MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, JUNE 19, 2002

PRESENT: Walter L. Alcorn, Commissioner At-Large
John R. Byers, Mount Vernon District
Frank de la Fe, Hunter Mill District
Joan M. DuBois, Dranesville District
Janet R. Hall, Mason District
Suzanne F. Harsel, Braddock District
John B. Kelso, Lee District
Ronald W. Koch, Sully District
Ilryong Moon, Commissioner At-Large
Peter F. Murphy, Jr., Springfield District
Linda Q. Smyth, Providence District
Laurie Frost Wilson, Commissioner At-Large

ABSENT: None

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The meeting was called to order at 8:15 p.m. by Chairman Peter F. Murphy, Jr.

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COMMISSION MATTERS

FS-Y02-14 - VERIZON SERVICE CORPORATION - 5856 Old Centreville Road Drive

Commissioner Koch MOVED THAT WE CONCUR WITH THE DIRECTOR'S DETERMINATION AND FIND THAT THE FACILITY PROPOSED BY VERIZON SERVICE CORPORATION FOR THE CENTREVILLE VOLUNTEER FIRE DEPARTMENT, AS PUT FORTH IN FS-Y02-14, BE DETERMINED TO BE SUBSTANTIALLY IN ACCORD WITH THE RECOMMENDATIONS OF THE COMPREHENSIVE PLAN AND SHOULD BE CONSIDERED A "FEATURE SHOWN" PURSUANT TO VIRGINIA CODE SECTION 15.2-2232, AS AMENDED.

Commissioner Byers seconded the motion which carried unanimously.

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FS-H02-13 - VERIZON SERVICE CORPORATION - 2455 Fox Mill Road

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION CONCUR WITH THE "FEATURE SHOWN" DETERMINATION IN FS-H02-13.

Commissioner Byers seconded the motion which carried unanimously.

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ORDER OF THE AGENDA

Chairman Murphy noted that the only item on the agenda was Out-of-Turn Plan Amendment, S01-CW-18CP.

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> S01-CW-18CP - OUT-OF-TURN PLAN AMENDMENT - To consider proposed revisions to the Policy Plan: The Countywide Element of the Comprehensive Plan for Fairfax County, that would amend Appendix 9 "Criteria For Assignment of Appropriate Residential Development Density", which are criteria used to evaluate residential rezoning applications. This amendment proposes substantial changes from the currently adopted Plan language, including but not limited to the potential adoption of cash proffer guidelines to address impacts on public facilities & potential cash contribution guidelines for affordable housing. PUBLIC HEARING.

Following brief introductory remarks by Chairman Murphy and Commissioner Alcorn, Ms. Barbara Byron, Director, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that the County's current development criteria had not been changed substantially in more than 20 years. She provided a side-by-side comparison of the existing and proposed criteria, a copy of which is also in the date file, and introduced other staff members who were present to answer questions concerning the eight proposed criteria:

-- Site Design	Peter Braham, ZED, DPZ
-- Neighborhood Context	Peter Braham, ZED, DPZ
-- Environment	Bruce Douglas, Planning Division, DPZ
-- Tree Preservation	Mike Knapp, Urban Forester, DPZ
-- Transportation	Mike Davis, Department of Transportation
-- Public Facilities*	Jim Zook, Director, DPZ Gary Chevalier, School Board
-- Housing	Bob Counts, Housing and Community Development
-- Heritage Resources	Fred Selden, Director, Planning Division, DPZ

*Public Facilities includes parks, schools, police and fire stations, libraries, and stormwater management facilities.

