTER I LP  
FDPA-C-448-5-3 - KINGSTOWNE SHOPPING CENTER I LP
2. ZONING ORDINANCE AMENDMENT (BY RIGHT AND SPECIAL PERMIT USES)
3. ZONING ORDINANCE AMENDMENT (BED AND BREAKFAST)

This order was accepted without objection.

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SEA-94-L-004 - KINGSTOWNE SHOPPING CENTER I LP  
PCA-C-448-20 - KINGSTOWNE SHOPPING CENTER I LP  
FDPA-C-448-5-3 - KINGSTOWNE SHOPPING CENTER I LP

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SEA-94-L-004 - KINGSTOWNE SHOPPING CENTER I LP - Appl. under Sect. 6-105 of the Zoning Ord. to amend SE-94-L004 for four fast food restaurants w/drive-through windows to allow a total of eight fast food restaurants, an increase in the permitted number of seats & an increase in land area on property located in the N.W. quadrant of the intersection of Kingstowne Blvd. & South Van Dorn St. on approx. 23.25 ac. zoned PDH-4. Tax Map 91-2((1)) 32A. (Concurrent w/PCA C448-20 & FDPA C-448-5-3.) LEE DISTRICT.

PCA-C-448-20 - KINGSTOWNE SHOPPING CENTER 1 LP - Appl. to amend the proffers for RZ-C-448 to permit commercial development w/an overall FAR of 0.18 on property located in the N.W. quadrant of the intersection of Kingstowne Blvd. & So. Van Dorn St. on approx. 23.25 ac. zoned PDH-4. Comp. Plan Rec: Mixed Use. Tax Map 91-2((1))32A. (Concurrent w/SEA-94-L-004 & FDPA-C-448-5-3.) LEE DISTRICT.

FDPA-C-448-5-3 - KINGSTOWNE SHOPPING CENTER I LP - Appl. to amend the final development plan for RZ-C-448 to permit commercial development on property located in the N.W. quadrant of the intersection of Kingstowne Blvd. & So. Van Dorn St. on approx. 23.25 ac. zoned PDH-4. Tax Map 91-2((1))32A. (Concurrent w/SEA-94-L-004 & PCAC-448-20.) LEE DISTRICT. JOINT PUBLIC HEARING.

Erika Byrd, Esquire, with McGuire, Woods, Battle and Boothe, reaffirmed the affidavit dated April 19, 1999. There were no disclosures by Commission members.

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 approval of the applications.

In response to a question from Commissioner Byers, Commissioner Kelso explained that the first bullet of Condition #2 in Appendix 1 B prohibiting storage of shopping carts in the parking lot had been included at the request of the Kingstowne Residential Owners Corporation.

In response to questions from Commissioner Kelso, Ms. Lewis confirmed that two fast food uses, Kentucky Fried Chicken and McDonald's, had been properly approved for Building F in the shopping center and that additional non-residential use permits had been issued in error for four more fast food uses, Dairy Queen, Subway, Starbuck's, Papa John's Pizza, which were currently in business. She added that the first two applications were intended to legitimize those uses and

SEA-94-L-004 - KINGSTOWNE SHOPPING CENTER I LP  
PCA-C-448-20 - KINGSTOWNE SHOPPING CENTER I LP  
FDPA-C-448-5-3 - KINGSTOWNE SHOPPING CENTER I LP

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that the third application was to exchange the square footage of an approved drive-through window at a bank for a building addition.

Ms. Lewis and Jane Gwinn, Zoning Administrator, responded to questions from Commissioner Coan concerning how the errors allowing the additional four uses occurred.

Commissioner Hall, Ms. Lewis, and Commissioner Kelso discussed the unfulfilled park proffer in the overall Kingstowne development. Ms. Lewis explained why staff was recommending approval of these applications. Commissioner Kelso noted that the park proffer issue was scheduled to be heard by the Commission on June 24, 1999.

In reply to an inquiry from Commissioner Alcorn, Ms. Lewis read the definition of a fast food restaurant from the Zoning Ordinance.

Commissioner Wilson and Ms. Lewis discussed the number of seats in the four additional fast food restaurants.

Ms. Byrd explained that there would be no additional drive-through windows and that the proposed building addition would essentially be built in the area where an approved drive-through window was to have been located. She added that the park proffer issue was a complicated one, but that it was expected to be resolved soon. Regarding the seating issue, she noted that the applicant was requesting that the limit on the number of seats be removed since the Zoning Ordinance had been amended and the number of seats was no longer tied to the number of parking spaces available.

