

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, JUNE 3, 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 A. Lawrence, Providence District
Rodney L. Lusk, Lee District

ABSENT: Peter F. Murphy, Jr., Springfield District
Laurie Frost Wilson, Commissioner At-Large

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The meeting was called to order at 8:25 p.m. by Vice Chairman John R. Byers, 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 Lawrence MOVED THAT THE PUBLIC HEARING ON PCA 80-P-039-08 AND FDPA 80-P-039-08, BEAZER HOMES CORPORATION, BE DEFERRED TO A DATE CERTAIN OF JUNE 24, 2004.

Commissioner de la Fe seconded the motion which carried unanimously with Commissioner Lusk not present for the vote; Commissioners Murphy and Wilson absent from the meeting.

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Commissioner Byers MOVED THAT THE PUBLIC HEARING ON RZ 2003-MV-060 AND FDP 2003-MV-060, D. R. HORTON, INC., BE DEFERRED TO A DATE CERTAIN OF JULY 29, 2004.

Commissioner Lusk seconded the motion which carried unanimously with Commissioners Murphy and Wilson absent from the meeting.

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Commissioner Alcorn noted that he and several other members of the Commission had attended the Affordable Housing Preservation forum sponsored by the Board of Supervisors, the Fairfax County Redevelopment and Housing Authority, Freddie Mac, and AHOME on Wednesday, June 2, 2004. He said that there was a good possibility that the Housing Section of the Policy Plan would need to be updated as a result of discussions that had taken place.

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ORDER OF THE AGENDA

Secretary Harsel established the following order of the agenda:

1. SUBDIVISION ORDINANCE AMENDMENTS (SHARED UTILITY EASEMENTS)
2. PCA 84-L-020-22 - WAL-MART REAL ESTATE BUSINESS TRUST
PCA 84-L-020-21 - WAL-MART REAL ESTATE BUSINESS TRUST
FDPA 84-L-020-02-12 - WAL-MART REAL ESTATE BUSINESS TRUST
3. SE 2004-MA-003 - LOEHMANN'S PLAZA LIMITED PARTNERSHIP
4. RZ 2003-MV-059/FDP 2003-MV-059 - ANASTASIOS AND ANNA GRYPEOS

This order was accepted without objection.

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SUBDIVISION ORDINANCE AMENDMENTS (Shared Utility Easements) – To amend Chapter 101 (Subdivision Ordinance) of the Code of the County of Fairfax, Virginia. The proposed amendments address issues related to the creation of shared utility easements and review times for subdivision plats and plans. The proposed amendments to § 101-2-2 and § 101-2-5 of the Subdivision Ordinance incorporate provisions for the conveyance of shared easements to franchised cable television operators furnishing cable television and public service corporations furnishing cable television, gas, telephone and electric service to proposed subdivisions and that the easements be conveyed by reference on the final plat to a declaration of the terms and conditions of such common easements recorded in local land records in accordance with § 15.2-2241 of the *Code of Virginia*. The proposed amendments to § 101-2-3, § 101-2-4, and § 101-2-5 of the Subdivision Ordinance require that any plat or plan that has been previously disapproved be acted upon within 45 days of its resubmission in accordance with § 15.2-2259 of the *Code of Virginia*.
COUNTYWIDE. PUBLIC HEARING.

John Friedman, Land Development Services, Department of Public Works and Environmental Services, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of the proposed amendments.

In response to a question from Commissioner Alcorn, Karen Harwood, Senior Assistant County Attorney, said approval of the proposed Subdivision Ordinance Amendments would implement recent changes to the *Code of Virginia*, Section 15.2-2241, which required shared utility easements to allow for better site design. She explained the idea had first been put forth by the County's Tree Preservation Task Force, but had not been approved due to concerns of utility companies about liability issues. She said the current legislation was the result of initiatives of the cable industry and what had been a discretionary provision of the Subdivision Ordinance was now mandatory; therefore, every record plat as of July 1, 2004 would have to provide for common easements.

Responding to a question from Commissioner Hart, Ms. Harwood said the legislation did not have a grandfather provision, but she thought it would be appropriate for the County to add one if the Commission and the Board of Supervisors were so inclined.

Vice Chairman Byers 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 remarks; therefore Vice Chairman Byers closed the public hearing and recognized Commissioner Hart for action on this item. (A verbatim excerpt is in the date file.)