Commissioner Alcorn spoke about the Development Criteria Review Committee's deliberations on the criteria, noting that the public facilities criteria had three elements: 1) impact identification; 2) community needs; and 3) developer's contributions. He added that there had been considerable discussion at Committee meetings regarding the third element which resulted in two options for public facilities as outlined in the proposal. He explained that the difference between the two options was that the second option included a recommendation that the school impact be consistent with a formula or methodology determined by the School Board and endorsed by the Board of Supervisors and that other public facility needs proffered could be in lieu of or in partial fulfillment of the expected school impact. Commissioner Alcorn added that there had been a lot of discussion about what would happen to the money if cash proffers were accepted and pointed out that the administration of any funds was not included in this proposal. He stated, however, that staff had provided him with the following in response to his request: "Assuming that cash proffers for schools is part of the Commission's recommendation, it would be staff's recommendation that funds collected during one calendar year be placed in a fund, perhaps an education facilities trust fund that would be controlled by the Board of Supervisors. We would recommend that the Board of Supervisors make its determination as to the disposition/allocation of these funds during its deliberations on the budget, in particular, the determinations made for expenditure in the County's Capital Improvements Program."

In response to questions from Commissioner Kelso, Mr. Zook confirmed that the formula and accompanying text prepared by School Board staff and included in the public facilities section would not be part of the language added to the Policy Plan via this Plan Amendment. He suggested that the Planning Commission provide a separate recommendation to the Board of Supervisors on that matter. He further confirmed that acceptance of a cash proffer for offsetting the schools impact would not necessarily relieve a developer from other obligations, such as stormwater management, tree preservation, et cetera.

Commissioner Byers referred to a letter received by all Commissioners from several land use attorneys citing a 1995 Powhatan County court case in which the Virginia Supreme Court held that the Powhatan Board of Supervisors unlawfully denied a rezoning application because the applicant refused to proffer a cash payment. He asked if the County Attorney's Office had issued an opinion as to whether or not a cash proffer system was legally defensible. Ms. Byron said it was her understanding that the County Attorney had responded to a similar, if not identical, letter and refuted the allegations in the letter. She added that the County Attorney's Office had worked with DPZ staff in the development of the proposed changes and had not expressed any reservations about the legality of the proposal.

Commissioner Harsel and Ms. Byron discussed the differences between a per pupil contribution and a per unit contribution. In response to questions from Commissioner Harsel, Ms. Bryon confirmed that the current wording of the last sentence in Option 2 for public facilities could allow a developer to provide alternative amenities and give nothing for schools, if it was determined by the County that there were needs in the community more pressing than schools.

Commissioner Hall noted that the attorneys' letter referred to by Commissioner Byers conveyed the concern that adoption of the proposed language would end the spirit of cooperation between land use applicants and the County. She expressed surprise at such a statement because she was under the impression that revising the criteria would make cooperation easier since developers would know up front what was expected. She also expressed her concern that the focus of the developers seemed to be the financial bottom line.

Commissioner Koch brought to the Commission's attention a letter from the Western Fairfax County Citizens Association generally endorsing the changes to the residential development criteria, but opposing cash contributions.

Commissioner Wilson commented that a 1999 Virginia Supreme Court case *Gregory versus the Board of Supervisors of Chesterfield County* wherein the Court upheld a cash proffer system under conditional zoning.

Commissioner Smyth noted that the West*Group had sent a letter expressing their concerns.

In response to questions from Commissioner Smyth as to why only one figure was proposed for multi-family units in the proposed schools formula, Mr. Zook acknowledged that high-rise multi-family residential units would probably yield fewer students than low-rise multi-family units and suggested that perhaps School Board staff could address that issue.

Commissioner Alcorn suggested, before the Commission entered into a long discussion of the proposed formula, that the public hearing be held.

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

Ms. Liz Bradsher, 9215 Silverline Drive, Fairfax Station, supported the cash proffer proposal which she said would provide an opportunity for new growth to pay its fair share of school facilities. (A copy of Ms. Bradsher's statement is in the date file.)

Ms. Kathy Kalland, 8006 Hedgewood Court, Fairfax Station, spoke about the overcrowded situation at South County schools. She supported the cash proffer proposal. (A copy of Ms. Kalland's statement is in the date file.)

