

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, JUNE 11, 2009**

PRESENT: Frank A. de la Fe, Hunter Mill District
Jay P. Donahue, Dranesville District
Earl L. Flanagan, Mount Vernon District
Suzanne F. Harsel, Braddock District
James R. Hart, Commissioner At-Large
Kenneth A. Lawrence, Providence District
John L. Litzenberger, Jr., Sully District
Rodney L. Lusk, Lee District
Peter F. Murphy, Jr., Springfield District
Timothy J. Sargeant, Commissioner At-Large

ABSENT: Walter L. Alcorn, Commissioner At-Large
Janet R. Hall, Mason District

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The meeting was called to order at 8:19 p.m. by Chairman Peter F. Murphy, Jr., in the Board Auditorium of the Fairfax County Government Center at 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Flanagan indicated that Commissioners had received a letter dated June 3, 2009, from David Gill, Esquire, with McGuire Woods LLP, on behalf of the nominator of BRAC APR 08-IV-2LP, requesting that the public hearing on this nomination, scheduled for Wednesday, June 17, 2009, be deferred indefinitely. Commissioner Flanagan said after consultation with staff, he determined that this nomination had been fully evaluated and no community issues remain to be resolved and noted his intent not to defer the public hearing on this item.

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Commissioner Hart noted that the Planning Commission's Environment Committee had met earlier this evening to receive another staff presentation regarding encroachments into the Environmental Quality Corridor and associated tradeoffs. He announced that the Committee would meet again on Thursday, July 30, 2009, at 7:00 p.m., in the Board Conference Room of the Fairfax County Government Center, to continue discussions on this topic.

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Commissioner Lusk MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING ON SEA 85-L-059-06, BSI INCORPORATED T/A BROWNE ACADEMY, TO A DATE CERTAIN OF JULY 8, 2009.

Commissioner Lawrence seconded the motion which carried unanimously with Commissioners Alcorn and Hall absent from the meeting.

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Environment Committee Recommendation on Riparian Buffers

Commissioner Hart MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE FOLLOWING POSITION STATEMENT:

- 1) THE PLANNING COMMISSION RECOMMENDS THAT FAIRFAX COUNTY REMAIN STRONGLY COMMITTED TO THE PROTECTION OF HEADWATERS AND RIPARIAN BUFFERS UPSTREAM OF RESOURCE PROTECTION AREAS, EVEN IF NEW REGULATIONS ARE NOT IMPLEMENTED AT THIS TIME. THE PLANNING COMMISSION AGREES WITH COUNTY STAFF ON THE IMPORTANCE OF UTILIZING BOTH THE ADOPTED POLICY PLAN ON DEVELOPMENT APPLICATIONS AND THE TREE CONSERVATION ORDINANCE, WHERE APPLICABLE, TO MINIMIZE DEVELOPMENT IMPACTS ON HEADWATERS AND RIPARIAN BUFFERS.
- 2) THE PLANNING COMMISSION HAS BEEN MADE AWARE OF FAIRFAX COUNTY'S CURRENT BUDGET SITUATION AND HAS BEEN ALERTED BY COUNTY STAFF TO THE SIGNIFICANT FINANCIAL AND STAFFING IMPLICATIONS ASSOCIATED WITH MAPPING, IMPLEMENTATION, AND ENFORCEMENT OF ADDITIONAL REGULATION. THE PLANNING COMMISSION ALSO HAS BEEN MADE AWARE OF POTENTIALLY PROBLEMATIC LIMITATIONS ON REGULATORY SCOPE IN THE ABSENCE OF EXPRESS LEGISLATIVE AUTHORITY FROM THE GENERAL ASSEMBLY.
- 3) ALTHOUGH A REGULATORY APPROACH MAY NOT BE FEASIBLE AT THIS TIME, THE PLANNING COMMISSION RECOMMENDS THAT THE BOARD OF SUPERVISORS DIRECT STAFF TO REVISIT THE ISSUE OF ADDITIONAL REGULATION OF UPSTREAM RIPARIAN BUFFERS AT SUCH TIME AS THE FAIRFAX COUNTY BUDGET MAY PERMIT SUFFICIENT FUNDING FOR STAFF NECESSARY FOR MAPPING, IMPLEMENTATION, AND ENFORCEMENT, AND ALSO AFTER THE BOARD HAS HAD THE OPPORTUNITY TO EVALUATE WHETHER TO PURSUE ANY APPROPRIATE LEGISLATIVE INITIATIVES WITH THE GENERAL ASSEMBLY.

