MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, MAY 30, 2007

PRESENT: Walter L. Alcorn, Commissioner At-Large
Frank A. de la Fe, Hunter Mill District
Earl L. Flanagan, Mount Vernon District
Janet R. Hall, Mason District
James R. Hart, Commissioner At-Large
Nancy Hopkins, Dranesville District
Ronald W. Koch, Sully District
Kenneth A. Lawrence, Providence District
Rodney L. Lusk, Lee District
Timothy J. Sargeant, Commissioner At-Large

ABSENT: Suzanne F. Harsel, Braddock District
Peter F. Murphy, Jr., Springfield District

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The meeting was called to order at 8:18 p.m. by Vice Chairman Walter L. Alcorn, 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 de la Fe announced that the Planning Commission's Parks Committee had met earlier this evening to discuss recommendations for adjusting recommended fees for park proffers with the Fairfax County Park Authority (FCPA) Board. He said that the FCPA Board would provide a briefing on the proposed park proffer formula at the Planning Commission meeting on Thursday, June 21, 2007.

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Commissioner Hart announced that the Planning Commission's Environment Committee would be meeting Thursday, May 31, 2007, at 7:30 p.m. in the Board Conference Room, to discuss the proposed Policy Plan Amendment addressing air quality and "green" building issues. He also announced that the Planning Commission would be voting on Thursday, May 31, 2007, to recommend to the Board of Supervisors authorization for advertising an amendment on stream protection.

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Commissioner Hall announced that the Planning Commission's Policy and Procedures Committee would meet on Wednesday, June 13, 2007, at 7:30 p.m. in the Board Conference Room, to continue discussion of the next Area Plans Review process.

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Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING ON RZ 2005-PR-004 TO A DATE CERTAIN OF JUNE 21, 2007.

Commissioner Hall seconded the motion which carried unanimously with Commissioners Harsel and Murphy absent from the meeting.

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FS-P06-117- NEXTEL, 2817 Jermantown Road

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION CONCUR WITH STAFF'S DETERMINATION THAT THE TELECOMMUNICATIONS FACILITY PROPOSED BY NEXTEL, AT 2817 JERMANTOWN ROAD, IS IN CONFORMANCE WITH THE COMPREHENSIVE PLAN AND SHOULD BE CONSIDERED A "FEATURE SHOWN", PURSUANT TO SECTION 15.2-2232 OF THE *CODE OF VIRGINIA*, AS AMENDED.

Commissioner Hall seconded the motion which carried unanimously with Commissioners Harsel and Murphy absent from the meeting.

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ORDER OF THE AGENDA

Vice Chairman Alcorn established the following order of the agenda:

1. COMPREHENSIVE PLAN AMENDMENT – S01-CW-17CP(B)
2. RZ/FDP 2007-LE-009 – SHARON CHAPEL, LLC
3. RZ 2007-MV-004 – BADCO, LLC D/B/A DAKS RESTAURANT

This order was accepted without objection.

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COMPREHENSIVE PLAN AMENDMENT - S01-CW-17CP(B)
- To consider proposed revisions to the Comprehensive Plan for Fairfax County, VA, in accordance with the *Code of Virginia*, Title 15.2, Chapter 22. The proposed Plan Amendment will consider technical and editorial changes to the text and transportation

-related figures in the four Area Plan volumes of the Comprehensive Plan to be consistent with the adopted Fairfax County Transportation Plan Map, as adopted by the Board of Supervisors on July 31, 2006 in S01-CW-17CP, as well as to be technically correct, with respect to: typographical errors, transportation figure annotations and cartographic improvements, text formatting improvements, and factual corrections due to something being factually incorrect or due to a transportation improvement or project having been implemented or completed. In addition to the technical and editorial changes to the text and transportation-related figures, a circle is proposed to be added to the Fairfax County Transportation Plan Map designating a full interchange improvement at Fairfax County Parkway and Sunset Hills Road/Spring Street. COUNTYWIDE. PUBLIC HEARING.

Dan Stevens, Department of Transportation (FCDOT), presented the staff report, a copy of which is in the file. He stated that staff recommended approval of the amendment.

Vice Chairman Alcorn called the listed speaker and recited the rules for public testimony.

