MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, JUNE 28, 2012

PRESENT: Walter L. Alcorn, Commissioner At-Large
Frank A. de la Fe, Hunter Mill District
Jay P. Donahue, Dranesville District
Earl L. Flanagan, Mount Vernon District
Janet R. Hall, Mason District
James R. Hart, Commissioner At-Large
Ellen J. Hurley, Braddock District
Kenneth A. Lawrence, Providence District
John L. Litzenberger, Jr., Sully District
James T. Migliaccio, Lee District
Peter F. Murphy, Jr., Springfield District
Timothy J. Sargeant, Commissioner At-Large

ABSENT: None.

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The meeting was called to order at 8:25 p.m., by Chairman Peter F. Murphy, Jr., in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Alcorn announced that the Planning Commission's Tysons Corner Committee had met on Thursday, June 21, 2012, to receive input from the public on the draft strawman document outlining recommendations to the Board of Supervisors on Tysons-related activities. He announced that the Committee would meet again on the following dates at 7:00 p.m. in Conference Rooms 9/10 of the Fairfax County Government Center:

- Tuesday, July 24, 2012; and
- Thursday, August 2, 2012. (*Note: This meeting was subsequently canceled.)*

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Commissioner Hart announced that the Planning Commission's Environment Committee had met earlier this evening to discuss with staff proposed changes to the Green Building Policy strawman. He announced that the Committee would meet again on the following dates at 6:45 p.m. in the Board Conference Room of the Fairfax County Government Center:

- Thursday, July 12, 2012;

- Thursday, July 19, 2012; and
- Thursday, September 13, 2012.

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Commissioner Donahue MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR RZ 2012-DR-006, BOARD OF SUPERVISORS' OWN MOTION, TO A DATE CERTAIN OF SEPTEMBER 13, 2012.

Commissioner Litzenberger seconded the motion which carried unanimously.

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Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION INDEFINITELY DEFER THE DECISION ONLY FOR PRC C-377, SUNRISE VALLEY ELEMENTARY SCHOOL, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENTS.

Commissioners Alcorn and Lawrence seconded the motion which carried unanimously.

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Commissioner Hall MOVED THAT THE PLANNING COMMISSION APPROVE THE FOLLOWING MINUTES:

JULY 7, 2011	SEPTEMBER 21, 2011	NOVEMBER 10, 2011
JULY 20, 2011	SEPTEMBER 29, 2011	NOVEMBER 17, 2011
JULY 28, 2011	OCTOBER 6, 2011	DECEMBER 8, 2011
SEPTEMBER 8, 2011	OCTOBER 13, 2011	DECEMBER 15, 2011
SEPTEMBER 14, 2011	OCTOBER 20, 2011	
SEPTEMBER 15, 2011	OCTOBER 27, 2011	

Commissioner Litzenberger seconded the motion which carried by a vote of 11-0-1 with Commissioner Hurley abstaining.

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<u>ARCHITECTURAL REVIEW OF TYSONS CENTRAL 123 SOUTH PAVILION (Providence District)</u>

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION SUPPORT THE ARCHITECTURAL TREATMENT PROPOSED BY THE RAIL PROJECT FOR THE TYSONS STATION WITH THE UNDERSTANDING THAT IT MAY BE REVISITED IN A FUTURE PROJECT DURING THE REDEVELOPMENT OF TYSONS CORNER.

Commissioner de la Fe seconded the motion which carried unanimously with Commissioner Hart having recused himself.

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TELECOMMUNICATIONS COMMITTEE RECOMMENDATIONS ON PROPOSED POLICY PLAN AMENDMENT FOR MOBILE AND LAND-BASED TELECOMMUNICATION SERVICES

Commissioner Murphy MOVED THAT THE PLANNING COMMISSION ENDORSE THE TELECOMMUNICATIONS COMMITTEE'S RECOMMENDATIONS FOR A PROPOSED COMPREHENSIVE POLICY PLAN AMENDMENT AND REQUEST THAT THE BOARD OF SUPERVISORS AUTHORIZE SUCH TEXT FOR PUBLIC HEARINGS BEFORE THE COMMISSION AND BOARD.

Commissioners Flanagan and Hart seconded the motion which carried unanimously with Commissioner Sargeant having recused himself.

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FSA-68-4 – AT&T MOBILITY, 3800 Powell Lane (Mason District)
FSA-M04-46-1 – SPRINT, 3342 Gallows Road
FSA-H01-70-1 – SPRINT, 11400 South Lakes Drive (South Lakes High School)

Chairman Murphy MOVED THE APPROVAL OF THE CONSENT AGENDA ITEMS.

