

**MINUTES OF
PLANNING COMMISSION MEETING
MAY 20, 1992**

PRESENT: Lawrence C. Baldwin, Commissioner At-Large
David P. Bobzien, Centreville District
John R. Byers, Mount Vernon District
Patrick M. Hanlon, Providence District
Suzanne F. Harsel, Braddock District
Stephen J. Hubbard, Dranesville District
Maya A. Huber, Commissioner At-Large
Ronald W. Koch, Sully District
Peter F. Murphy, Jr., Springfield District
Carl L. Sell, Jr., Lee District
Henry E. Strickland, Mason District

ABSENT: Alvin L. Thomas, Commissioner At-Large

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The meeting was called to order at 8:20 p.m. by Chairman Peter F. Murphy, Jr.

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COMMISSION MATTERS

Commissioner Bobzien referred to the plat for the Avis Subdivision (8347-SD-01) submitted for the Commission's review in conjunction with RZ-90-C-045. He announced his intention to take action on the plat on Thursday, May 28, 1992.

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Commissioner Strickland referred to the site plan for Skyline Garden Apartments (4237-SP-07-2), submitted for the Commission's review in conjunction with PCA-C-52-2 and CDPA-C-52-7. He announced his intention to take action on the plan on Thursday, May 21, 1992.

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Commissioner Strickland announced his intention to defer the public hearing of SEA-81-P-021-2, Geshel School and Jewish Community Center of Northern Virginia, Inc., in the Mason District, from its presently scheduled date of May 28, 1992 to a date certain of June 18, 1992.

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Commissioner Murphy announced that the site plan appeal for the Country Club of Fairfax had been withdrawn. He therefore **MOVED THAT THE PLANNING COMMISSION ACCEPT THE WITHDRAWAL OF THE SITE PLAN APPEAL FOR 8173-SP-01-1.**

Commissioner Huber seconded the motion which carried unanimously with Commissioner Hanlon not present for the vote; Commissioner Thomas absent from the meeting.

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Chairman Murphy announced that the Planning Commission would once again be operating a soft drink booth at the Fairfax County Fair on Friday, June 12, Saturday, June 13, and Sunday, June 14, 1992 to raise funds for George Mason University scholarships. He noted that a memorandum requesting volunteers had been distributed tonight and asked that interested parties return the form no later than May 28, 1992.

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Chairman Murphy also announced that the Planning Commission would hold its first meeting in the new Government Center on Wednesday, June 10, 1992 and that information regarding an introductory briefing would be forthcoming.

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FDP-C-448-22 – KINGSTOWNE SVD EAST, L. P. (Decision Only)

(The public hearing on this application was held on March 5, 1992. A complete verbatim transcript of the decision made this evening on this item is included in the date file.)

Commissioner Sell MOVED THAT THE PLANNING COMMISSION APPROVE FDP-C-448-22, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED MAY 20, 1992 WITH THE ADDITION OF THE WORDS "BY THE APPLICANT" IN THE LAST LINE OF CONDITION #7.

Commissioner Bobzien seconded the motion which carried by a vote of 6-2-1 with Commissioners Baldwin and Huber opposed; Commissioner Byers abstaining; Commissioners Hanlon and Hubbard not present for the vote; Commissioner Thomas absent from the meeting.

Commissioner Sell then MOVED THAT THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS ALONG THE NORTHERN BOUNDARY BE MODIFIED TO THAT SHOWN ON THE APRIL 24, 1992 FINAL DEVELOPMENT PLAN AS FURTHER CLARIFIED BY THE MAY 20, 1992 PROPOSED DEVELOPMENT CONDITIONS.

Commissioner Bobzien seconded the motion which carried by a vote of 5-4 with Commissioners Bobzien, Koch, Murphy, Sell and Strickland in favor; Commissioners Baldwin, Byers, Harsel and Huber opposed; Commissioners Hanlon and Hubbard not present for the vote; Commissioner Thomas absent from the meeting.

Commissioner Sell further MOVED THAT THE BARRIER REQUIREMENT ALONG THE WESTERN BOUNDARY BE MODIFIED TO THAT REQUIRED BY THE MAY 20, 1992 PROPOSED DEVELOPMENT CONDITIONS.

