

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, APRIL 29, 2004**

PRESENT: Walter L. Alcorn, Commissioner At-Large
John R. Byers, Mount Vernon District
Frank de la Fe, Hunter Mill District
Janet R. Hall, Mason District
Suzanne F. Harsel, Braddock District
James R. Hart, Commissioner At-Large
Nancy Hopkins, Dranesville District
Ronald W. Koch, Sully District
Kenneth Lawrence, Providence District
Rodney L. Lusk, Lee District
Peter F. Murphy, Jr., Springfield District
Laurie Frost Wilson, Commissioner At-Large

ABSENT: None

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The meeting was called to order at 8:21 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

In the absence of Commissioner Alcorn, Commissioner Byers announced that a workshop would be held on May 6, 2004, to discuss implementation of the residential development criteria, following the scheduled public hearings.

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Commissioner Wilson announced that the Commission was invited to a public workshop to be held on Monday, May 3, 2004, at 7:00 p.m. in Conference Rooms 2/3 of the Government Center, to further discuss the proposed amendments to the County Code on cluster subdivisions. She also noted that the decision was still currently scheduled before the Commission on Thursday, May 13, 2004.

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Chairman Murphy reminded members that the scheduled Planning Commission meeting for Wednesday, May 5, 2004, had been cancelled.

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Commissioner Lusk MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR S04-IV-RH1, HAYFIELD ANIMAL HOSPITAL, TO A DATE CERTAIN OF MAY 26, 2004.

Commissioners Byers and Lawrence seconded the motion which carried unanimously with Commissioners Alcorn and Wilson not present for the vote.

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Commissioner Lawrence MOVED TO DEFER THE PUBLIC HEARINGS ON SE 2003-PR-030 AND RZ 2003-PR-054, OURISMAN BETHESDA, INC., TO A DATE CERTAIN OF JUNE 16, 2004.

Commissioners Byers and Lawrence seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote.

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FS-L04-21 – OMNIPOINT (T-MOBILE), 5801 FRANCONIA ROAD

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION CONCUR WITH THE DETERMINATION THAT THE TELECOMMUNICATIONS FACILITY PROPOSED BY OMNIPOINT (T-MOBILE) ON A REPLACEMENT STAND LIGHT AT EDISON HIGH SCHOOL, LOCATED AT 5801 FRANCONIA ROAD, IS SUBSTANTIALLY IN ACCORD WITH THE RECOMMENDATIONS OF THE COMPREHENSIVE PLAN AND SHOULD BE CONSIDERED A "FEATURE SHOWN", PURSUANT TO *VIRGINIA CODE* SECTION 55.2-2232, AS AMENDED.

Commissioners Byers and Lawrence seconded the motion which carried unanimously with Commissioners Alcorn and Wilson not present for the vote.

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FS-P04-18 – OMNIPOINT (T-MOBILE), 7350 RONALD STREET

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION CONCUR WITH THE "FEATURE SHOWN" DETERMINATION IN FS-P04-18.

Commissioner Lusk seconded the motion which carried unanimously with Commissioners Alcorn and Wilson not present for the vote.

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FS-P04-28 – OMNIPOINT (T-MOBILE), 7500 MARGARITY ROAD

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION CONCUR WITH THE "FEATURE SHOWN" DETERMINATION IN FS-P04-28.

Commissioner Lusk seconded the motion which carried unanimously with Commissioners Alcorn and Wilson not present for the vote.

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FS-H04-23 – OMNIPOINT (T-MOBILE), 1977 HUNTER MILL ROAD

Commissioner de la Fe MOVED TO ACCEPT CONSENT AGENDA ITEM FS-H04-23, OMNIPOINT, AT 1977 HUNTER MILL ROAD.

Commissioner Byers seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote.