Bruce Bennett, Chairman, Hunter Mill Traffic Calming Committee, 1459 Hunter View Farms, Vienna, referred to an error on the tax map, which showed a portion of a roadway between Vale and Mystic Meadow as four lanes. He said that as he was preparing for tonight's meeting, he looked online and found the error had already been corrected. Hence, he changed his testimony to thank staff and the Planning Commission for their prompt action in taking care of the error.

Fran Wallingford, representing the Pine Ridge Civic Association, 3311 Mantua Drive, Fairfax, said that the Board members of the Association had noticed that the approved Transportation Map erroneously showed a road connection. While she did not know if there was any way to have it corrected, since the map had already been approved, she said that she wanted to go on record that the error existed.

Leonard Wolfenstein, FCDOT, responded that the text actually overrode the map, and that the roads would not be connected, but, he would find out if the maps and figures could be changed to lessen any confusion. (Note: The road connection was not identified.)

Commissioner de la Fe pointed out the extensive number of changes that had already occurred and those that still needed to occur. In light of this, he requested that the record remain open so the general public, and the Commissioners as well, could notify the staff of any errors found no later than June 5, 2007.

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There were no additional speakers, no further comments, or questions from the Commission, and staff had no closing remarks; therefore, Vice Chairman Alcorn closed the public hearing and recognized Commissioner de la Fe for action on these items. (A verbatim transcript is in the date file.)

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Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ON S01-CW-17CP(B) UNTIL JUNE 13, 2007.

Commissioner Hart seconded the motion which carried unanimously with Commissioners Harsel and Murphy absent from the meeting.

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RZ 2007-LE-009/FDP 2007-LE-009 - SHARON CHAPEL, LLC – Appls. to rezone from PDH-2 to PDH-3 to permit residential development at a density of 2.1 dwelling units per acre (du/ac) and approval of the conceptual and final development plans. Located on the N. side of Sharon Chapel Rd. at its intersection with Telegraph Rd. on approx. 6.19 ac. of land. Comp. Plan Rec: 2-3 du/ac. Tax Map 82-4 ((1)) 34. LEE DISTRICT. PUBLIC HEARING.

Lori Greenlief, Land Use Planner with McGuireWoods, LLP, reaffirmed the affidavit dated May 18, 2007. With no disclosures from Commission members, Commissioner Lusk requested that Vice Chairman Alcorn ascertain whether there were any speakers for this application. There being none, Vice Chairman Alcorn asked that presentations by staff and the applicant be waived and the public hearing closed. No objections were expressed; therefore, he closed the public hearing and recognized Commissioner Lusk for action on this case. (A verbatim excerpt is in the date file.)

Commissioner Lusk noted that Michael Grabman, 5862 Governors Hill Drive, Alexandria, submitted a letter in support of the proposed rezoning, a copy of which is in the date file.

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Commissioner Lusk MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2007-LE-009, SUBJECT TO THE PROFFERS CONSISTENT WITH THOSE DATED MAY 2, 2007.

Commissioner Lawrence seconded the motion which carried unanimously with Commissioners Harsel and Murphy absent from the meeting.

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION APPROVE FDP 2007-LE-009, SUBJECT TO THE BOARD OF SUPERVISORS' APPROVAL OF RZ 2007-LE-009.

Commissioner Lawrence seconded the motion which carried unanimously with Commissioners Harsel and Murphy absent from the meeting.

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE WAIVER OF THE 600-FOOT MAXIMUM LENGTH OF PRIVATE STREETS.

Commissioner Lawrence seconded the motion which carried unanimously with Commissioners Harsel and Murphy absent from the meeting.

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RZ 2007-MV-004 – BADCO/DAKS RESTAURANT - Appl. to rezone from R-2, CRD, and HC to C-6, CRD, and HC to permit commercial development with an overall Floor Area Ratio (FAR) of 0.14. Located in the N.W. quadrant of the intersection of Richmond Hwy. and Woodlawn Ct. on approx. 2.0 ac. of land. Comp. Plan Rec: Retail and Other. Tax Map 101-3 ((1)) 96. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Jason Heinberg, Esquire, with Walsh, Colucci, Lubeley, Emrich & Walsh, P.C., reaffirmed the affidavit dated May 7, 2007. Commissioner Hart disclosed that the law firm of Hart and Horan, PC, had a pending case with Walsh, Colucci, but indicated that there was no business or financial relationship that would affect his ability to participate in this case.