Commissioner Bobzien seconded the motion which carried by a vote of 7-1-1 with Commissioner Huber opposed; Commissioner Byers abstaining; Commissioners Hanlon and Hubbard not present for the vote; Commissioner Thomas absent from the meeting.

Commissioner Sell lastly MOVED REAFFIRMATION OF THE WAIVER OF THE 600-FOOT LIMITATION ON THE LENGTH OF PRIVATE STREETS WHICH WAS GRANTED AS PART OF THE 1985 KINGSTOWNE ZONING.

Commissioner Bobzien seconded the motion carried unanimously with Commissioners Hanlon and Hubbard not present for the vote; Commissioner Thomas absent from the meeting.

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ORDER OF THE AGENDA ITEMS

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

1. 456-C92-2 – Virginia Power Company
SE-92-C-001 – Virginia Power Company
2. AR-84-D-004 – Charles & Laura Nichols
3. SE-92-V-014 – Mount Vernon Seafood
4. SE-91-M-058 – Amanda Corporation, A Virginia Corporation
5. PCA-83-P-036-2 – 8400 Old Courthouse Road Associates Limited Partnership
SE-92-P-015 – 8400 Old Courthouse Road Associates Limited Partnership
6. RZ-91-P-021 – Leroy J. Blackwelder

This order was accepted without objection.

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456-C92-2 – VIRGINIA POWER COMPANY – Under the provisions of Sect. 15.1-456 of the Code of Virginia, as amended, to expand the Reston Electric Substation on property located along the N. side of Sunset Hills Rd., between Reston Pkwy. & Wiehle Ave. Tax Map: 17-4((1))15,15A. Area III. CENTREVILLE DISTRICT.

SE-92-C-001 – VIRGINIA POWER COMPANY – Appl. under Sects. 3-E04 & 4-804 of the Zoning Ord. to permit an electrical substation on property located at 11516 Sunset Hills Rd. on

approx. 6.33 ac. zoned C-8 & RE. Tax Map 17-4((1))15 & 15A
(Formerly Tax Maps 17-4((1))15; 28-3((1))pt.51).
CENTREVILLE DISTRICT. JOINT PUBLIC HEARING.

Randolph Church, Esquire, with Hunton and Williams, reaffirmed the affidavit. There were no disclosures by Commission members.

Mr. Edwin Spann, Planning Division, Office of Comprehensive Planning, presented the staff report for 456-C92-2, a copy of which is in the date file. He noted that staff recommended approval of the application.

Ms. Lorrie Kirst, Zoning Evaluation Division, Office of Comprehensive Planning, presented the staff report for SE-92-C-001, a copy of which is in the date file. She distributed a new set of proposed development conditions, noting that the only revision was to Condition #6 to clarify the public access issue as it related to the bicycle/pedestrian path to be constructed by the applicant. Ms. Kirst stated that staff recommended approval of the application.

Mr. Church explained that the applicant intended to enlarge an existing electric substation by adding one additional transformer. He noted that the subject property was in an area planned and developed for similar uses, with the exception of a golf course to the north. Mr. Church said that the proposal met the three criteria of location, character, and extent under the provisions of Section 15.1-456 and offered to answer any questions.

In response to a question from Commissioner Bobzien, Mr. Church stated that the applicant concurred with the proposed development conditions as revised.

Chairman Murphy called for speakers, but received no response. He noted that no rebuttal was necessary. Neither Mr. Spann nor Ms. Kirst had closing staff comments, therefore Chairman Murphy closed the public hearing and recognized Commissioner Bobzien for action on these applications. (Verbatim excerpts are in the date file.)

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Commissioner Bobzien MOVED THAT THE PLANNING COMMISSION, IN ACCORDANCE WITH SECTION 15.1-456 OF THE CODE OF VIRGINIA, AS AMENDED, FIND THAT THE PROPOSED EXPANSION OF THE RESTON SUBSTATION IS IN SUBSTANTIAL ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN.

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

Commissioner Bobzien also MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SE-92-C-001, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED MAY 20, 1992.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Hanlon, Huber and Sell not present for the vote; Commissioner Thomas absent from the meeting.