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7067-SP-16-2 - ARCHITECTURAL AND LANDSCAPE PLANS FOR METROPOLITAN RESTON TOWN CENTER

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION (RECOMMEND THAT THE DIRECTOR OF DPWES, OR HIS DESIGNEE) APPROVE LANDSCAPE PLANS FOR THE METROPOLITAN AT RESTON TOWN CENTER, PLAN NUMBER 7067-SP-16-2.

Commissioner Byers seconded the motion which carried unanimously with Commissioner Alcorn not present for the vote.

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ORDER OF THE AGENDA

Secretary Harsel established the following order for the agenda items:

1. RZ 2003-MA-052 and SEA 88-L-071 - THE TRUSTEES FOR IMMANUEL BIBLE CHURCH BEING RALPH WEITZ, JOEL BENSON, ALAN FISCHER
2. SE 2003-LE-036 - DIANE COX BASHEER, TRUSTEE AND KENNETH O. THOMPSON, TRUSTEE
3. RZ 2003-PR-043 and FDP 2003-PR-043 – VAN METRE LAND LIMITED PARTNERSHIP

4. SE 01-V-005 – WILLIAM A. KINDER

This order was accepted without objection.

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RZ 2003-MA-052 - THE TRUSTEES FOR IMMANUEL BIBLE CHURCH BEING RALPH WEITZ, JOEL BENSON AND ALAN FISCHER - Appl. to rezone from R-2 to R-3 to permit building additions to a previously approved church and private school of general education at a Floor Area Ratio (FAR) of 0.22. Located in the S.E. quadrant of the intersection of Backlick Rd. and Braddock Rd. on approx. 13.04 ac. of land. Comp. Plan Rec: 2-3 du/ac. Tax Map 71-4 ((1)) 35, 36A and 71-4 ((2)) B, 1, 2, 2A, 3 and 3A. (Concurrent with SEA 88-L-071.) MASON DISTRICT. PUBLIC HEARING

SEA 88-L-071 - THE TRUSTEES FOR IMMANUEL BIBLE CHURCH BEING RALPH WEITZ, JOEL BENSON AND ALAN FISCHER - Appl. under Sect. 3-304 of the Zoning Ordinance to amend SE 88-L-071 previously approved for church and private school of general education to permit building additions, site modifications and modifications to development conditions. Located in the S.E. quadrant of the intersection of Backlick Rd. and Braddock Rd. on approx. 13.04 ac. of land zoned R-3. Tax Map 71-4 ((1)) 35, 36A and 71-4 ((2)) B, 1, 2, 2A, 3 and 3A. (Concurrent with RZ 2003-MA-052.) MASON DISTRICT. JOINT PUBLIC HEARING.

Benjamin Tompkins, Esquire, with Reed Smith, reaffirmed the affidavit dated April 12, 2004.

Commissioner Hart disclosed that his firm, Hart and Horan, P.C., had two pending cases with the law firm of Reed Smith, listed on the affidavit as an agent for the applicant, but that the matters were unrelated and would not preclude his participation in these cases.

Kristen Abrahamson, 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.

Mr. Tompkins stated that the church desired to add a second story addition for classrooms with no increase in student enrollment. He said the proposal would not adversely impact the community or the surrounding road network. He noted that the applicant had proffered to dedicate land to accommodate future intersection improvements along the Braddock Road frontage and provide land for a bus shelter on Braddock Road. Mr. Tompkins explained

that the applicant was in agreement with the proposed development conditions with the exception of Number 17 which required the construction of an eight-foot trail along Braddock and Backlick Roads. He pointed out that a five-foot wide concrete sidewalk was located on the property which served non-vehicular traffic in the area and the trail would necessitate the removal of 30 mature trees, the elimination of 17 parking spaces, and removal of the church's sign.

Mr. Tompkins responded to questions from Commissioner Harsel about the use of trailers on the property, off-site parking, and the church's bookstore.