Without objection, the motion carried unanimously.

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FSA-M01-62-1 – SPRINT, 6560 Braddock Road (Jefferson High School)

Commissioner Hall MOVED THAT THE PLANNING COMMISSION CONCUR WITH THE DIRECTOR'S DETERMINATION, DATED JUNE 28, 2012, THAT THE TELECOMMUNICATIONS FACILITY PROPOSED BY SPRINT AND LOCATED AT 6560 BRADDOCK ROAD IS SUBSTANTIALLY IN ACCORD WITH THE RECOMMENDATIONS OF THE ADOPTED COMPREHENSIVE PLAN AND SHOULD BE CONSIDERED A "FEATURE SHOWN," PURSUANT TO *VIRGINIA CODE* SECTION 15.2-2232, AS AMENDED.

Commissioner Hart seconded the motion which carried unanimously.

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FS-L12-14 – CRICKET COMMUNICATIONS, 6320 Augusta Drive

Commissioner Migliaccio MOVED THAT THE PLANNING COMMISSION FIND THAT FS-L12-14 IS A "FEATURE SHOWN" PURSUANT TO *VIRGINIA CODE* SECTION 15.2-2232, AS AMENDED.

Commissioner Sargeant seconded the motion which carried unanimously.

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PRC 77-C-076 – RTC PARTNERSHIP, LLC (Hunter Mill District) (Decision Only)
(The public hearing on this application was held on March 14, 2012. A complete verbatim transcript of the decision made is in the date file.)

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE PRC 77-C-076, RTC PARTNERSHIP, LLC, SUBJECT TO DEVELOPMENT CONDITIONS DATED JUNE 22, 2012.

Commissioner Litzenberger seconded the motion which carried by a vote of 7-3-2 with Commissioners Alcorn, Hart, and Lawrence opposed; Commissioners Donahue and Hall abstaining.

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RZ/FDP 2011-LE-016 – INSIGHT PROPERTY GROUP, LLC (Decisions Only)
(The public hearing on these applications was held on June 14, 2012. A complete verbatim transcript of the decisions made is in the date file.)

Commissioner Migliaccio MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE RZ 2011-LE-016 AND THE ASSOCIATED CDP, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED JUNE 20, 2012.

Commissioner Sargeant seconded the motion which carried by a vote of 10-0-2 with Commissioners Hall and Hart abstaining.

Commissioner Migliaccio MOVED THAT THE PLANNING COMMISSION APPROVE FDP 2011-LE-016, SUBJECT TO THE PROPOSED FINAL DEVELOPMENT PLAN CONDITIONS DATED MAY 31, 2012, CONTAINED IN APPENDIX 2 OF THE STAFF REPORT AND THE BOARD OF SUPERVISORS' APPROVAL OF RZ 2011-LE-016 AND THE ASSOCIATED CDP.

Commissioner Sargeant seconded the motion which carried by a vote of 10-0-2 with Commissioners Hall and Hart abstaining.

Commissioner Migliaccio MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE WAIVER NUMBER 5490-WPFM-002-1 OF SECTION 6-0303.8 OF THE PUBLIC FACILITIES MANUAL TO ALLOW FOR AN UNDERGROUND STORMWATER VAULT ON A RESIDENTIAL PROPERTY, SUBJECT TO THE WAIVER CONDITIONS DATED MARCH 15, 2012, IN ATTACHMENT 3A OF APPENDIX 3 OF THE STAFF REPORT.

Commissioner Sargeant seconded the motion which carried by a vote of 10-0-2 with Commissioners Hall and Hart abstaining.

Commissioner Migliaccio MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A WAIVER OF SECTION 12-0508 OF THE PUBLIC FACILITIES MANUAL FOR THE TREE PRESERVATION TARGET.

Commissioner Sargeant seconded the motion which carried by a vote of 10-0-2 with Commissioners Hall and Hart abstaining.

Commissioner Migliaccio MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION OF THE LOADING SPACE REQUIREMENTS OF SECTION 11-203 OF THE ZONING ORDINANCE TO PROVIDE ONE SPACE INSTEAD OF FOUR SPACES.

Commissioner Sargeant seconded the motion which carried by a vote of 10-0-2 with Commissioners Hall and Hart abstaining.