Commissioner Bobzien lastly MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE TRANSITIONAL SCREENING REQUIREMENT ALONG THE NORTHERN BOUNDARY BE MODIFIED TO THAT SHOWN ON THE SPECIAL EXCEPTION PLAT.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Hanlon, Huber and Sell not present for the vote; Commissioner Thomas absent from the meeting.

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AR-84-D-004 – CHARLES & LAURA NICHOLS – Appl. to permit a renewal of a previously approved agricultural & forestal district authorized by Chapter 115, County Code, effective July 1, 1984, to preserve significant agricultural & forest lands in the County on property located on the S.W. side of Hidden Spring Rd., off River Bend Rd. on approx. 28.73 ac. zoned R-E. Tax Maps 8-3((9))13; 8-4((1))33 & 34; 8-4((9))10. DRANESVILLE DISTRICT. PUBLIC HEARING.

Mr. Charles Nichols, one of the applicants in this case, reaffirmed the affidavit. There were no disclosures by Commission members.

Commissioner Hubbard asked that Chairman Murphy call for speakers from the audience for this application. Receiving no response and there being no comments or questions from the Commission, Commissioner Hubbard requested that presentation of the staff report be waived. No objection was expressed and Chairman Murphy so ordered. He then closed the public hearing and recognized Commissioner Hubbard for a motion on this case. (Verbatim excerpts are in the date file.)

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Commissioner Hubbard MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS AMENDMENT OF CHAPTER F-14 OF CHAPTER 115 OF THE FAIRFAX COUNTY CODE TO RENEW THE HIDDEN SPRINGS FARM LOCAL AGRICULTURAL AND FORESTAL DISTRICT, SUBJECT TO CONDITIONS LISTED IN APPENDIX 1 OF THE STAFF REPORT AND DATED MAY 6, 1992.

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

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SE-92-V-014 – MOUNT VERNON SEAFOOD – Appl. under Sects. 4-804, 7-607, and 9-601 of the Zoning Ord. to permit a quick service food store in a Highway Corridor Overlay District with a waiver of the open space and minimum lot area requirements on property located at 8339 Richmond Hwy. on approx. 30,000 sq.ft. of land zoned C-8 and HC. Tax Map 101-4((0)(0)1B. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Mr. Ed Wolfe, part owner of Mount Vernon Seafood, reaffirmed the affidavit. There were no disclosures by Commission members.

Ms. Mary Ann Godfrey, Zoning Evaluation Division (ZED), Office of Comprehensive Planning (OCP), presented the staff report, a copy of which is in the date file. She noted that staff recommended approval.

In response to questions from Commissioner Byers, Ms. Godfrey said that the term "interim" was not defined in the Zoning Ordinance or the Comprehensive Plan. Commissioner Byers commented that he assumed it would be less than 20 years since that was the length of time the Comprehensive Plan was intended to encompass. He added that a definition was needed.

In response to further questions from Commissioner Byers, Mr. Peter Braham, Chief, Applications Management Branch, ZED, OCP, said that the applicant intended to occupy an existing building and it appeared that the open space requirement had been met, but that a waiver would avoid potential problems. He added that although it was a bit unusual for staff to recommend waiver of the open space requirement when the actual amount of open space had not been calculated, that recommendation did not constitute an OCP policy.

Mr. Wolfe concurred with the proposed development conditions.

Chairman Murphy called for speakers from the audience and gave the rules for public testimony.

Mr. Richard Borowiec, of 8528 Springman Street, Alexandria, spoke on behalf of the Mount Zephyr Citizens Association. He said that he did not object to the applicant's intended use for the retail sale of fresh seafood, but would be opposed to any expansion of that use, such as a mini-market or the sale of food for consumption on the premises. Mr. Borowiec talked about traffic problems in the vicinity and said that the proposed use would exacerbate the situation. He suggested that a time limit be placed on the special exception.

In response to questions from Commissioners Byers and Sell, Mr. Braham said that the subject property was not large enough to meet Zoning Ordinance requirements for a grocery store; that expansion to include that kind of use would require another special exception application. He added that the development conditions repeatedly referred to the use as a "seafood market" and the sale of items other than those normally associated with seafood markets would be a violation of the conditions.