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In Commissioner Wilson's absence, Commissioner Hart MOVED THAT THE DECISION ONLY ON THE PROPOSED AMENDMENTS BE DEFERRED TO A DATE CERTAIN OF JUNE 16, 2004, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENTS.

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

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PCA 84-L-020-22 - WAL-MART REAL ESTATE BUSINESS

TRUST - Appl. to amend the proffers for a portion of the land rezoned pursuant to RZ 84-L-020 and previously approved as open space for mixed use development to permit site modifications. Located N. of King Center Dr., W. of Sir Viceroy Dr. on approx. 30,492 sq. ft. of land zoned I-4. Comp. Plan Rec: Mixed Use. Tax Map 91-2 ((1)) 32B pt. (Concurrent with PCA 84-L-020-21 and FDPA 84-L-020-02-12.)
LEE DISTRICT

PCA 84-L-020-21/FDPA 84-L-020-02-12 - WAL-MART REAL ESTATE BUSINESS TRUST - Appls. to amend the proffers and final

development plan for a portion of the land rezoned pursuant to RZ 84-L-020 and previously approved for mixed use development to permit building additions and site modifications with a Floor Area Ratio (FAR) of 0.22 within the application property. Located in the S.W. quadrant of Kingstowne Blvd. and Sir Viceroy Dr. on approx. 14.12 ac. Of land zoned PDC. Comp. Plan Rec: mixed use. Tax Map 91-2 ((1)) 32B pt. (Concurrent with PCA 84-L-020-22.) LEE DISTRICT.
JOINT PUBLIC HEARING.

Elizabeth Fischer, Esquire, with DeCaro, Doran, Siciliano, Gallagher, and DeBlasis, LLP, reaffirmed the affidavits dated August 13, 2003 and May 17, 2004. There were no disclosures by Commission members.

Peter Braham, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of the applications.

Ms. Fischer stated that the applicant was proposing to expand the stock room addition and the garden center in an effort to meet the goals and vision of the Kingstowne area. She said to address concerns raised by the County and the Kingstowne Residential Owners Corporation, a proffer had been included to prohibit the use of metal containers for outdoor storage and the use of the stock room addition for retail space. She noted that the applications had the support of the Lee District Land Use Committee.

Vice Chairman Byers called for speakers from the audience, but received no response. He noted no rebuttal was necessary. There were no comments or questions from the Commission and staff had no closing remarks; therefore, Vice Chairman Byers closed the public hearing and recognized Commissioner Lusk for action on these applications. (A verbatim excerpt is in the date file.)

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Commissioner Lusk MOVED THAT THE DECISIONS ONLY ON PCA-84-L-020-21, PCA-84-L-020-22, AND FDPA 84-L-020-02-12 BE DEFFERED TO A DATE CERTAIN OF JULY 14, 2004, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENTS.

Commissioners Hall and Lawrence seconded the motion which carried unanimously with Commissioners Murphy and Wilson absent from the meeting.

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SE 2004-MA-003 - LOEHMANN'S PLAZA LIMITED PARTNERSHIP - Appl. under Sect. 9-612 of the Zoning Ordinance to permit a waiver of open space requirements. Located at 7249 Arlington Blvd. on approx. 17.76 ac. of land zoned C-6. Tax Map 50-3 ((1)) 5 and 5A pt. MASON DISTRICT. PUBLIC HEARING.

Kara Whisler, with Walsh, Colucci, Lubeley, Emrich & Terpak, PC, representing the applicant, reaffirmed the affidavit dated April 29, 2004. Commissioner Hart disclosed that his law firm had a pending case with Ms. Whisler's law firm, but that it would not affect his ability to participate in this case.

Kristen Shields, 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 application.

Ms. Whisler said the applicant was seeking approval to upgrade Loehmann's Plaza and replace the current dress shop with a single tenant grocery store. She explained that the applicant was working with major chains to establish a store in this underserved area of the County. She said special exception approval was needed to waive the open space requirement of 15 percent which could not be met due to the age and condition of the center, but would be increased from 11 to 13 percent. She noted that the tree cover, currently at 2 percent, would be increased to 10.8 percent. She said the proposed development had the support of the Broyhill Park and Westlawn Civic Associations and that the applicant would meet again soon with the Mason District Land Use Committee to answer their questions about the façade treatments and the design of the proposed renovations.