Commissioner Migliaccio MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION OF SECTION 13-303 FOR THE TRANSITIONAL SCREENING REQUIREMENT AND SECTION 13-304 OF THE ZONING ORDINANCE FOR THE BARRIER REQUIREMENT ALONG THE WESTERN AND NORTHWESTERN BOUNDARIES, SUBJECT TO THE LANDSCAPING AND BARRIER AS SHOWN ON THE CDP/FDP.

Commissioner Sargeant seconded the motion which carried by a vote of 10-0-2 with Commissioners Hall and Hart abstaining.

Commissioner Migliaccio MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A WAIVER OF SECTIONS 12-202 OF THE ZONING ORDINANCE AND 12-0514 OF THE PUBLIC FACILITIES MANUAL FOR INTERIOR PARKING LOT LANDSCAPING.

Commissioner Sargeant seconded the motion which carried by a vote of 10-0-2 with Commissioners Hall and Hart abstaining.

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ORDER OF THE AGENDA

Secretary Hall established the following order of the agenda:

1. PCA/FDPA 92-H-015 – GBI CORPORATION (Dranesville District)
2. SEA 79-P-120-04 – MCDONALD'S CORPORATION

This order was accepted without objection.

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PCA 92-H-015 AND FDPA 92-H-015 – GBI CORPORATION – Appls. to amend the proffers, conceptual, and final development plans for RZ 92-H-015, previously-approved for a child care center, to permit associated modifications to proffers and site design with an overall Floor Area Ratio (FAR) of 0.16. Located in the N.E. quadrant of the intersection of Sunrise Valley Dr. and Dulles Town Blvd. on approx. 40,075 sq. ft. of land zoned PDH-20 and SC. Comp. Plan Rec: Mixed Use. Tax Map 15-4 ((1)) 3E. DRANESVILLE DISTRICT. PUBLIC HEARING.

Lynne Strobel, Esquire, Walsh, Colucci, Lubeley, Emrich & Walsh, PC, reaffirmed the affidavit dated May 31, 2012. There were no disclosures by the Commissioners.

Miriam Bader, 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.

Responding to questions from Commissioner Donahue, Ms. Bader said that the buffer between the proposed fence along the eastern property line and the abutting multi-family residential development was approximately 25 to 30 feet in length. She also explained that the applicant was required to provide a minimum of 38 parking spaces instead of the 23 required under the Zoning Ordinance because the Fairfax County Department of Transportation had determined that additional parking was required to accommodate the child care center. Commissioner Donahue discussed the possibility of removing parking spaces to increase the buffer length.

Ms. Strobel said that the applicant sought to construct a child care center on the subject property, which was an allowable secondary use under the previously-approved applications, RZ/FDP 92-H-015 – Ralph D. and Jean W. Rocks. She explained that the maximum daily enrollment for the child care center would be 140 and the applicant sought to amend the Final Development Plan to include a two-story, 9,800 square-foot building with a height of approximately 40 feet. Ms. Strobel noted that the applicant had included proffers to address environmental concerns and planned to utilize green building practices in conformance with County environmental policies.

She also stated that the applicant had informed the surrounding community of these applications and no opposition had been expressed.

In a discussion with Commissioner Donahue regarding the rationale for the increased number of parking spaces, Ms. Strobel explained that the proposed child care center did not include a pick-up/drop-off area and the additional parking was intended to minimize off-site stacking.

At the request of Ms. Strobel, Giovanni Rinaldi, Land Use Planner with Christopher Consultants, Ltd., explained that the distance between the edge of the parking lot and the abutting residential development was approximately 40 to 45 feet and the buffer between this area would include a sidewalk, trees, and a six-foot high fence.

In response to a question from Commissioner Donahue, Mr. Rinaldi confirmed that the applicant would incorporate additional trees into the buffer.

Chairman Murphy called for speakers but received no response; therefore, he noted that a rebuttal statement was not necessary.

Chairman Murphy called for concluding staff remarks from Ms. Bader, who expressed a willingness to modify Development Condition Number 5 to address Commissioner Donahue's concerns regarding parking. In response, Commissioner Donahue said this was not necessary because the buffer was sufficient and would not require any changes to the parking provisions. (A copy of the revised development conditions dated June 28, 2012, is in the date file.)

Commissioner Lawrence suggested that Development Condition Number 5 be modified to read either, "Staggered drop-off and pick-up of children shall be practiced by the child care center," or "A practice of staggered drop-off and pick-up shall be used or applied by the child care center." Ms. Bader agreed to modify the condition accordingly.