Ms. Johna Gagnon, 3815 Javins Drive, Alexandria, representing the Ridge View Community Association, spoke about the many community groups and advisory committees she had served on and said that she had discovered a recurring theme from the residents of Fairfax County. She said that people were tired of seeing developers bring in high density housing without being fully responsible for the impact of their developments. Ms. Gagnon strongly supported the option requiring all applicants to offset the per pupil impact on schools. (A copy of Ms. Gagnon's statement is in the date file.)

Commissioner Smyth pointed out that schools were only one part of the public facilities section and that perhaps that citizens were overestimating the benefits to schools.

In response to questions from Commissioner Kelso, Ms. Gagnon confirmed that she also supported the tree preservation and environment proposals.

In response to questions from Commissioner Hall, Ms. Gagnon said she was reluctant to state a preference between a per pupil cost and a per unit cost until she knew more about the differences between those options.

In response to questions from Commissioner Moon, Mr. Zook stated that staff's position was that there would be no difference in the two as far as monetary value was concerned.

Mr. Paul Gagnon, 3815 Javins Drive, Alexandria, representing the Lee District Land Use and Transportation Advisory Committee, supported the proposed cash proffer option. He spoke about the County's overloaded infrastructure and the need for innovative techniques to meet the challenges of providing needed facilities. (A copy of Mr. Gagnon's statement is in the date file.)

Mr. Brad Center, 7412 Renee Street, Alexandria, spoke about the need for funding of school projects. He supported the cash proffer proposal. (A copy of Mr. Center's statement is in the date file.)

Ms. Kaye Kory, Mason District, Fairfax County School Board, 10700 Page Avenue, Fairfax, urged the Commission to recommend approval of the proposed cash proffer system. She said it was a small step in the effort towards reversing years of neglect in funding construction of adequate school facilities.

In response to questions from Commissioner Smyth, Ms. Kory said she was not opposed to the language in the proposal that suggested any funds collected should be used in the immediate area of the new development. Commissioner Kelso commented that the Planning Commission's Schools Facilities Committee was considering a cluster or countywide distribution system.

Mr. John Thillmann, 12510 Manderly Way, Herndon, spoke about the importance of revitalization and redevelopment. He commended staff, the Commission and citizens for their hard work on the proposed language, especially bullet 3 of the second paragraph on page 9 of the staff report that specifically mentioned revitalization and transit station areas. He suggested that a fund similar to the Housing Trust Fund could be established and that perhaps contributions should be on a percentage basis so that poorer sections of Fairfax County would not be at a disadvantage because of lower housing prices.

Mr. Neal McBride, South Run Coalition, 8105 Winter Blue Court, Springfield, supported Option 2 of the public facilities proposal. He spoke specifically about the need for school facilities in the South County area.

Ms. Lisa Adler, 9303 Silver Creek Court, Fairfax Station, supported the proposed cash proffer system, but suggested that the language allowed too much leeway and should be tightened as well as reviewed on a regular basis to correspond to changes in the construction market. (A copy of Ms. Adler's statement is in the date file.)

Mr. Robert Griendling, 4610 Gramlee Circle, Fairfax, spoke in favor of developing a reliable system for generating needed cash for schools, but felt that more input from the school community was important before any final decisions were made. He noted that it was difficult to get parents involved during the summer months and suggested that a decision be delayed until fall. (A copy of Mr. Griendling's statement is in the date file.)

Mr. Griendling responded to questions from Commissioner Alcorn regarding his testimony and suggestions and from Commissioner de la Fe regarding the school formula.

Ms. Ellen Oppenheim, 8716 Margret Lane, Annandale, supported cash proffers for schools. (A copy of her statement is in the date file.)

Ms. Mary Nightlinger, 9424 Hermitage Drive, Fairfax, representing the Citizens Committee on Land Use & Transportation, presented the following 13 points on the proposed revisions to the Policy Plan: concept; by-right development; effective date; site design/layout; water quality; tree preservation; interconnection of the street network; public streets; public facilities; affordable dwelling units; heritage resources; phasing of development; and non-residential development. (A copy of Ms. Nightlinger's remarks is in the date file.)