In rebuttal, Mr. Wolfe stated that he had no intention of selling anything other than seafood and associated items, such as tartar sauce, et cetera.

In response to a question from Commissioner Byers, Mr. Wolfe confirmed that he had a three-year lease on the subject property, with provision for a five-year extension.

In response to a question from Commissioner Sell, Mr. Wolfe said he was not associated with the gentleman on Route 1 who sold seafood out of the back of a truck.

Ms. Godfrey had no closing staff comments.

In response to questions from Commissioner Byers, Mr. Charles Denney, Office of Transportation (OT), said that the decision on whether a traffic signal was required at the intersection nearest the subject property would have to be made by the Virginia Department of Transportation (VDOT). He noted that this section of Route 1 was under a design study by OT for widening to six lanes. Commissioner Sell commented that it was his understanding that when the road was widened to six lanes that median cuts would be limited and that the left turn Commissioner Byers was concerned about would probably no longer be allowed. Mr. Denney confirmed that this section of Route 1 was planned as a six-lane divided highway. He added that there were specific requirements to justify median breaks and there would definitely be fewer than now existed.

There being no further comments or questions, Chairman Murphy closed the public hearing and turned to Commissioner Byers for action on this case. (Verbatim excerpts are in the date file.)

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Commissioner Byers MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE-92-V-014, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED MAY 20, 1992.

Commissioner Hubbard seconded the motion which carried unanimously with Commissioner Koch not present for the vote; Commissioner Thomas absent from the meeting.

Commissioner Byers then MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE REQUESTED WAIVERS OF THE MINIMUM LOT AREA AND OPEN SPACE.

Commissioner Hubbard seconded the motion which carried unanimously with Commissioner Koch not present for the vote; Commissioner Thomas absent from the meeting.

Commissioner Byers also MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF WAIVERS OF THE INTERIOR PARKING LOT LANDSCAPING AND PERIPHERAL PARKING LOT LANDSCAPING WITH THE EXCEPTION OF ALONG MOHAWK LANE WHERE PERIPHERAL PARKING LOT LANDSCAPING IN EXCESS OF ORDINANCE REQUIREMENTS SHALL BE PROVIDED.

Commissioner Hubbard seconded the motion which carried unanimously with Commissioner Koch not present for the vote; Commissioner Thomas absent from the meeting.

Commissioner Byers lastly MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF WAIVERS OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS ALONG THE EASTERN SIDE OF THE SITE ADJACENT TO THE SCHOOL PROPERTY.

Commissioner Hubbard seconded the motion which carried unanimously with Commissioner Koch not present for the vote; Commissioner Thomas absent from the meeting.

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SE-91-M-058 – AMANDA CORPORATION, A VIRGINIA CORPORATION – Appl. under Sect. 5-304 of the Zoning Ord. to permit a wholesale trade establishment on property located on the E. side of Carlin Springs Rd. approx. 500 ft. N. of Leesburg Pike on approx. 4.34 ac. zoned I-3, HC, & SC. Tax Map 62-1((1))16A. MASON DISTRICT. PUBLIC HEARING.

William Barnes Lawson, Esquire, with the firm of Lawson and Frank, reaffirmed the affidavit. There were no disclosures by Commission members.

Mr. Greg Chase, Zoning Evaluation Division, Office of Comprehensive Planning, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval. Mr. Lawson stated that the applicant had been in business since 1910. He explained that asbestos had been discovered at its current location about a year ago and the applicant subsequently decided to move its operation to allow for asbestos removal and was therefore requesting this special exception.

Mr. Lawson said that the applicant had been in its present location, in close proximity to the subject property, for many years and he knew of no complaints or problems. He added that no changes or alterations to the building were planned at the new location and requested the Commission's favorable recommendation.

Chairman Murphy called for speakers from the audience, but received no response. He noted that no rebuttal was necessary. Mr. Chase had no closing staff comments; therefore Chairman Murphy closed the public hearing and recognized Commissioner Strickland for action on this case. (Verbatim excerpts are in the date file.)