Replying to a suggestion from Commissioner Hurley, Ms. Strobel agreed to modify Development Condition Number 6 to read, "The standard hours of operation shall be limited to 6:00 a.m. to 7:30 p.m., Monday – Friday."

There were no further comments or questions from the Commission; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Donahue for action on these cases. (A verbatim excerpt is in the date file.)

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Commissioner Donahue MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE PCA 92-H-015, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE CONTAINED IN APPENDIX 1 OF THE STAFF REPORT.

Commissioner Litzenberger seconded the motion which carried unanimously.

Commissioner Donahue MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE FOLLOWING:

- A MODIFICATION OF THE BARRIER REQUIREMENT BETWEEN THE PROPOSED CHILD CARE CENTER AND THE ADJACENT MULTI-FAMILY DWELLING UNITS LOCATED ON THE SOUTHEAST PORTION OF THE SUBJECT PROPERTY;

- A MODIFICATION OF THE PERIPHERAL PARKING LOT LANDSCAPING REQUIREMENT; AND

- A MODIFICATION OF THE 10-YEAR TREE CANOPY REQUIREMENT.

Commissioner Litzenberger seconded the motion which carried unanimously.

Commissioner Donahue MOVED THAT THE PLANNING COMMISSION APPROVE FDPA 92-H-015, SUBJECT TO THE BOARD OF SUPERVISORS' APPROVAL OF PCA 92-H-015 AND THE DEVELOPMENT CONDITIONS DATED JUNE 28, 2012, WITH AN AMENDMENT TO DEVELOPMENT CONDITION NUMBER 6 TO MODIFY THE HOURS OF OPERATION TO 6:00 A.M. THROUGH 7:30 P.M., MONDAY THROUGH FRIDAY.

Commissioner Litzenberger seconded the motion which carried unanimously.

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SEA 79-P-120-04 – MCDONALD'S CORPORATION – Appl. under Sect. 9-620 of the Zoning Ordinance to amend SE 79-P-0120 previously-approved for a fast food restaurant to permit waiver of certain sign regulations. Located at 2089 Chain Bridge Rd., Vienna, 22182, on approx. 40,101 sq. ft. of land zoned C-5, HC, and SC. Tax Map 39-1 ((3)) 2A. PROVIDENCE DISTRICT. PUBLIC HEARING.

Keith Martin, Esquire, Tramonte, Yeonas, Roberts & Martin, PLLC, reaffirmed the affidavit dated March 13, 2012. There were no disclosures by the Commissioners.

Nicholas Rogers, 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 denial of the application because the site did not meet the unusual or unique circumstances prescribed in Zoning Ordinance Section 9-620 to merit granting a waiver for the maximum sign area and height of a freestanding sign.

Mr. Martin explained that the freestanding McDonald's sign on the subject property was a legal nonconforming use. He said that this sign needed a new foundation, which was considered a structural alteration under the Zoning Ordinance; therefore, a Special Exception Amendment was required. He described the other signs on the subject property and conceded that the applicant had received numerous Notices of Violation for the installation of illegal signage. He assured the Commission that the illegal signs would be removed and he would remain in contact with the restaurant manager to ensure no additional illegal signs were installed. Mr. Martin also noted that the applicant was willing to construct a 100-foot segment of sidewalk along Horse Shoe Drive as an additional community benefit. He pointed out that maintaining the condition of nonconforming uses was allowed under Zoning Ordinance Section 15-103, Subsection 3, and asserted that repairing the foundation of the sign was in harmony with this provision.

In reply to a comment from Commissioner de la Fe regarding the applicant's recent efforts to update the architecture of its restaurants, Mr. Martin said that the applicant intended to maintain the established design of the restaurant on the subject property.

Commissioner Hart discussed the effectiveness of the freestanding sign. He also expressed concern that the development conditions were not sufficient to ensure the applicant's compliance with the Zoning Ordinance. He pointed out the applicant's numerous violations of sign regulations and questioned who was responsible for implementing such signage. In response, Mr. Martin stated that he would convey the Commission's concerns to the applicant.

Commissioner Hart stated that he had visited the site on June 23, 2012, and observed numerous illegal signs. In response, Mr. Martin said that the three illegal signs cited by Commissioner Hart had been removed on June 26, 2012, and the illegal sign on the outer wall of the restaurant was scheduled for removal. He also noted that the illegal signs located on the service drive would be replaced with directional signage, thereby making them legal.

Commissioner Hart and Mr. Martin discussed the possibility of conducting repairs on the fence along the southern portion of the site as an additional community benefit.