Ms. Lynn Terhar, 15113 Bernadette Court, Chantilly, spoke in support of cash proffers for schools. She commented specifically on the needs of Westfields High School.

Mr. George Waters, 6328 Lakeview Drive, Falls Church, Chairman of the Coalition for Good Schools, commented on the difficulties obtaining funding for school facilities. He supported a cash proffer system. (A copy of Mr. Waters' statement is in the date file.)

Mr. Waters responded to questions from Commissioners Smyth and Hall regarding his position.

Supervisor Dana Kauffman, Lee District representative, Fairfax County Board of Supervisors, spoke about the cumulative impact of residential growth. He said that the Planning Commission and the Board had done their best to address impact on a case-by-case basis, but more effort was needed to mitigate the effect of multiple developments. Supervisor Kauffman supported modifications to the proffer system to offset the impact of new development on schools. (A copy of Supervisor Kauffman's statement is in the date file.)

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(The Commission went into recess at 10:50 p.m. and reconvened in the Board Auditorium at 11:05 p.m.)

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Mr. Robert Little, 10919 Carters Oaks Way, Burke, spoke in favor of a cash proffer system to benefit schools. (A copy of Mr. Little's statement is in the date file.)

Mr. Thomas Sachs, 6192 Manchester Park Circle, Alexandria, representing the Townes at Manchester Park Homeowners Association, supported cash proffers as a means to pay for public facilities needed for new development. (A copy of Mr. Sachs' statement is in the date file.)

Mr. Christian Braunlich, Lee District, Fairfax County School Board, 10700 Page Avenue, Fairfax, expressed his support for the proposed revisions to the public facilities criteria. (A copy of Mr. Braunlich's statement is in the date file.)

Ms. Joni Foerter, 3000 Cedarwood Lane, Falls Church, representing the Sleepy Hollow Elementary PTA, supported a cash proffer system, especially Option 2 of the Plan Amendment.

Mr. Christopher Schmitt, 2888 Melanie Lane, Oakton, strongly supported a cash proffer system. He maintained that implementation of such a system would not reduce demand for housing or new development to meet that demand.

Ms. Diane Brody, 4010 Cool Brooke Way, Alexandria, representing the Fairfax County Council of PTAs, supported cash proffers as a means to address the impact of new development. (A copy of Ms. Brody's statement is in the date file.)

Ms. Valerie Hubbard, 6827 Ericka Avenue, Alexandria, noted that land for new schools was scarce and that cash proffers would help provide funds for renovations and additions of existing schools. (A copy of Ms. Hubbard's statement is in the date file.)

Commissioner Alcorn noted that the handout entitled "Q & A on Proffers" attached to the School Board memo indicated that a public hearing before the Board of Supervisors was scheduled in July. He said this was incorrect and that a Board hearing had not yet been scheduled.

Ms. Linda Shapiro, 5853 Doris Drive, Alexandria, supported Option 2 for cash proffers.

Ms. Holly Hazard, 6322 Lakeview Drive, Falls Church, spoke about the explosion of development in Fairfax County and how it had taken its toll on school facilities. She stated that, with this proposal, the Commission had an opportunity to acknowledge the complicity and responsibility of developers in adding to the school crisis and to develop real plans that would require developers to assist the County in addressing school needs. (A copy of Ms. Hazard's statement is in the date file.)

Ms. Mary Tycz, 6521 Valley Court, Falls Church, said it was time for those who took profit from the County to invest in the resources that were the foundation of those profits. She supported the proposal for cash proffers to benefit schools. (A copy of Ms. Tycz's statement is in the date file.)

Ms. Adrienne Whyte, 6704 West Falls Way, Falls Church, representing the McLean Citizens Association, spoke in support of the proposed revisions to the development criteria, with the changes suggested in the Association's resolution. (A copy of the resolution is in the date file.)