Responding to a question from Commissioner Hall about temporary sales that take place in the parking lot, Ms. Shields said that once the center was remodeled, there would be no excess parking; therefore, special permits for temporary uses would not be approved.

Ms. Whisler and Commissioner Hall responded to questions from Commissioners Hart and Lawrence about egress from the plaza to travel west onto Route 50.

Ms. Whisler and Commissioner Hall responded to a question from Commissioner Harsel about the need for a grocery store in this area.

Vice Chairman Byers called for speakers from the audience and recited rules for testimony before the Commission.

Carl Hedrick, 3203 Korte Court, Broyhill Park, expressed his opinion that the area was not underserved by grocery stores and one would not be appropriate for this center.

Commissioner Hall commented that this application would be discussed on June 23, 2004 by the Mason District Land Use Committee and invited Mr. Hedrick to attend. She added that she believed the area was underserved by grocery stores.

There were no other speakers and Ms. Whisler had no rebuttal remarks. The Commission had no further comments or questions and staff had no closing remarks; therefore, Vice Chairman Byers closed the public hearing and recognized Commissioner Hall for action on this application. (A verbatim transcript is in the date file.)

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Commissioner Hall MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY ON SE 2004-MA-003, LOEHMANN'S PLAZA LIMITED PARTNERSHIP, TO A DATE CERTAIN OF JUNE 24, 2004, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENTS.

Commissioner Lusk seconded the motion which carried unanimously with Commissioners Murphy and Wilson absent from the meeting.

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The next case was in the Mount Vernon District; therefore, Vice Chairman Byers relinquished the Chair to Secretary Harsel.

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RZ 2003-MV-059/FDP 2003-MV-059 - ANASTASIOS AND ANNA GRYPEOS - Appls. to rezone from C-8, R-3, CRD and HC to PRM, CRD and HC to permit mixed use development overall Floor Area Ratio (FAR) of 0.76 (19.51 du/ac), approval of the conceptual and final development plans and a waiver of the minimum district size. Located E. of Richmond Hwy., S. of East Lee Ave. and N. of Preston Ave. on approx. 1.23 ac. of land. Comp. Plan Rec: Office/Retail up to 0.30 FAR with options for Office/Retail up to 0.50 FAR and Mixed Use up to 0.80 FAR. Mt. Vernon District. Tax Map 93-1 ((18)) (D) 117, 126, 130 pt. and 138. MT. VERNON DISTRICT. PUBLIC HEARING.

Jane Kelsey, with Jane Kelsey and Associates, reaffirmed the affidavit dated May 24, 2004. Commissioner Hart disclosed that his law firm had two pending cases with Reed Smith LLP, listed on the affidavit, but it would not affect his ability to participate in this case.

Cathy Lewis, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended denial because the proposed development was not in accord with the Comprehensive Plan or the Zoning Ordinance.

Ms. Lewis responded to questions from Commissioner Byers about the ownership of Preston Avenue, utility easements, structured and underground parking, design issues, and density.

Ms. Kelsey reviewed the long history of the property, noting that it was small and difficult to develop because land had to be dedicated for Richmond Highway which left little space for screening. She said the applicant was now proposing to establish retail and office uses on the first floor, with three levels of for-sale condominiums, and possibly a restaurant or deli on the corner. She described the design of the development, building materials, parking areas, landscaping, and amenities. She pointed out that the consolidation of lots, the shifting of the building, the streetscape, the sidewalk connections, the plantings, and the screening met the requirements of the Comprehensive Plan as well as the guidelines of the Richmond Highway Revitalization District and the Planned Residential Mixed Use development. She explained that a noise study had been conducted by Polysonics, Inc., and the applicant was confident that the noise level would not exceed 75 dBA. She noted the proposed development had the support of two nearby property owners as well as the support of the Mount Vernon Council and the Southeast Fairfax Development Corporation.

Ms. Lewis and Ms. Kelsey responded to questions from Commissioners Lawrence and Alcorn about the stormwater management facility and its maintenance; from Commissioner Hart about the streetscape and landscaping; and from Secretary Harsel about parking.

Secretary Harsel stated there were no listed speakers; therefore, she called for speakers from the audience.