In response to additional questions from Commissioner Harsel, Ms. Abrahamson said that off-site parking had not been addressed in the development conditions because the site was adequately parked and that the bookstore was an accessory to the church's mission and not a destination retail use.

Commissioner Hall commented that although the church was adequately parked, many people desired to park off-site for a variety of reasons.

Chairman Murphy recognized members of the church who were in the audience.

Commissioner Hall said she agreed with the applicant regarding the trail for the reasons explained by Mr. Tompkins and, therefore, would recommend the trail requirement be waived.

There were no listed speakers; therefore, Chairman Murphy called for speakers from the audience but received no response. There were no further comments or questions from the Commission and staff had no closing comments; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Hall for action on this case. (A verbatim transcript is in the date file.)

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Commissioner Hall MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE RZ 2003-MA-052, SUBJECT TO THE PROFFERS DATED APRIL 20, 2004.

Commissioner Byers seconded the motion which carried unanimously.

Commissioner Hall MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SEA 88-L-071, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED APRIL 19, 2004, WITH CONDITION NUMBER 17 DELETED.

Commissioner Byers seconded the motion which carried unanimously.

Commissioner Hall also MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD APPROVE A MODIFICATION OF THE TRANSITIONAL SCREENING REQUIREMENTS ALONG THE EASTERN AND WESTERN PROPERTY BOUNDARIES AND A WAIVER OF THE BARRIER REQUIREMENTS ALONG THE EASTERN, SOUTHERN AND WESTERN PROPERTY BOUNDARIES, IN FAVOR OF THAT DEPICTED ON THE GDP/SE PLAT AND AS CONDITIONED.

Commissioner Byers seconded the motion which carried unanimously.

Commissioner Hall further MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD MODIFY THE PERIPHERAL PARKING LOT LANDSCAPING REQUIREMENTS ALONG A PORTION OF THE NORTHERN PROPERTY LOT BOUNDARY, AS DEPICTED ON THE GDP/SE PLAT, UNTIL SUCH TIME AS THE BRADDOCK ROAD AND BACKLICK ROAD IMPROVEMENTS ARE CONSTRUCTED.

Commissioner Byers seconded the motion which carried by a vote of 11-0-1 with Commissioner Hart abstaining.

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SE 2003-LE-036 - DIANE COX BASHEER, TRUSTEE AND KENNETH O. THOMPSON, TRUSTEE - Appl. under Sect. 9-615 of the Zoning Ordinance to permit a cluster subdivision, located at 6412 – 6429 Wayside Pl., 4711 – 4739, 4801-4812 and 4900 Split Rock Rd., and 6408-6414 Raven Pl. on approx. 23.75 ac. of land zoned R-3. Lee District. Tax Map 82-3 ((18)) 46, 47, 48, 53 and 54; 92-1 ((7)) 1 – 8, 27 – 45, 55 – 63; 92-1 ((8)) 1 – 18 and a portion of Split Rock Dr., Wayside Pl. and Raven Pl. public right-of-way to be vacated and/or abandoned. (Approval of this application may enable the vacation and/or abandonment of portions of the public rights-of-way for Split Rock Dr., Wayside Pl. and Raven Pl. to proceed under Section 15.2-2272 (2) of the Code of Virginia.). LEE DISTRICT. PUBLIC HEARING.

Martin D. Walsh, Esquire, with Walsh, Colucci, Emrich, Lubeley, and Terpak, reaffirmed the affidavit dated April 5, 2004.

Commissioner Hart disclosed that his firm, Hart and Horan, P.C., had one case pending with the law firm of Walsh, Colucci, Emrich, Lubeley and Terpak, listed on the affidavit as an agent for the applicant, but that the matters were unrelated and would not preclude his participation in this case.

Catherine Lewis, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that staff

recommended approval of the application subject to the proposed Development Conditions dated April 28, 2004.