Mr. Jose Lugo, 7304 Lamar Drive, Springfield, President of the Beverly Forest Homeowners Association, supported a cash proffer system to benefit schools.

Mr. Steven Alloy, with Stanley Martin Companies, representing the Northern Virginia Building Industry Association (NVBIA), 1881 Campus Commons Dr., Reston, #101, raised four points: 1) grandfathering; 2) consolidation; 3) tree preservation; and 4) public facilities.

Mr. Alloy responded to questions from Commissioners Kelso, Wilson, Harsel, Murphy, and Alcorn regarding his comments and NVBIA's position.

Martin D. Walsh, Esquire, with Walsh, Colucci, Stackhouse, Emrich & Lubeley, 2200 Clarendon Boulevard, Arlington, did not dispute the fact that Fairfax County Schools needed additional funding; however, he said there appeared to be a perception from tonight's speakers that the development community had had a "free ride" in Fairfax County. He maintained that that was not true and listed the many amenities contributed by developers, including major transportation improvements. He said that the current proffer system and Affordable Dwelling Unit Ordinance had been developed through collaborative efforts of the County and the development community, but noted that there was no consensus on the proposed changes to the development criteria. Mr. Walsh commented that a previous speaker said that the new system would be great because developers could be "required to proffer" which was a contradiction in terms. He said that that phrase summed up his objections. He said that proffers were voluntary and establishing requirements would undermine cooperative efforts.

Mr. Walsh responded to questions from Commissioners Hall, Kelso and Wilson regarding his position.

Ms. Rebecca Cate, 8119 Westchester Drive, Vienna, representing the Dunn Loring Gardens Civic Association, supported the proposed changes. She especially agreed with the main component of the concept: that all criteria would apply to all rezonings, regardless of proposed density. She spoke about transportation needs, but noted her opposition to street connections that would diminish safety or neighborhood character and/or increase cut-through traffic. Regarding public facilities, Ms. Cate said that more needed to be done to extract meaningful proffers from developers to offset the impact of their developments. (A copy of Ms. Cate's statement is in the date file.)

Ms. Karen Hunt, 2431 Villanova Drive, Vienna, Vice President of the Stonewall Manor Community Association, supported the proposed changes. She hoped that the new criteria would ultimately result in development that better fit into the fabric of the County's neighborhoods through proffers that more realistically reflected the cumulative impact of development on communities. She spoke about affordable housing and said that the examples cited in the introduction regarding the application of criteria were unnecessary. Ms. Hunt expressed concern about how the criteria would be applied in mixed use developments, especially those in transit station and revitalizations districts. She suggested that stormwater management ponds should be excluded from open space calculations and that the word "usable" should be more clearly defined. She maintained that the proposed residential development criteria were a start towards addressing infrastructure needs, but that the impacts of commercial development should also be considered.

Mr. Bob Adams, 3008 Weber Place, Oakton, said that the proposed development criteria should be considered base requirements, with additional proffers as required depending on the particular properties. In Section 3, Environment, he suggested that mitigation of water quality was not sufficient and that developers should be required to meet stricter standards. Regarding the Transportation section, he opposed staff's language that encouraged interconnection of streets, which he said would lead to cut-through traffic problems. (A copy of Mr. Adams' statement is in the date file.)

Mr. Mike Cavin, 8119 Westchester Drive, Vienna, applauded the intent of the new Neighborhood Context criterion, but expressed his concern that the language could be misinterpreted. He suggested that the word "surrounding" be replaced with "adjacent" and that "access" be added to the list of evaluation criteria. Regarding public facilities, Mr. Cavin said that more information was needed to determine if the schools formula was legally defensible and that he could not express an opinion on Option 2 without some idea of the magnitude of the numbers that the methodology would produce.