St. Clair Williams, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the file. He stated that staff recommended denial of the application because it was not in conformance with the Comprehensive Plan and Urban Design Guidelines.

In response to questions from the Commissioners, Mr. Williams addressed staff's recommendation for denial of DAKS, stating that the building would be too close to an R-2 residential area, and that staff was concerned about the proximity because of the outdoor music, trash pickup and delivery times despite the proposed screening. He explained that even though the parking and music would take place on the Richmond Highway side of the building, staff was still concerned about the close proximity to the residential area to the north. He also confirmed that the signage for the property would be a 10-foot boulder and that staff was still looking at that design issue. Mr. Williams further stated that if the building were moved forward, he believed that all of staff's concerns could be addressed.

Mr. Heinberg explained that DAKS restaurant had been a successful business, operating in both Baileys Crossroads and on Richmond Highway, the latter of which closed recently. He stated that DAKS would like to remain in the Richmond Highway area, and the current proposed site would serve the needs of a historically underserved restaurant market. He stated that, as DAKS was participating in a pilot program for the U.S. Green Building Council, several innovative and energy-saving concepts had been incorporated into the design of the building, such as tucking it into the rear of the site to conform to the surrounding topography, thereby making the building environmentally friendly, providing thermal energy benefits, reducing the amount of impervious surface, and enhancing stormwater management. Mr. Heinberg noted staff's recommendation for denial and said that he believed it was because of the building's location and orientation. He stated that he understood that the Comprehensive Plan recommended that buildings be oriented toward Richmond Highway, with as little parking expanse as possible along the site's frontage. He explained that the proposal was in compliance with the Plan which allowed for recognition of the need for flexibility where it might be required to achieve the best results.

Responding to questions from Commissioner Hall, Mr. Heinberg stated that DAKS could move the building forward an inch or possibly more. When Commissioner Hall directed the same questions to staff as to whether this issue and other alternatives had been brought up during the application phase, Mr. Williams said that he had spoken with the applicant about it during the pre-application phase but could not reach a positive result. Mr. Heinberg also stated that in moving the building forward, they could not allow for 20 parking spaces in the rear of the building.

Commissioner Sargeant inquired about the "harmony" of this project with surrounding buildings in the area, particularly how this building would fit in. Mr. Heinberg stated that this project would create a use that would enliven the area and attract people. He added that its environmental friendliness could not be achieved if the building were to be relocated to the front of the property. He reiterated that this project was compatible with the surrounding area and was consistent with the Comprehensive Plan. Mr. Heinberg told Mr. Sargeant that he had been in contact with the immediately surrounding communities, such as Engleside and Skyview, and the Mount Vernon Council, who were all excited about this project.

In response to questions by Commissioner Hart, Mr. Heinberg clarified that the sign would be a ten-foot boulder to provide an outdoor feel for the restaurant. In regard to the handicapped parking, he explained that the canopy over the entrance was a drop-off area and that it was just large enough for customers to get in or out of their cars. When asked why the handicapped parking spaces were not closer to the building, he explained that there would be conflicts with the travel aisle and that the current design was the safest approach.

Commissioner Lawrence also raised the issue of the project's "harmony" with the Comprehensive Plan, asking what precisely the issues would be if it were to face Richmond Highway. Mr. Heinberg explained that while there would be less digging and fill if the building were located in the rear, it was not a matter of economics, but rather a matter of land-serving activity.

At this time, Christopher Champagne, Engineer with Dewberry and Davis LLC, addressed the Planning Commission, explaining that by orienting the building toward the rear, the amount of impervious area and required parking would be less, and circulation through the parking lot would be more efficient. When asked if he presented this argument to staff, Mr. Champagne said that he had only spoken to the applicant.

Addressing a question from Commissioner Koch and Mr. Lawrence, Mr. Champagne clarified that were the applicant to move the building forward, in addition to maintaining the circulation for customers and emergency vehicles, they would also have to build a new road to accommodate the parking that would be required behind the building, which would add impervious surface area as well as increase the limit of clearing and grading associated with the site.