In response to a question from Commissioner Lusk, Ms. Lewis said staff's original recommendation for denial had been changed to a favorable one after receipt of a report from the Geotechnical Review Board (GRB) which said that the proposed layout worked in concept.

Commissioner Byers noted that the memorandum from the GRB said only that the proposal was generally acceptable but would require additional analysis. Ms. Lewis explained if the GRB subsequently found that the proposal was unsatisfactory, the applicant would have to amend the layout, reduce the number of units and/or lots, and seek special exception amendment approval in accordance with development conditions.

Commissioner Byers expressed concern about the staff's recommendation of approval based on conditions that had not yet been determined. Ms. Lewis acknowledged that there was some uncertainty pending a full geotechnical review, but since the GRB's preliminary analysis had indicated that a clustered layout could work in concept and because the applicant was willing to accept the development conditions which provided a contingency plan, staff was now recommending approval.

Ms. Lewis and Leslie Johnson, ZED, DPZ, responded to questions from Commissioner Wilson about the configuration and number of lots, stormwater management, and the limits of clearing and grading.

Olawale Ayodeji, Department of Public Works and Environmental Services, responded to questions from Commissioner Lawrence about the long term stability of the houses and roads due to soil conditions and said this issue would be fully addressed at the time of subdivision plan review.

In response to questions from Commissioner Harsel, Ms. Lewis said that a development condition required that the retaining walls would be maintained by the homeowners association.

Responding to questions from Commissioner Hart, Ms. Lewis and Leslie Johnson, ZED, DPZ agreed that there was not much room for additions in the rear of the houses. Ms. Johnson said an owner could probably add a deck but an enclosed addition would not be allowed.

Ms. Lewis responded to questions from Commissioner Wilson about emergency access, access to the stormwater management facility, and the limits of clearing and grading.

Chairman Murphy called upon Mr. Walsh for the applicant's presentation.

Mr. Walsh stated that although 59 lots had been platted in 1961, the site had not been developed due to the presence of marine clay and steep slopes. He said the applicant had worked diligently with the Rose Hill Civic Association to resolve all outstanding issues and to ensure the

compatibility of the two developments. Mr. Walsh noted that the application had the support of the community and the Lee District Land Use Committee. He said Commissioner Lusk had indicated his intention to defer a decision on this application and that he was confident that all issues could be satisfactory resolved before then.

In response to a question from Commissioner Harsel, Mr. Walsh said a wetlands permit would be obtained at the time of site plan review.

Responding to a question from Commissioner Hart, Mr. Walsh said during the deferral period, he would determine if there was enough room for an addition, such as a porch or sunroom, at the rear of the houses on lots 32 and 33.

Chairman Murphy called the first listed speaker and recited the rules for public testimony.

Carl Sell, Jr., President, Rose Hill Civic Association, stated that a geotechnical review was required at the time of site plan submission when marine clay was present. He said if at that time it was determined that elimination of lots was necessary, they could not legally be placed elsewhere. He explained that the Rose Hill community had not supported development of the subject property in the past due to severe slopes and marine clay, but due to improved technology there was no longer an impediment to building on unstable soil. He said the 45 lot proposal had been carefully negotiated with the Rose Hill Civic Association and development conditions would protect both existing and future homeowners.

There were no other listed speakers; therefore, Chairman Murphy called for speakers from the audience but received no response. He called upon Mr. Walsh for rebuttal remarks. Mr. Walsh said he had none. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Lusk for action on this case. (A verbatim transcript is in the date file.)

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Commissioner Lusk MOVED THAT PLANNING COMMISSION DEFER THE DECISION ON SE 2003-LE-036, TO A DATE CERTAIN OF MAY 13, 2004, WITH THE RECORD TO REMAIN OPEN FOR WRITTEN AND ELECTRONIC COMMENTS.

Commissioners Byers, Lawrence, and Wilson seconded the motion which carried unanimously.