Ahamed Noor, 3007 Preston Avenue, Alexandria, who spoke through a translator, expressed opposition to the proposed development due to concerns that access problems to his property would be exacerbated.

Christopher Lavergne, 7002 Memorial Heights Drive, Alexandria, noted his opposition to the application because it was not compatible with surrounding development and because the concrete deck would be visible from his property.

Susan Crowe, 2920 Popkins Lane, Alexandria, indicated concern that increased traffic on East Lee Street would create dangerous traffic situations.

Steve Gnassi, 7000 Memorial Heights Drive, Alexandria, voiced opposition to the proposed development, citing concerns about stormwater runoff and traffic on East Lee Street.

There were no further speakers; therefore, Secretary Harsel called upon Ms. Kelsey for rebuttal remarks. Ms. Kelsey deferred to Paul Hoofnagel, owner of Alexandria Surveys, to address stormwater management issues.

Mr. Hoofnagel explained that stormwater management was computed on the amount of impervious area and maintenance would be determined by the amount of phosphorus that needed

to be removed. He said he could not predict the maintenance schedule at this time, but would provide a routine manual and a schedule for cleaning the pipes and maintaining the system, subject to approval by the Department of Public Works and Environmental Services.

Mr. Hoofnagel responded to questions from Commissioners Alcorn, Byers, Hart, and Secretary Harsel about the stormwater management facility and its required maintenance. At Commissioner Byers' request, Mr. Hoofnagel agreed to provide Ms. Kelsey with an estimate of maintenance costs.

Continuing rebuttal, Ms. Kelsey further elaborated on the proposed plantings along Preston Avenue which she said should improve the stormwater flow. She pointed out that the County's Department of Transportation had no problem with accessing the proposed development from East Lee Street and had not requested that it be widened. She noted that the wall would be about ten feet high in the back at the corner of Preston Avenue and with planters on top, in her opinion, it would not be unattractive.

Ms. Kelsey responded to questions from Commissioner Byers about the visibility of the development from houses facing on Preston Avenue and the cost to build a community/exercise room compared to the standard contribution to the Park Authority.

Commissioner Byers commented that he was considering, in the future, proposing that a Park Authority contribution be required regardless of recreation amenities provided by developers.

In response to a comment by Commissioner de la Fe, Ms. Kelsey said she would have no objection to using standard language in the recreation contribution proffer.

Secretary Harsel called upon staff for closing comments.

Ms. Lewis said one issue that had not been addressed tonight was noise. She noted that although staff believed it could be mitigated, more time was needed to further review the study results submitted yesterday because a cursory review had raised some serious questions.

In response to a question from Secretary Harsel, Ms. Lewis said that the open space between Richmond Highway and the proposed building was going to be dedicated to the Virginia Department of Transportation for right-of-way and would not be landscaped.

Ms. Lewis pointed out that staff had concerns, as noted in the staff report, about the preservation of a 30-inch oak tree that was not on the applicant's property.

Commissioner Alcorn expressed concern about the undergrounding of stormwater facilities in residential developments without enough information, particularly about the burden to homeowners' associations for maintaining them.

Ms. Lewis commented that she felt that many problems on this case were self-imposed by the applicant because the development requested was too intense.

Staff had no further closing remarks and the Commission had no further comments or questions; therefore, Secretary Harsel closed the public hearing and recognized Commissioner Byers for action on this item. (A verbatim excerpt is in the date file.)

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Commissioner Byers MOVED THAT THE DECISIONS ONLY ON RZ/FDP 2003-MV-059 BE DEFERRED TO A DATE CERTAIN OF JUNE 24, 2004, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENTS.

Commissioners Lawrence and Hall seconded the motion which carried unanimously with Commissioners Murphy and Wilson absent from the meeting.

Commissioner Byers MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS TO DEFER THEIR HEARING TO A DATE SUBSEQUENT OF JUNE 24, 2004.

Commissioners Lusk and Lawrence seconded the motion which carried unanimously with Commissioners Murphy and Wilson absent from the meeting.

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Vice Chairman Byers resumed the Chair and adjourned the meeting.

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The meeting was adjourned at 10:50 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, Virginia 22035.

Meeting taken by: Linda B. Rodeffer
Minutes by: Susan M. Donovan

Approved on: January 31, 2007

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