In response to Commissioner Flanagan's questions regarding the surrounding soil and trees, Mr. Champagne explained that in orienting the building toward the rear of the site, it would minimize the amount of earthwork and subsequent disturbance of the land, thereby attempting to preserve some of the soil and trees that would otherwise be moved if they were to reorient the building per the Comprehensive Plan's recommendations.

Vice Chairman Alcorn then called the listed speaker and recited the rules for public testimony.

Richard F. Neel, Jr., representing the Southeast Fairfax Development Corporation (SFDC), 8850 Richmond Highway, Suite 105, Alexandria, expressed the SFDC's strong support for DAKS' application. He explained that DAKS' environmental features should be applauded, and stated that the restaurant would have important revitalization benefits for Richmond Highway in terms of job creation, expanded tax base, and creation of a unique and appealing restaurant destination for patrons. He added that he felt that this application was fully compliant with the Comprehensive Plan and felt very concerned that the Planning Commission might view the Urban Design Guidelines as rigid requirements rather than recommendations. (A copy of Mr. Neel's remarks is in the date file.)

In response to questions from Commissioner Hall, Mr. Neel stated that he had been involved during the Area Plans Review of this area and had served on two of the Area Plans Review task forces. He confirmed that the SFDC was in favor of this application.

Commissioner Sargeant questioned the need to revisit the Revitalization Plans for the Richmond Highway Corridor in order to integrate exceptions to the rules since more and more exceptions were appearing in proposals. In response, Mr. Neel said he believed that revisiting the Urban Design Guidelines would be a very good idea, expressing again that the proposal should not be denied on the basis that it failed to conform to the Comprehensive Plan or the Urban Design Guidelines, neither of which was a strict set of rules.

In response to a question from Commissioner Flanagan, Mr. Neel said in spite of staff's recommendation of denial, SFDC supported the application.

Mr. Neel then remarked that this application as presented was environmentally-sensitive to water retention onsite according to Leadership in Energy and Environment Design (LEED) standards, which could not be fulfilled by putting up a conventional building. Commissioner de la Fe commented that there were LEED standards in place for conventional buildings, and therefore that argument would not work in this case.

Commissioner Flanagan wished to note that the Engleside Homeowners' Association had voted unanimously in support of this application. He also noted that the Mount Vernon Council, a large organization with 60 civic associations, preferred the proposal as presented, without any changes. He went on to say that he had received many emails, none of which opposed the application.

There being no more speakers, Chairman Alcorn called for a rebuttal statement from the applicant.

Barry Clark, owner of DAKS Restaurant, said that the one thing DAKS wanted was to follow the site's topography as closely as possible, which could be achieved best by orienting the building away from Richmond Highway in the rear of the lot. Mr. Clark discussed the safety, environmental, and aesthetic issues, noting that if the building were to be moved toward the front, the parking lot would be used for both trucks and customer parking, which could be a safety concern, since the trucks were larger and would be traveling through the lot during the lunch time/midday hours. He added that having parking in front would be less of a distraction late at night when people would be leaving, with the commotion caused by their headlights and engine startups. He went on to say that there would be plenty of landscaping throughout the parking area to avoid the look of a vast "sea of parking spaces." Mr. Clark emphasized that his proposal was not a financial issue, but an aesthetic and environmental one, where he wanted to follow the natural flow of water and, given advice from environmental experts, engineers and architects, the best way to achieve that was to place the building in the rear of the site. He explained that DAKS had been founded on good core values; they had been a "good neighbor;" provided a good product, a fun place where people could go, and now they wanted to give back to the community and become more socially responsible and environmentally-friendly. Mr. Clark pointed out that the Comprehensive Plan addressed both orientation toward Richmond Highway and topographical alignment, and that locating the building toward the rear of the property followed the topography of the land.

Commissioner Hall stated that the Comprehensive Plan was a document written by Fairfax County citizens and that an applicant needed to make sure that his or her presentation specifically addressed that document. She explained to Mr. Clark that, while she now agreed that he had valid and specific reasons for doing what he was doing, that had not been clear during the applicant's presentation, and she feared that staff also might not have heard the same arguments, thereby recommending denial of the application. She said she now felt that DAKS was actually trying to meet the intent of the Comprehensive Plan.