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RZ 2003-PR-043/FDP 2003-PR-043 - VAN METRE LAND
LIMITED PARTNERSHIP - Appl to rezone from R-1 to PDH-3 to
permit residential development at a density of 2.91 dwelling units per
acre (du/ac) and approval of the conceptual and final development

plans. Located N. of Electric Ave. approx. 700 ft. E. of its intersection with Woodford Rd. on approx. 12.35 ac. of land. Comp. Plan Rec: 2-3 du/ac. Tax Map 39-1 ((1)) 13, 14, 14A and 15A; 39-3 ((1)) 50, 51 53, 54, 55, 56, 59, 60 and 61 and portions of Suncrest La. public rights-of-way to be vacated and/or abandoned. (Approval of this application may enable the vacation and/or abandonment of portions of the public rights-of-way for Suncrest La. to proceed under Section 15.2-2272 (2) of the *Code of Virginia*.) PROVIDENCE DISTRICT.
PUBLIC HEARING.

Robert Lawrence, Esquire, with Reed Smith, reaffirmed the affidavit dated April 19, 2004.

Commissioner Hart disclosed that his firm, Hart and Horan, P.C., had a case pending with the law firm of Reed Smith, listed on the affidavit as an agent for the applicant, but that the matters were unrelated and would not preclude his participation in these cases.

Catherine 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 although staff had initially recommended denial of the applications, the applicant had taken numerous steps to address outstanding issues, including design changes and the elimination of lot 14; therefore staff now recommended approval.

Mr. Lawrence noted that revisions to the CDP/FDP and proffers addressed all outstanding issues identified by staff. He explained that the proposed stream realignment, from its current location to a location further to the west and south, would be a bio-engineered channel at the recommendation of the Department of Public Works and Environmental Services and the Northern Virginia Soil and Water Conservation Board.

Commissioner Hart expressed concern that the rear yards of some of the lots would be unable to accommodate an addition such as a deck, sunroom or screened porch. Mr. Lawrence explained that none of the units would have walkout basements and that a deck no higher than four feet could be built within five feet of the lot line. He said the units with 20 foot rear yards could conceivably have a 15 foot deck and that lots with less than 10 feet could have patios only. Commissioner Hart asked Mr. Lawrence to review the limitations of lots 1, 2, 29, 30, and 31.

Responding to questions from Commissioner Alcorn, Mr. Lawrence said since the resource protection area (RPA) was outside of the building area, an RPA exception would not be necessary.

Chairman Murphy called for speakers and recited rules for testimony before the Commission.

The following speakers expressed opposition to the proposed development due to adverse environmental impacts, traffic concerns, density, house size, construction hours, setbacks,

building materials, loss of trees, lack of notification, and incompatibility with the surrounding development:

- Joan Keuchel, 2135 Woodford Road, Vienna;
- Susan Hageman, 2208 Frank Street, Vienna;
- Renata Wade, 2231 Richelieu Drive, Vienna, representing the Tyson Woods Civic Association;
- Bill Hardin, 2136 Woodford Road, Vienna;
- Vijay Kanodia, 2147 Woodford Road, Vienna;
- Emory Pate, 2146 Frank Street, Vienna;
- Delores Washington, 2136 Frank Street, Vienna;

In response to a question from Commissioner Hart, Michael Rolband, Wetland Studies and Solutions, Inc., explained that a plunge pool located behind Mr. Konodia's property, was an energy dissipation device made of large stones that formed a pool-shaped area that would absorb and dissipate energy as water entered.

There were no further speakers; therefore, Chairman Murphy called upon Mr. Lawrence for a rebuttal statement.