Commissioner Kelso noted that it was his intention to suggest an additional proffer that would provide for a return to retail use if and when any of the four additional currently operating fast food restaurants went out of business. He added that the Lee District Land Use Advisory Committee was scheduled to meet on Monday, April 26, 1999 and that he planned to continue tonight's public hearing in order to allow for further testimony following that meeting.

Ms. Byrd responded to questions from Commissioner Wilson regarding the seating issue and from Commissioner Hall regarding the implications of a recommendation of denial by the Planning Commission. Commissioner Hall said she could not support these applications until the park proffer issue was settled.

Ms. Gwinn and Ms. Lewis responded to questions from Commissioners Alcorn, Kelso, and Hall regarding the possibilities of denial or deferral.

In response to questions from Commissioner Coan, Ms. Byrd confirmed that the applicant was responsible for the existence of the four additional fast food restaurants. She noted that leases

were negotiated by a group of people separate from those involved in the land use applications.  
SEA-94-L-004 - KINGSTOWNE SHOPPING CENTER I LP April 22, 1999  
PCA-C-448-20 - KINGSTOWNE SHOPPING CENTER I LP  
FDPA-C-448-5-3 - KINGSTOWNE SHOPPING CENTER I LP

Chairman Murphy called for speakers from the audience, but received no response. He noted that no rebuttal was necessary. There being no further comments, questions or closing staff remarks, he closed the public hearing and recognized Commissioner Kelso for a continuance motion. (A verbatim excerpt is in the date file.)

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Commissioner Kelso MOVED THAT THE PUBLIC HEARING ON SEA-94-L-004, PCA-C-448-20, AND FDPA-C-448-5-3 BE CONTINUED TO THURSDAY, APRIL 29, 1999.

Commissioner Alcorn seconded the motion which carried unanimously with Commissioners Downer, Harsel, Koch, and Palatiello absent from the meeting.

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ZONING ORDINANCE AMENDMENT (BY RIGHT AND SPECIAL PERMIT USES) - To amend Chap. 112 of Fairfax County Code as follows: Amend Arts. 4, 5, 8, 9, & 20 to revise the uses allowed by right & by special permit in the C-3, C-4, C-5, C-6, C-7, & C-8 Districts & to revise the use limitation concerning outside activities in the C-3, C-4, 1-1, 1-2, 1-3, & 1-4 Districts. PUBLIC HEARING.

Margaret Stehman, Zoning Administration Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of the language outlined on pages 5 through 21 of the staff report.

Commissioner Alcorn noted that pages 24 through 27 of the staff report contained lists of previously approved special permit and special exception applications that might be affected by this proposed Zoning Ordinance Amendment (ZOA).

In response to a question from Commissioner Alcorn, Jane Gwinn, Zoning Administrator, said that the development conditions approved with special permits and special exceptions on properties with more than one type of zoning would not be negated by the proposed ZOA.

Commissioner Alcorn explained the genesis of this ZOA and announced his intention to defer the decision for one week.

In response to a question from Commissioner Coan regarding SE-95-D-004, Virginia Tech and the University of Virginia, Ms. Gwinn said that the special exception conditions, such as approval of the shared parking arrangement by the Board of Supervisors and limitations on

roof antennas, would no longer apply. She noted, however, that there were extensive proffers

ZONING ORDINANCE AMENDMENT  
(BY RIGHT AND SPECIAL PERMIT USES)

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associated with this use that would still be in effect. Commissioner Coan asked that a copy of the special exception conditions be faxed to him as soon as possible.

In response to questions from Commissioner Coan regarding SPA-81-D-075-2, Tysons Corner Exercise, Inc., Ms. Stehman stated that the office use on the same property was a separate use. She confirmed, however, that the occupancy limit imposed by the special permit conditions would no longer apply. She agreed to provide Commissioner Coan with a comparison of what would change if this ZOA was approved.

In response to questions from Commissioner Hall regarding SP-28302, AMF Annandale Bowl, Ms. Gwinn said that the special permit itself, approved in 1964, would remain in effect. She added that there were no limits on the hours of operation in the C-6 District.

In response to a question from Commissioner Byers, Ms. Stehman explained that the similar language on pages 6 and 7 regarding athletic fields and related facilities was needed because each reference applied to a different section of the Zoning Ordinance.

Chairman Murphy called for speakers from the audience, but received no response. There being no further comments, questions or closing staff remarks, he closed the public hearing and recognized Commissioner Alcorn for a deferral motion. (A verbatim excerpt is in the date file.)