Commissioner Lawrence asked Mr. Clark if he had presented his specific arguments regarding the building location to staff. Mr. Clark said he had. Commissioner Lawrence then asked staff about the valid environmental reasons as to why the building should be at the back of the site. He asked if those reasons had been discussed while the proposal was being reviewed, and, if so, why had they come to their recommendation? Mr. Williams explained that the subject of having to put in a new road had not been discussed with staff. During the discussions, he said there had been concern about moving the building up and breaking up the parking area, which would affect how much parking could be provided on the site. He added that the applicant had not provided a firm commitment to staff to obtain LEED certification and provide low impact development strategies; therefore, staff felt they could not justify recommending approval of the application.

In response to Commissioner Lawrence's question if the lack of commitment was the main reason for staff's recommendation for denial of the application, Mr. Williams replied that it was only a part of the reason. He added that the building's location was still of concern, as well as the loading area's proximity to the residential area to the north, and the parking expanse in the front of the property.

In reference to a remark by Mr. Clark that the Urban Design Guideline was written in 1999, Commissioner Koch specifically asked Donna McNeally, ZED, DPZ, if previous applications had been held to the standards set forth in the Comprehensive Plan. Ms. McNeally replied that in her experience that was the case. Commissioner Koch said he saw no reason, therefore, why this applicant should not be held to the same standard.

Responding to a question from Commissioner Hart, Mr. Williams said that although there was a slight difference in the topography from the front of the property to the back, staff did not believe it justified locating the building at the rear of the site.

Commissioner de la Fe noted that there was no proffer stating that the building would meet LEED certification, and specifically requested that the applicant commit to one. He explained that although there had been applicants in prior cases who had submitted proposals without such proffers, it would be necessary in this case in order to comply with the Comprehensive Plan. Additionally, it would help to justify the applicant's environmental intent in regard to the Comprehensive Plan and would help mitigate staff's denial of the proposal.

Commissioner Hall agreed with Commissioner de la Fe's assessment and requested that John Byers, former Commissioner from the Mount Vernon District, address the Commission to comment on past cases where applications had been approved although they had not fully complied with the Plan, and offer his opinion on this application.

John R. Byers, 8218 Chancery Court, Alexandria, confirmed that there had been a few cases that had been approved, although they had not been in full compliance with the Plan. He explained that the DPZ staff's job was "objective" when looking at an application, and they were required to put aside their opinion and determine whether it conformed exactly to the Zoning Ordinance

and the Comprehensive Plan. He went on to explain that the Planning Commission's function was to take a more "subjective" view of an application, bearing in mind the benefits to the community as a whole. Mr. Byers said he felt in this particular case the benefits outweighed the concerns, and pointed out that the application had the overwhelming support of the neighborhood, the business community, the Mount Vernon Council, and himself.

Commissioner Koch commented that he recognized the community support for the application, and noted that the building could be LEED certified no matter where it was located. He reiterated that he felt staff had done a very good job in evaluating this application. He added that it might have been more beneficial if the applicant had taken the approach that they understood the proposal did not conform with the Comprehensive Plan, while emphasizing the many benefits of the "green" building and environmental friendliness of the application.

Commissioner Hall suggested that the Commission defer the decision only for one day while the applicant prepared the "green" building proffer.

Commissioner Lawrence asserted his concurrence for the LEED proffer, reiterating that staff had also wanted additional commitments to the environmental goals.

Commissioner Hart requested that proffers address the sign issues he had talked about earlier. Mr. Heinberg agreed to have prepared proffers for the following day.

Vice Chairman Alcorn said he understood the position of both the applicant and staff, noting that Plan language for the Richmond Highway Corridor was meant to improve the current situation. He agreed that the application went above and beyond environmental requirements, but said he also agreed with Commissioner Koch's position that the application could have been presented in a more straight forward way.

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

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Commissioner Flanagan MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR RZ 2007-MV-004, TO A DATE CERTAIN OF MAY 31, 2007. Commissioner Sargeant seconded the motion which carried unanimously with Commissioners Harsel and Murphy absent from the meeting.

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The meeting was adjourned at 10:45 p.m.
Peter F. Murphy, Jr., 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, VA 22035.

Minutes by: Jeanette Phillips

Approved: November 20, 2008

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