- 4) THE PLANNING COMMISSION FURTHER RECOMMENDS THAT THE BOARD OF SUPERVISORS REFER THE TOPIC OF UPSTREAM HEADWATERS AND RIPARIAN BUFFERS TO THE BOARD'S LEGISLATIVE COMMITTEE TO REVIEW WITH COUNTY STAFF ANY DESIRED LEGISLATIVE ACTION BY THE GENERAL ASSEMBLY, TO FACILITATE IMPLEMENTATION OF FUTURE LOCAL REGULATION FOR PROTECTION OF RIPARIAN BUFFERS.

- 5) THE PLANNING COMMISSION FURTHER RECOMMENDS THAT IN THE MEANTIME, FAIRFAX COUNTY STAFF BE DIRECTED TO CONTINUE WITH A PHASED ACTION PLAN FOR PROTECTION OF HEADWATERS AND RIPARIAN BUFFERS, WITH THE FIRST PHASE, INCLUDING PROMOTING EDUCATION AND AWARENESS FOR AFFECTED PROPERTY OWNERS, TOGETHER WITH CONTINUED FACT-FINDING AND RESEARCH ON WHAT OTHER JURISDICTIONS ARE DOING. WHEN CIRCUMSTANCES WARRANT, THE SECOND PHASE SHOULD INCLUDE REEVALUATION OF THE FEASIBILITY OF ADDITIONAL REGULATION, AFTER POSSIBLE GENERAL ASSEMBLY ACTION, AND AS THE FAIRFAX COUNTY BUDGET MAY ALLOW.

Commissioner de la Fe seconded the motion which carried unanimously with Commissioners Alcorn and Hall absent from the meeting.

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Land Use Process Review Committee Recommendation on Deferral Fees

Chairman Murphy MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT ESTABLISH A DEFERRAL FEE OF \$250.00, PLUS THE ACTUAL COST OF ADVERTISING (NOT TO EXCEED A TOTAL AMOUNT OF \$1,000.00), FOR THE RESCHEDULING OF PLANNING COMMISSION AND BOARD OF SUPERVISORS PUBLIC HEARINGS THAT ARE REQUIRED AS A RESULT OF THE REQUIRED AFFIDAVIT NOT BEING FILED IN ACCORDANCE WITH THE ADOPTED POLICIES AND PROCEDURES OF THE PLANNING COMMISSION AND/OR THE BOARD OF SUPERVISORS, AS APPLICABLE.

Commissioners Lusk, Lawrence, and Flanagan seconded the motion which carried unanimously with Commissioners Alcorn and Hall absent from the meeting.

Chairman Murphy MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT ADOPT AN EFFECTIVE DATE OF JULY 1, 2009 FOR THE DEFERRAL FEE TO BE CONCURRENT WITH THE EFFECTIVE DATE OF THE ZONING ORDINANCE AMENDMENT RELATED TO ZONING FEES ADOPTED BY THE BOARD ON APRIL 27, 2009.

Commissioners Flanagan, Litzenberger, Lusk, and Lawrence seconded the motion which carried unanimously with Commissioners Alcorn and Hall absent from the meeting.

Chairman Murphy MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT DIRECT STAFF TO REPORT BACK TO THE PLANNING COMMISSION WITHIN A YEAR OF IMPLEMENTATION WITH AN ASSESSMENT OF THE NEW DEFERRAL FEE.

Commissioners Lawrence and Lusk seconded the motion which carried unanimously with Commissioners Alcorn and Hall absent from the meeting.

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SE 2008-HM-024 – TRUSTEES OF THE UNITED CHRISTIAN PARISH OF RESTON, VA
PRC A-502 – TRUSTEES OF THE UNITED CHRISTIAN PARISH OF RESTON, VA
(Decisions Only) (The public hearing on these applications was held on May 28, 2009. A verbatim transcript of the decisions made is in the date file.)

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2008-HM-024, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JUNE 11, 2009.

Commissioners Flanagan, Hart, and Lusk seconded motion which carried by a vote of 8-0-2 with Commissioners Harsel and Murphy abstaining; Commissioners Alcorn and Hall absent from the meeting.

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PRC A-502, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED MAY 14, 2009.

Commissioners Litzenberger, Hart, Flanagan, and Lusk seconded motion which carried by a vote of 8-0-2 with Commissioners Harsel and Murphy abstaining; Commissioners Alcorn and Hall absent from the meeting.

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A MODIFICATION OF THE TRANSITIONAL SCREENING REQUIREMENTS ALONG THE NORTHERN, SOUTHERN, AND EASTERN PROPERTY LINES, TO THAT SHOWN ON THE SE PLAT AND PRC PLAN.