Ms. Jody Bennett, 1459 Hunter View Farms, Vienna, representing the Hunter Mill Defense League, addressed the Transportation and Heritage Resources criteria. She said it had been her experience that the term "capacity enhancements" referred to in the first bullet generally meant wider roads and suggested that the bullet be clarified to indicate that wider roads should only be considered if they were in harmony with the communities they passed through. She was opposed to opening stub streets. Ms. Bennett suggested that paragraph "e" be revised to include equestrian trails and that trail waivers not be routinely granted. Regarding Heritage Resources, she suggested that language be added to the introductory paragraph to read: "5) if evidence suggests that a heritage or cultural resource exists on the property."

Mr. George Lehnigk, 3019 Oakton Meadows Court, Oakton, representing Options for Oakton, said that the proposed criteria, if implemented and rigorously enforced, would be a benefit to the County. He expressed his concern that the criteria might be "watered down" under the banner of compromise and asked that the Commission keep in mind what these criteria should accomplish for Fairfax County. (A copy of Mr. Lehnigk's statement is in the date file.)

Ms. Fran Wallingford, 3311 Mantua Drive, Fairfax, supported the Options for Oakton position. She stated that the intent of the Transportation section needed clarification; that affordable dwelling units should be scattered throughout the County; that the cumulative effect of stormwater runoff be considered; and that the $10 to $11 million possible revenue suggested by the Schools was misleading.

Mr. Eric Peterson, 9531 Whitecedar Court, Vienna, representing Thomas Jefferson High School, spoke about the capital needs of the school. He supported a cash proffer system to benefit schools. (A copy of Mr. Peterson's statement is in the date file.)

Mr. John Bond, 3902 Laro Court, Fairfax, noted that he had worked in the development industry for the past 15 years and agreed with many of Mr. Alloy's comments, but also supported a cash proffer system, particularly as it pertained to schools . He said the two were not mutually exclusive and that maintaining a high quality school system would ultimately benefit citizens and developers alike. Mr. Bond suggested that a fixed per unit cost would be the best method to determine appropriate contributions.

Mr. Ridge Loux, 1800 Post Oak Trail, Reston, representing South Lakes High School, supported Option 2 for cash proffers. He said that one thing no one disputed was that Fairfax County Schools were in great need of additional funding. He added that without changes, significant shortfalls would result in a deterioration of school services.

Mr. Brian Gordon, representing the Fairfax County Chamber of Commerce, 8230 Old Courthouse Road, #350, Vienna, expressed the belief that, if implemented, many of the staff recommendations would discourage responsible development and negatively impact the business climate in Fairfax County. He maintained that the current system was workable and that he was opposed to the formula approach suggested by the Schools.

Mr. Gordon responded to questions from Commissioners Kelso, Hall and Alcorn regarding his position.

Ms. Judy Johnson, representing the Fairfax County Federation of Teachers, 7011 Calamo Street, #101, Springfield, supported Option 2 for public facilities. She said that a cash proffer system would allow Fairfax County to diversify its revenue sources. (A copy of Ms. Johnson's statement and accompanying statistics is in the date file.)

Mr. Elliott Eder, 1616 Crowell Road, Vienna, disagreed that a proffer formula would undermine the voluntary aspect of proffers. He said that a formula would provide predictability and uniformity in rezoning applications.

There being no further speakers or closing staff comments, Chairman Murphy called for comments or questions from the Commission.

At the request of Commissioner Hall, Mr. Zook said he would check to see if expansion of Option 2 to include parks would be within the scope of advertising.

Chairman Murphy said he agreed that $10 to $12 million in projected revenue was an unrealistic expectation.

There being no further comments or questions, Chairman Murphy closed the public hearing and recognized Commissioner Alcorn for action on this item. (A verbatim transcript is in the date file.)

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Commissioner Alcorn MOVED THAT THE PLANNING COMMISSION DEFER DECISION ON COMPREHENSIVE PLAN AMENDMENT S01-CW-18CP TO A DATE CERTAIN OF JUNE 27, 2002.

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

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The meeting was adjourned at 1:50 a.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: May 6, 2004

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