Commissioner Hall concurred with Commissioner Hart's concerns and encouraged the applicant to update the architecture of the restaurant. She also stated that she supported staff's recommendation for denial.

Chairman Murphy also concurred with Commissioner Hart's concerns and supported Commissioner Hall's suggestion to modify the design of the restaurant. He also maintained that a freestanding sign was not appropriate for the site because of its proximity to residential areas.

Chairman Murphy cited a previous instance where a Special Exception (SE) had been approved for the applicant at another property, but the applicant had violated the terms of the development conditions and did not remedy the situation in an efficient manner. He described the difficulty of ensuring the applicant's compliance.

Commissioner Flanagan and Mr. Rogers discussed the possibility of including greater penalties for future signage violations; however, this did not result in any changes to the development conditions.

Mr. Rogers replied to questions from Commissioner Sargeant on whether the properties to the east and north of the subject property were in compliance with the Zoning Ordinance. Commissioner Sargeant expressed concern about establishing a precedent for granting exceptions to sign regulations at similar properties.

Answering questions from Commissioner Lawrence, Mr. Martin and Mr. Rogers explained the following:

- The signs erected without a permit were illegal under Article 12 of the Zoning Ordinance;
- The signs depicted in Figures 1 and 2 on page 3 of the staff report were observed by staff on March 21, 2012 and the applicant was informed that these signs were illegal;
- The applicant removed these illegal signs on April 5, 2012;
- The banner located on top of the restaurant identified by staff in May 2012 was illegal;
- The banners located on top of the restaurant and along the fence to the south as depicted in the photographs taken by Commissioner Lawrence, dated June 21, 2012, were illegal;
- The small popsicle signs along the frontage of the subject property identified in Commissioner Lawrence's photographs were illegal;
- The applicant had been informed that the directional signs depicted in Commissioner Lawrence's photographs could not include text and therefore agreed to modify the signs to include only directional arrows;
- The illegal signs identified in Commissioner Lawrence's photographs were still in place when he visited the site on June 24, 2012; and
- The applicant had been regularly communicating with staff regarding the status of the illegal signs in the week prior to this public hearing.

(Copies of Commissioner Lawrence's photographs are in the date file.)

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Chairman Murphy left the meeting early; therefore, he relinquished the Chair to Vice Chairman Alcorn.

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Referencing a memorandum dated June 22, 2012 from staff that listed the numerous signage violations on the site, Commissioner Lawrence said he believed that this application did not warrant approval. He referenced another memorandum to Providence District Supervisor Linda Smyth from Mr. Martin, dated June 28, 2012, that detailed the applicant's proposal to construct a segment of sidewalk along Horse Shoe Drive as a community benefit and expressed support for this contribution. He requested that the applicant provide a written commitment for this improvement and announced his intent to defer the decision only on this case to allow time to furnish such text. (Copies of the memorandums are in the date file.)

Commissioner Lawrence noted that a SE could be revoked under Zoning Ordinance Section 9-016 if the applicant continued to receive violations. He also pointed out that Development Condition Number 11 in Appendix 1 of the staff report required the applicant to obtain approval of a sign permit for a freestanding sign if the applicant intended to renovate the site. He noted that similar McDonald's sites throughout the County were in compliance with the applicable sign regulations. He stated that the subject property was within Tysons Corner and expressed concern that prolific advertising would adversely affect the character of the region.

Commissioner Hart encouraged the applicant to adopt different policies regarding signage on its properties and maintained that the majority of the signage was not necessary. He concurred with statements made by Commissioners Lawrence and Flanagan regarding the need to enforce appropriate penalties for repeated violations of the Zoning Ordinance.

Vice Chairman Alcorn called for speakers but received no response; therefore, he noted that a rebuttal statement was not necessary.

Commissioner Flanagan stated that he supported staff's recommendation for denial because the applicant had not demonstrated a means of precluding future violations. He also commented that the applicant's proposal to construct a sidewalk along Horse Shoe Drive was not sufficient to warrant approval.

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 Lawrence for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR SEA 79-P-120-04, MCDONALD'S CORPORATION, TO A DATE

CERTAIN OF JULY 26, 2012, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENTS.

Commissioner Flanagan seconded the motion which carried unanimously with Commissioners de la Fe and Murphy not present for the vote.

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The meeting was adjourned at 10:25 p.m.
Peter F. Murphy, Jr., Chairman
Janet R. Hall, 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: Jacob Caporaletti

Approved on: November 15, 2012

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Kara A. DeArrastia, Clerk to the
Fairfax County Planning Commission