Commissioners Flanagan, Litzenberger, Hart, and Lusk seconded motion which carried by a vote of 8-0-2 with Commissioners Harsel and Murphy abstaining; Commissioners Alcorn and Hall absent from the meeting.

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF THE BARRIER REQUIREMENTS ALONG THE NORTHERN, SOUTHERN, AND EASTERN PROPERTY LINES, TO THAT SHOWN ON THE SE PLAT AND PRC PLAN.

Commissioners Litzenberger, Flanagan, Hart, and Lusk seconded motion which carried by a vote of 8-0-2 with Commissioners Harsel and Murphy abstaining; Commissioners Alcorn and Hall absent from the meeting.

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SE 2008-SP-025 – ISLAMIC SAUDI ACADEMY (Decision Only)

(The public hearing on this application was held on March 18, 2009. A verbatim transcript of the decision made is in the date file.)

Commissioner Murphy MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2008-SP-025, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED MAY 14, 2009.

Commissioners Lawrence, Lusk, and Flanagan seconded the motion which carried unanimously with Commissioners Alcorn and Hall absent from the meeting.

Commissioner Murphy MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE FOLLOWING ACTIONS:

- MODIFICATION OF THE TRANSITIONAL SCREENING TO ALLOW THE USE OF EXISTING VEGETATION;
- WAIVER OF THE BARRIER REQUIREMENT;
- WAIVER OF THE COMPREHENSIVE PLAN TRAIL REQUIREMENT, AS CONDITIONED; AND
- WAIVER OF THE INTERPARCEL ACCESS REQUIREMENTS.

Commissioners Lawrence, Lusk, and Flanagan seconded the motion which carried unanimously with Commissioners Alcorn and Hall absent from the meeting.

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FS-V09-28 – CRICKET COMMUNICATIONS, 2501 Parkers Lane (Inova Mount Vernon Hospital)

Chairman Murphy MOVED THE CONSENT AGENDA ITEM, FS-V09-28, BY CRICKET COMMUNICATIONS, LOCATED AT THE INOVA MOUNT VERNON HOSPITAL AT 2501 PARKERS LANE.

Without objection, the motion carried unanimously with Commissioners Alcorn and Hall absent from the meeting.

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ORDER OF THE AGENDA

Secretary Harsel established the following order of the agenda:

1. SEA 83-S-036 – RUSSELL G. HALL
AF 2008-SP-001 – RUSSELL G. HALL
2. AR 91-D-004-02 – DURWARD AND TARRY FARIES
3. PCA 2006-SU-025/FDPA 2006-SU-025 - COMMONWEALTH CENTRE INVESTORS, LLC AND COMMONWEALTH CENTRE INVESTORS II, LLC

This order was accepted without objection.

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The first case was in the Springfield District; therefore, Chairman Murphy relinquished the Char to Secretary Harsel.

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SEA 83-S-036 – RUSSELL G. HALL – Appl. under Sect. 3-C04 of the Zoning Ordinance to amend SE 83-S-036 previously approved for a telecommunications facility to permit reduction in land area and associated modifications to site design and development conditions. Located at 12510 Yates Ford Rd. on approx. 15.84 ac. of land zoned R-C and WS. Tax Map 85-2 ((1)) 38. (Companion to AF 2008-SP-001.) SPRINGFIELD DISTRICT.

AF 2008-SP-001 – RUSSELL G. HALL – Appl. authorized by Chapter 115 (County Code), effective June 30, 1983. Located at 12510 Yates Ford Rd. on approx. 20.65 ac. of land zoned R-C and WS. A&F District Advisory Committee Rec.: Approve. Tax Map 85-2 ((1)) 33 and 38. (Companion to SEA 83-S-036.) SPRINGFIELD DISTRICT. JOINT PUBLIC HEARING.

Lisa Chiblow, land use planner with McGuire Woods LLP, reaffirmed the affidavit for SEA 83-S-036 dated June 2, 2009. Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had a pending case with Ms. Chiblow's law firm but indicated that there was no financial relationship and it would not affect his ability to participate in this case.

Commissioner Murphy asked that Secretary Harsel ascertain whether there were any speakers for these applications. There being none, he asked that presentations by staff and the applicant be waived and the public hearing closed. No objections were expressed; therefore, Secretary Harsel closed the public hearing and recognized Commissioner Murphy for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Murphy MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SEA 83-S-036, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JUNE 3, 2009.

Commissioner de la Fe seconded the motion which carried unanimously with Commissioners Alcorn and Hall absent from the meeting.

Commissioner Murphy MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE AF 2008-SP-001 AND AMEND APPENDIX F OF THE FAIRFAX COUNTY CODE TO ESTABLISH THE HALL LOCAL AGRICULTURAL AND FORESTAL DISTRICT, SUBJECT TO THE ORDINANCE PROVISIONS LISTED IN APPENDIX 1 OF THE STAFF REPORT DATED MAY 27, 2009.