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Commissioner Strickland MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE SE-91-M-058, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS CONTAINED IN APPENDIX 1 OF THIS REPORT, DATED APRIL 24, 1992.

Commissioners Baldwin and Huber seconded the motion which carried unanimously with Commissioners Bobzien, Byers, Hubbard, and Koch not present for the vote; Commissioner Thomas absent from the meeting.

Commissioner Strickland then MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE A WAIVER OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENT ALONG THE PROPERTY'S CARLIN SPRINGS ROAD FRONTAGE IN ACCORDANCE WITH PARAGRAPH 2 OF SECTION 13-304 OF THE ZONING ORDINANCE.

Commissioner Baldwin seconded the motion which carried unanimously with Commissioners Bobzien, Byers, Hubbard, and Koch not present for the vote; Commissioner Thomas absent from the meeting.

Commissioner Strickland further MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE A WAIVER OF THE OPEN SPACE REQUIREMENT.

Commissioner Baldwin seconded the motion which carried unanimously with Commissioners Bobzien, Byers, Hubbard, and Koch not present for the vote; Commissioner Thomas absent from the meeting.

Commissioner Strickland lastly MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE REQUESTED WAIVERS FOR INTERIOR AND PERIPHERAL PARKING LOT LANDSCAPING.

Commissioner Baldwin seconded the motion which carried unanimously with Commissioners Bobzien, Byers, Hubbard, and Koch not present for the vote; Commissioner Thomas absent from the meeting.

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PCA-83-P-036-2 – 8400 OLD COURTHOUSE ROAD ASSOCIATES,
LIMITED PARTNERSHIP
SE-92-P-015 – 8400 OLD COURTHOUSE ROAD ASSOCIATES,
LIMITED PARTNERSHIP

May 20, 1992

PCA-83-P-036-2 – 8400 OLD COURTHOUSE ROAD ASSOCIATES, LIMITED PARTNERSHIP – Appl. to amend the proffers for RZ-83-P-036 to permit hotel use with a FAR of 1.0 on property located in the N.E. quadrant of the intersection of Old Courthouse Rd. & Howard Ave. on approx. 1.61 ac. zoned C-4, HC, & SC. Comp. Plan Rec: Retail & other uses. Tax Map 39-1((6))24, 25, 26. (Concurrent with SE-92-P-015.) PROVIDENCE DISTRICT.

SE-92-P-015 – 8400 OLD COURTHOUSE ROAD ASSOCIATES, LIMITED PARTNERSHIP – Appl. under Sects. 4-404 & 9-601 of the Zoning Ord. to permit a hotel with a waiver of the minimum lot width requirements on property located in the N.E. quadrant of the intersection of Old Courthouse Rd. & Howard Ave. on approx. 1.61 ac. zoned C-4, HC, & SC. Tax Map 39-1((6))24, 25, 26. (Concurrent with PCA-83-P-036-2.) PROVIDENCE DISTRICT. JOINT PUBLIC HEARING.

Martin D. Walsh, Esquire, of Walsh, Colucci, Stackhouse, Emrich and Lubeley, reaffirmed the affidavit. There were no disclosures by Commission members.

Ms. Cathy Chianese, Zoning Evaluation Division, Office of Comprehensive Planning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval.

In response to questions from Commissioner Hanlon, Ms. Chianese confirmed that the road improvements planned by the applicant would alleviate the sight distance problems at the intersection of Howard Avenue and Route 123. She also explained how staff arrived at the conclusion that the applicant had met the requirements for high quality urban design in the Tysons Corner area as recommended in the Comprehensive Plan.

In response to further questions from Commissioner Hanlon, Ms. Chianese stated that the Office of Transportation (OT) had determined that the turning radius at the entrance to the proposed underground parking garage was adequate for average size cars, but might present a problem for oversized vehicles. She added, however, that OT staff did not view this as a significant problem since even large vehicles could make the turn by encroaching slightly on the adjacent lane if necessary.

Ms. Chianese responded to questions from Commissioner Huber concerning the applicant's contributions for road improvements and how they compared to contributions by other developers in the Tysons Corner area.