Addressing concerns raised by the speakers, Mr. Lawrence noted that the density of the proposed development was in conformance with the Comprehensive Plan; many citizen meetings had taken place; and road improvements would facilitate traffic flow. He explained that a bond would be posted to ensure the completion of the stream realignment and would not be released until the County had determined that it was in compliance with all specifications. At that time, Mr. Lawrence said a maintenance bond would be posted, at the recommendation of the Department of Public Works and Environmental Services, for a period of five years in an amount equal to the cost of construction of the stream. He said landscaping and buffering would be provided and treed areas would be preserved. To address concerns raised by Mr. Pate and Ms. Washington, Mr. Lawrence said the design of the development had been changed and the sizes of the houses along the perimeter of the property had been reduced so they would be more compatible with the adjacent development.

In response to a question from Commissioner Alcorn, Mr. Lawrence said the applicant would agree to change the start time of Saturday morning construction hours from 7:00 a.m. to 8:00 a.m.

At the request of Commissioner Lawrence, Mr. Lawrence said the applicant would agree to a proffer requiring disclosure to prospective buyers concerning restrictions for additions such as sunroom, porches, and decks. Mr. Lawrence also agreed to hold additional meetings with community members to ensure that all of their concerns were addressed.

Responding to a question from Commissioner Harsel, Ms. Lewis said all outstanding issues identified in the staff report had been resolved and that a staff report addendum would be prepared prior to the decision date.

There were no further comments or questions from the Commission and staff had no closing comments; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Lawrence for action on the applications. (A verbatim transcript is in the date file.)

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Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ON RZ 2003-PR-043 AND FDP 2003-PR-043, UNTIL A DATE CERTAIN OF MAY 20, 2004, WITH THE RECORD TO REMAIN OPEN FOR WRITTEN AND ELECTRONIC COMMENTS.

Commissioner Byers seconded the motion which carried unanimously.

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SE 2001-MV-005 - WILLIAM A. KINDER - Appl. under Sect. 2-904 of the Zoning Ordinance to permit uses in the floodplain. Located at 7905, 7907 and 7909 Candlewood Dr. on approx. 37,500 sq. ft. of land zoned R-3. Tax Map 102-1 ((21)) 1 – 3. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Martin D. Walsh, Esquire, with Walsh, Colucci, Emrich, Lubeley, and Terpak, reaffirmed the affidavit dated April 5, 2004.

Commissioner Hart disclosed that his, firm Hart and Horan, P.C. had one case pending with the law firm of Walsh, Colucci, Emrich, Lubeley, and Terpak, listed on the affidavit as an agent for the applicant, but that the matters were unrelated and it would not preclude his participation in this case.

Leslie Johnson, Zoning Evaluation Division, Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that staff recommended denial of the application and the Chesapeake Bay exception request. She said the applicant had failed to demonstrate why his proposal was preferable to the staff proposal to remove the retaining walls and fill and to restore the stream back to a stable condition.

Commissioner Byers noted that this was a troubling case because if the applicant was required to return the property and the streambed to its original condition, the problem he had attempted to fix would still exist. He explained that because the property was eroding and the County had not provided assistance, Mr. Kinder had attempted to fix it on his own. Commissioner Byers expressed concern that the applicant had disobeyed a stop work order which had been issued in 2000.

Ms. Johnson pointed out that staff was concerned that approval of the application could set a precedent for other property owners who wished to do the same thing. She noted that it was not certain if removal of the existing lower retaining walls in the streambed and the removal of fill would cause more problems than currently existed. She said staff's preference would be to stabilize the stream on the applicant's side of the property instead.

Chairman Murphy commented that the question that needed to be answered was what was best for the environment: denial of the application or approval with development conditions.

Ms. Johnson replied that if the Board of Supervisors denied the application, staff would have to take legal action to enforce the stop work order if the walls were not removed and the area was not restored to its former state.

Mr. Walsh stated that unfortunately when his client, Mr. Kinder had taken it upon himself to improve the stream adjacent to his property due to serious erosion of his backyard, he had been unaware of the need for permits to do so. He said approval of the request with conditions could resolve the situation satisfactory. He said if the retaining walls were removed, the erosion would start all over again.