Commissioner de la Fe seconded the motion which carried unanimously with Commissioners Alcorn and Hall absent from the meeting.

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At the conclusion of this case, Chairman Murphy resumed the Chair.

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AR 91-D-004-02 – DURWARD AND TARRY FARIES – Appl.
authorized by Chapter 115 (County Code), effective June 30, 1983.
Located at 8407, 8501 Georgetown Pike and 8548, 8570 Old
Dominion Dr. on approx. 33.74 ac. of land zoned R-E. A&F District
Advisory Committee Rec.: Approve. Tax Map 20-1 ((1)) 33Z, 34Z,
35Z, 36Z, 58Z, and 77Z. DRANESVILLE DISTRICT. PUBLIC
HEARING.

Commissioner Donahue asked that Chairman Murphy ascertain whether there were any speakers for this application. There being none, he asked that presentations by staff and the applicant be waived and the public hearing closed. No objections were expressed; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Donahue for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Donahue MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE AR 91-D-004-02 AND AMEND APPENDIX F OF THE FAIRFAX COUNTY CODE TO RENEW THE ORCHARD SPRING NURSERY LOCAL AGRICULTURAL AND FORESTAL DISTRICT, SUBJECT TO THE ORDINANCE PROVISIONS DATED MAY 26, 2009.

Commissioner Sargeant seconded the motion which carried unanimously with Commissioners Alcorn and Hall absent from the meeting.

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PCA 2006-SU-025/FDPA 2006-SU-025 – COMMONWEALTH CENTRE INVESTORS, LLC AND COMMONWEALTH CENTRE INVESTORS II, LLC - Appls. to amend the proffers and conceptual and final development plans for RZ 2006-SU-025 previously approved for mixed-use development to permit site modifications with an overall Floor Area Ratio (FAR) of 0.32. Located in the NE quadrant of the intersection of Sully Rd. and Westfields Blvd. on approx. 100.81 ac. of land zoned PDC and WS. Comp. Plan Rec: Mixed Use at 0.50 FAR. Tax Map 44-1 ((1)) 6, 6B, 6C, 6D, and 6E. SULLY DISTRICT. PUBLIC HEARING.

Jill Parks, Esquire, with Cooley Godward Kronish LLP, reaffirmed the affidavit dated May 8, 2009. Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had a pending case with Ms. Parks' law firm but indicated that there was no financial relationship and it would not affect his ability to participate in this case.

Tracy Strunk, 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.

Ms. Parks stated that no changes were proposed to the overall development intensity and mix of uses on the site. She noted, however, that the open space would increase to 51.7 percent of the site.

In response to a question from Commissioner Litzenberger, Ms. Strunk explained that as stipulated in Final Development Plan Condition 2, Public Facilities Manual Provision 2-1101.4B required that before the Flatlick Branch Dedication Area was turned over to the Fairfax County Park Authority it needed to be free from debris.

Commissioner Litzenberger noted that Commissioners had received an e-mail dated June 11, 2009, from Jim Katcham, Chair of the Western Fairfax County Citizens Association's Land Use Committee, and asked if the applicant would meet with the committee to address the issues outlined in the e-mail. (A copy of the e-mail is in the date file.) Ms. Parks agreed.

Chairman Murphy called for speakers from the audience but received no response; therefore, he noted that a rebuttal statement was not necessary. 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 Litzenberger for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Litzenberger MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA 2006-SU-025, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED MAY 20, 2009.

Commissioners Flanagan and Hart seconded the motion which carried unanimously with Commissioners Alcorn and Hall absent from the meeting.

Commissioner Litzenberger MOVED THAT THE PLANNING COMMISSION APPROVE FDPA 2006-SU-025, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED MAY 28, 2009, AND SUBJECT ALSO TO THE BOARD'S APPROVAL OF PCA 2006-SU-025.

Commissioners Flanagan, Hart, and Lusk seconded the motion which carried unanimously with Commissioners Alcorn and Hall absent from the meeting.

Commissioner Litzenberger MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A REAFFIRMATION OF THE WAIVER OF THE SERVICE DRIVE REQUIREMENT ALONG SULLY ROAD, WHICH IS ROUTE 28.

Commissioners Lusk, Hart, and Flanagan seconded the motion which carried unanimously with Commissioners Alcorn and Hall absent from the meeting.

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The meeting was adjourned at 9:10 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.

Minutes by: Kara A. DeArrastia
Approved on: October 6, 2010

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