PCA-83-P-036-2 – 8400 OLD COURTHOUSE ROAD ASSOCIATES,
LIMITED PARTNERSHIP
SE-92-P-015 – 8400 OLD COURTHOUSE ROAD ASSOCIATES,
LIMITED PARTNERSHIP

May 20, 1992

In response to questions from Commissioner Harsel, Ms. Chianese once again explained the situation at the entrance to the parking garage and reiterated that OT staff had determined that the problem was insignificant. She pointed out that there would be no turning problems with garbage trucks servicing the subject property since they would not be entering the underground garage.

In reply to a question from Commissioner Hanlon, Ms. Chianese confirmed that the applicant was proffering to reduce the traffic generation by half at the peak hour.

In reply to questions from Commissioner Baldwin, Ms. Chianese stated that the location of the swimming pools proposed by the applicant would have no impact on internal traffic circulation.

Mr. Walsh noted that the approved plan for the subject property called for 84,524 square feet of office space and the applicant was proposing 70,496 square feet of hotel space, which represented a reduction of more than 14,000 square feet of development overall. He added that the number of parking spaces and the number of proposed vehicle trips per day had also been reduced from the original plan. He noted that the applicant was willing to revise the proffer regarding the traffic signal to include a cost escalation clause to ensure that there would be enough money for the signal when the time came to install it. Mr. Walsh stated that the amount of landscaping proposed on the site had been increased. He spoke about the applicant's work with citizens in the area, noting that many of their suggestions had been incorporated in the new development plan. Mr. Walsh said that the application represented a de-intensification of the site, and that the proposed hotel use would be compatible with the nearby office uses. He concluded his presentation by offering to answer any questions the Commissioners might have.

In response to a question from Commissioner Hanlon, Mr. James Brantley, owner of two other Hampton Inns in Northern Virginia, stated that room rents at the hotel at Skyline were \$62 to \$72 per night; and \$55 to \$60 at the Fairfax City hotel. He added that he expected the room rates at the new hotel to be approximately \$65 to \$70 per night.

In response to questions from Commissioner Harsel, Mr. Walsh and Mr. Brantley explained that the proposed hotel would have 22 rooms per floor and that the first floor would contain a pantry for preparation of Continental breakfasts and a meeting room.

Chairman Murphy called for speakers, but received no response. He noted that no rebuttal was necessary. Ms. Chianese had no closing staff comments; therefore Chairman Murphy closed the public hearing and recognized Commissioner Hanlon for action on this case. (Verbatim excerpts are in the date file.)

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PCA-83-P-036-2 – 8400 OLD COURTHOUSE ROAD ASSOCIATES,
LIMITED PARTNERSHIP
SE-92-P-015 – 8400 OLD COURTHOUSE ROAD ASSOCIATES,
LIMITED PARTNERSHIP

May 20, 1992

Commissioner Hanlon MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA-83-P-036-2, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE CONTAINED IN APPENDIX 1 WITH THE ADDITIONAL MODIFICATION THAT MR. WALSH REFERRED TO THAT WOULD CHANGE THE ESCALATION DATE ON THE CONTRIBUTION TO THE TRAFFIC LIGHT.

Commissioners Bobzien and Hubbard seconded the motion which carried unanimously with Commissioner Thomas absent from the meeting.

Commissioner Hanlon also MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE-92-P-015, SUBJECT TO THE DEVELOPMENT CONDITIONS CONTAINED IN APPENDIX 2 OF THE STAFF REPORT.

Commissioners Bobzien and Hubbard seconded the motion which carried unanimously with Commissioner Thomas absent from the meeting.

Commissioner Hanlon then MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE WAIVER OF THE MINIMUM LOT WIDTH REQUIREMENTS PURSUANT TO SECTION 9-610 OF THE ZONING ORDINANCE.

Commissioners Bobzien and Hubbard seconded the motion which carried unanimously with Commissioner Thomas absent from the meeting.

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RZ-91-P-021 – LEROY J. BLACKWELDER – Appl. to rezone approx. 5.75 ac. located approx. 1,000 ft. E. of Sutton Rd. opposite its intersection with Oleander Ave. from R-4 to R-8 to permit residential development at a density of 4.87 du/ac. Comp. Plan Rec: 4-5 du/ac. Tax Map 48-1((1))86. PROVIDENCE DISTRICT. PUBLIC HEARING.