Responding to a question from Commissioner de la Fe, Commissioner Byers said that the County owned land next to Mr. Kinder's property had been encroached upon.

In response to Commissioner Byers' comment that Mr. Kinder had continued to work despite the stop work order, Mr. Walsh said that Mr. Kinder had believed that the area in which he had continued to work had not been under the purview of the stop work order.

Responding to a question from Commissioner Byers, Mr. Walsh said that although no plants or trees on the County owned property had been removed, dirt along the streambed had been taken from it and used for fill on the Kinder property.

Commissioner Byers noted that two bridges, one from Mr. Kinder's property to the publicly owned property and the second on Mr. Kinder's property only, appeared to be constructed of particle wood. Mr. Kinder responded that the footbridge had been built primarily with pressure treated lumber.

Chairman Murphy called the first listed speaker and recited the rules for public testimony.

The following speakers spoke in support of the application because the work done by Mr. Kinder protected the area from erosion and improved the stream flow:

- Ed Takken, 7905 Bayberry Drive, Alexandria,
- Carol Westerman, 7922 Karol Road, Alexandria,
- Sonya Kinder, 7907 Candlewood Drive, Alexandria
- Brian Walsh, 7903 Candlewood Drive, Alexandria

The following speakers expressed opposition to the proposal citing concerns about negative impact on property values, the erosion of the footbridge, adverse affect on the watershed, precedent setting for other property owners; and because rules and regulations should be followed and enforced:

- Suzanne Cleary, 8017 Candlewood Drive, Alexandria, speaking on behalf of Jane Smith, Al Howerton, and Joan Howerton,
- Elizabeth Medrano, 8001 Candlewood Drive, Alexandria,
- Scott Surovell, 7739 Pauxemont Road, Alexandria

Responding to a question from Commissioner Alcorn, Mr. Stonefield, Department of Public Works and Environmental Services, explained that because the original condition of the stream had not been documented, it was difficult to determine if the walls had caused problems downstream. Mr. Stonefield also said that the biggest impact seemed to be on the bank where the soil appeared to be eroding.

In response to a question from Commissioner Koch, Ms. Johnson said she was not sure what penalties could be imposed for encroachment upon County land but would find out and let him know. Commissioner Koch pointed out that if the application was denied, the bridge and retaining walls would still be located on public property and should be removed at the applicant's expense.

In response to a question from Commissioner Hart, Ms. Johnson stated that if the application was approved, the County would negotiate a "hold harmless" agreement and the applicant would be responsible for the maintenance of the walls.

James Davis, a member of the Chesapeake Bay Review Committee for the Mount Vernon District, a member of the Engineering Standards Review Committee, and Chair of the Environment Committee of the Mount Vernon Council of Citizen Associations noted that the Mount Vernon Council has passed a resolution endorsing the application with a mitigation/compensation plan that was acceptable to the Northern Virginia Soil and Water Conservation District. (A copy of the resolution is in the date file.)

There were no further speakers; therefore, Chairman Murphy called upon Mr. Walsh for rebuttal remarks.

Mr. Walsh noted that although the work Mr. Kinder had done had helped to stabilize his property, he was sorry that he had done it without the required permits. He said Mr. Kinder wanted this matter resolved and would work with the County to that end.

There were no further comments or questions from the Commission and staff had no closing comments; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Byers for action on this case. (A verbatim transcript is in the date file.)

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Commissioner Byers MOVED THE PLANNING COMMISSION DEFER THE DECISION ON SE 01-V-005, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENTS, TO A DATE CERTAIN OF MAY 27, 2004.

Commissioner Hall seconded the motion which carried unanimously.

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The meeting was adjourned at 12:31 a.m.
Peter Murphy, Chairman
Suzanne F. Harsel, Secretary

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: Heidi Baggett/Linda Rodeffer

Approved on: November 9, 2006

Linda B. Rodeffer, Clerk to the
Fairfax County Planning Commission