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Commissioner Alcorn MOVED THAT THE PLANNING COMMISSION DEFER DECISION ON THE PROPOSED ZONING ORDINANCE AMENDMENT TO ARTICLES 4, 5, 8, 9, AND 20, TO REVIEW THE USES ALLOWED IN CERTAIN COMMERCIAL DISTRICT, TO A DATE CERTAIN OF APRIL 29, 1999.

Commissioners Byers and Wilson seconded the motion which carried unanimously with Commissioners Downer, Harsel, Koch, and Palatiello absent from the meeting.

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ZONING ORDINANCE AMENDMENT (BED AND BREAKFAST)

- To amend Chap. 112 of the Fairfax County Code as follows: Amend Art. 9 to revise the additional standards for bed & breakfast SE uses by deleting the structural age restrictions, requiring compliance w/the zoning district lot size & bulk regulations, & providing for a determination that a proposed bed & breakfast will not adversely impact surrounding properties & preserve the residential character of the area. PUBLIC HEARING.

Daryl Varney, Zoning Administration Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of the language on page 3 of the staff report.

In response to questions from Commissioner Thomas, Mr. Varney said that staff had not received any applications for bed and breakfast establishments since the amendment of the Zoning Ordinance to allow such uses. He added that the parking requirements were two spaces for the primary dwelling unit, plus one parking space for each guest bedroom.

Chairman Murphy called for speakers and recited the rules for public testimony.

Linda Smyth, 2910 Hideaway Road, Fairfax, representing the Briarwood Citizens Association, did not specifically oppose the amendment, but expressed concerns about the possibility of zoning enforcement problems in the future. She suggested a "sunset" provision that would allow review of these changes after a certain period of time to determine if the system was working or whether further amendments were needed. (A copy of her statement is in the date file.)

Ms. Smyth responded to questions from Commissioner Hall regarding her concern for potential problems.

In response to a question from Commissioner Thomas, Mr. Varney said that during his research on this amendment, he had contacted other jurisdictions about their regulations governing bed and breakfast establishments, but did not get statistics as to the number of existing facilities.

In response to a question from Commissioner Wilson, Mr. Varney stated that proposed facilities would be inspected by the Health Department initially and then yearly if approved. He added that a special exception would be required for each establishment and that conditions regarding inspections could be imposed at that time.

In response to questions from Commissioner Hall, Jane Gwinn, Zoning Administrator, said that "sunset" provisions were not generally used to evaluate Zoning Ordinance provisions. She said that staff had been requested by the Board of Supervisors in the past to submit a status report to indicate how well certain regulations were being implemented. She noted that time limits could be imposed upon individual special exception applications.

In response to an inquiry from Commissioner Byers, Ms. Gwinn explained that extensions could be built into special exception uses so that the use could be extended by staff administratively and the applicant would not be required to submit a new special exception or special exception amendment application.

In reply to Commissioner Hall, Ms. Gwinn confirmed that any violations could be addressed when an extension of a bed and breakfast use was considered.

Commissioner Coan asked that Ms. Smyth return to the podium. Ms. Smyth then responded to questions from Commissioner Coan regarding her position and recommendations.

In response to questions from Chairman Murphy, Mr. Varney confirmed that a special exception application would be required for each bed and breakfast establishment. Chairman Murphy suggested that any problems with individual establishments be addressed on a case-by-case basis.

Commissioner Alcorn noted that the Commission had received correspondence from Sally Ormsby, representing the Citizens Committee on Land Use and Transportation, supporting this proposed amendment, but expressing concern about the amount of impervious surface to be created by the parking requirements associated with such uses. (A copy of Ms. Ormsby's memorandum is in the date file.)

In response to questions from Commissioners Wilson and Thomas, Mr. Varney, and Ms. Gwinn confirmed that staff was not recommending a "sunset" provision. Ms. Gwinn concurred with Chairman Murphy's suggestion that each case be reviewed on its own merits.

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

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Commissioner Thomas MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THEY APPROVE THE PROPOSED ZONING ORDINANCE AMENDMENT TO ARTICLE 9, BED AND BREAKFAST, DATED MARCH 22, 1999.

Commissioners Alcorn and Hall seconded the motion which carried unanimously with Commissioners Downer, Harsel, Koch, and Palatiello absent from the meeting.

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The meeting was adjourned at 10:04 p.m.  
Peter F. Murphy, Jr., Chairman  
Suzanne F. Harsel, Secretary

CLOSING

April 22, 1999

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Gloria L. Watkins

Approved on: June 14, 2000

A handwritten signature in cursive script that reads "Mary A. Pascoe". The signature is written in black ink and is positioned above a horizontal line.

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