Mr. Leroy Blackwelder, the applicant in this case, refused to reaffirm the affidavit. He said that the affidavit contained material that he did not write or sign. Mr. Blackwelder proceeded to comment on traffic problems in the area of the subject property.

Commissioner Hanlon asked Mr. Blackwelder which part of the affidavit he disagreed with. Mr. Blackwelder replied that he neither wrote nor signed the statement of intent.

Chairman Murphy and Commissioner Hanlon attempted to explain to Mr. Blackwelder what the affidavit was and where it could be located.

Mr. Blackwelder maintained that there had been no change since the first affidavit was filed.

Ms. Mary Ann Godfrey, Zoning Evaluation Division, Office of Comprehensive Planning, pointed out that the only change to the affidavit was to add the name of F. Gary Garczynski as an agent for the applicant. Mr. Blackwelder denied that Mr. Garczynski was an agent. He claimed that he was being manipulated.

Commissioner Hanlon noted that there had been affidavit problems in this case before. He said that he had deferred the application previously pending resolution of the affidavit problems; however, he was now satisfied that there was no reason why the public hearing could not proceed regardless of this outstanding issue.

Chairman Murphy asked if there were any disclosures by Commissioners, but received no response. He then called upon Ms. Godfrey for presentation of the staff report.

Ms. Godfrey presented the staff report, a copy of which is in the date file. She noted that lack of consolidation and excessive density necessitated staff's recommendation for denial of the application.

In response to questions from Commissioner Hanlon, Ms. Godfrey confirmed that R-5 would be an appropriate zoning district for the subject property, in staff's opinion. She further confirmed that staff was not in favor of Alternatives #2 and #3 of the Comprehensive Plan recommendations for the subject property, but supported Alternative #1. She agreed with Commissioner Hanlon that the applicant needed to provide access to the subject property to meet the requirements of Alternative #1.

In reply to further questions from Commissioner Hanlon, Ms. Godfrey explained what staff expected in terms of limits of clearing and grading and landscaping. Ms. Godfrey confirmed Commissioner Hanlon's statement that shared open space in a residential development had to be either dedicated to a homeowners association or to the public, that it could not be retained in ownership by the developer of the property. She further confirmed that residential developments with a density of more than 4.8 dwelling units per acre (du/ac) were required to meet affordable housing provisions.

In response to an inquiry from Commissioner Hanlon, Ms. Godfrey stated that the Comprehensive Plan recommended a trail from Marywood Road to Nottoway Park, along the eastern edge of the subject property. She agreed with Commissioner Hanlon's statement that that trail would have to be provided by the applicant to meet the development criteria.

Commissioner Hanlon said that it was his understanding that the applicant intended to phase the project and only build 12 units until the entrance could be moved to be in alignment with

Oleander Road. Ms. Godfrey confirmed Commissioner Hanlon's statement that staff was looking for some kind of commitment as to where those 12 houses would be in order to ensure that the project would work once the access point was changed.

Mr. Blackwelder submitted to the Commission a blueprint, a copy of which is in the date file, depicting his latest proposal for residential development at eight du/ac. He explained that dedication of the open space to a homeowners association would prevent locating the entrance across from Oleander Avenue. He pointed out on the blueprint where he intended to build the model homes. Mr. Blackwelder commented on the access problems with the subject property. He said that the County blocked access to the subject property when it approved the rezoning for the Country Creek subdivision. He added that the County further exacerbated the problem when it zoned the subject property R-4. Mr. Blackwelder stated that the project would benefit the County. He cited Supreme Court rulings regarding the taking of private property. He said that he was willing to work with the County to accomplish development of the subject property.

In response to questions from Commissioner Hanlon, Mr. Blackwelder acknowledged that the entrance shown on the blueprint was the same as that shown on the development plan in the staff report and that it did not align with Oleander Avenue. He said that he did not want the entrance there, that it was not the best place for access to the subject property.

Inasmuch as Mr. Blackwelder had complained that his tax assessment was unfairly high since he could not develop his property at an R-4 density, Commissioner Hanlon asked him if he would like to have the land rezoned back to the R-1 District if the current application was not approved by the Board of Supervisors. Mr. Blackwelder replied that it really didn't matter since access to the property was blocked.

Commissioner Hanlon once again asked Mr. Blackwelder if he wanted his property rezoned to R-1. Mr. Blackwelder maintained that the County had blocked access to his land.

Chairman Murphy asked Mr. Blackwelder if he could respond affirmatively or negatively to Commissioner Hanlon's question. Mr. Blackwelder said he would prefer to keep the zoning just the way it was and that he wasn't concerned about taxes on the property since he had stopped paying them anyway.

Chairman Murphy called for speakers from the audience.

Mrs. Leroy J. Blackwelder, 1030 S. Barton St., #284, Arlington, asked why the County had blocked the access to her husband's property.

Commissioner Hanlon replied that he was not on the Commission at the time of the Country Creek rezoning and he didn't know why access was not provided through that development.

Commissioner Sell commented that he was here at that time and he didn't know why access was not provided either.

Commissioner Hanlon stated that although there were limitations on it, the subject property was not completely blocked because access could be provided from the west. He said that until tonight he had thought that development of this property could take place.

Mrs. Blackwelder asked that the County cooperate with Mr. Blackwelder to get the property unblocked.

In reply to a question from Mrs. Blackwelder, Commissioner Hanlon said that he did not believe that development of the subject property was impossible.

Mr. Gary Garczynski, of 6705 Cedar View Court, Clifton, explained that he had listed himself as an agent for Mr. Blackwelder on the affidavit because he had been told by the County Attorney's Office that it was necessary if he was going to speak on Mr. Blackwelder's behalf at the public hearing. Since that was no longer the case, he stated that he was speaking as an individual at this time. Mr. Garczynski said that he was the builder of Country Creek and that he had worked to provide access to the subject property at Kelly Square, but that his efforts did not materialize. He agreed with Mr. Blackwelder that a mistake was made when Country Creek was allowed to develop without access being provided to the subject property. He further agreed that a mistake had been made when the property was zoned R-4 in 1985 when it had no public road access. He said that Mr. Blackwelder was simply asking for flexibility in developing the property at the R-8 level, which was the only way the desired consolidation could take place. He added that R-5 density would not be economically feasible. Mr. Garczynski said that he did not see how the problem could be solved without rezoning the property to R-8 and that if Mr. Blackwelder could not get the R-8 zoning, he would probably have no recourse other than to go to court which would be costly and time consuming for both the County and Mr. Blackwelder.

Commissioner Hanlon pointed out that the Comprehensive Plan recommended the higher density if consolidation was achieved, that the density should not be granted before consolidation.

Mr. Garczynski commented that Mr. Blackwelder intended to only build a few homes on the subject property until consolidation could be achieved and a proper access road be provided. He said this would be a tremendous expense and risk on Mr. Blackwelder's part.

In rebuttal, Mr. Blackwelder reiterated that his ultimate intention was to provide access to the subject property opposite Oleander Avenue through Lot 80. He maintained that dedicating land to a homeowners association would eliminate that possibility. Mr. Blackwelder repeated his view of the problems with the subject property over the years.

Ms. Godfrey had no closing staff comments.

In response to questions from Commissioner Hanlon, Ms. Godfrey stated that the blueprint submitted by Mr. Blackwelder tonight had been provided to staff only last week and that staff had not had an opportunity to review it. She added that the plat was the same as that submitted with a previous rezoning application in 1987.

There being no further comments or questions, Chairman Murphy closed the public hearing and recognized Commissioner Hanlon for action on the case. (Verbatim excerpts are in the date file.)

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Commissioner Hanlon MOVED THAT THE DECISION ONLY ON THIS APPLICATION BE DEFERRED TO A DATE CERTAIN OF JUNE 25, 1992, WITH THE RECORD TO REMAIN OPEN FOR WRITTEN COMMENTS.

Commissioners Huber and Byers seconded the motion which carried unanimously with Commissioner Thomas absent from the meeting.

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The meeting was adjourned at 11:21 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: February 11, 1993


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