

**MINUTES OF  
FAIRFAX COUNTY PLANNING COMMISSION  
THURSDAY, JULY 23, 2009**

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

ABSENT: Earl L. Flanagan, Mount Vernon District  
Janet R. Hall, Mason District  
Peter F. Murphy, Jr., Springfield District

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The meeting was called to order at 8:26 p.m., by Vice Chairman Walter L. Alcorn, in the Board Auditorium of the Fairfax County Government Center at 12000 Government Center Parkway, Fairfax, Virginia 22035.

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**COMMISSION MATTERS**

Vice Chairman Alcorn announced that the Tysons Corner Committee would not meet again until September; however, a second strawman version of proposed Plan text would be provided by staff for review in late August.

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Commissioner Donahue MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR 2232-D09-2, NEWPATH, TO A DATE CERTAIN OF JULY 30, 2009.

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

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Commissioner Lusk MOVED THAT THE DECISION FOR SE 2009-LE-001, NAZIR A. BHAGAT AND ASHRAF N. BHAGAT, BE DEFERRED TO A DATE CERTAIN OF SEPTEMBER 24, 2009, WITH THE RECORD TO REMAIN OPEN FOR WRITTEN AND ELECTRONIC CORRESPONDENCE.

Commissioner Lawrence seconded the motion which carried by a vote of 7-0-2 with Commissioners Alcorn and Sargeant abstaining; Commissioners Flanagan, Hall, and Murphy absent from the meeting.

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SEA 85-L-059-06 – BSI INCORPORATED T/A BROWNE ACADEMY (Decision Only)  
(The public hearing on this application was held on July 8, 2009. A verbatim transcript of the decision made is in the date file.)

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SEA 85-L-059-06, SUBJECT TO THE DEVELOPMENT CONDITIONS THAT ARE NOW DATED JULY 23, 2009, WITH MODIFICATIONS TO DEVELOPMENT CONDITION NUMBER 25 REGARDING SIGNAGE, STATING THAT NO MORE THAN THREE SIGNS WOULD BE POSTED, AND ONLY ALONG THE PERIMETER OF THE RESTORED RPA.

Commissioner Lawrence seconded the motion which carried by a vote of 7-0-2 with Commissioners Alcorn and Sargeant abstaining; Commissioners Flanagan, Hall, and Murphy absent from the meeting.

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF RPA EXCEPTION #6562-WRPA-002-1, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED MAY 11, 2009, AND CONTAINED IN ATTACHMENT A OF APPENDIX 11.

Commissioner Lawrence seconded the motion which carried by a vote of 7-0-2 with Commissioners Alcorn and Sargeant abstaining; Commissioners Flanagan, Hall, and Murphy absent from the meeting.

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE TRANSITIONAL SCREENING REQUIREMENTS ALONG ALL PROPERTY LINES TO ALLOW THE EXISTING VEGETATION AS DEPICTED ON THE SEA PLAT.

Commissioner Lawrence seconded the motion which carried by a vote of 7-0-2 with Commissioners Alcorn and Sargeant abstaining; Commissioners Flanagan, Hall, and Murphy absent from the meeting.

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE BARRIER REQUIREMENTS ALONG ALL PROPERTY LINES, EXCEPT THE EASTERN BOUNDARY OF LOT 33, WHERE THE BARRIER REQUIREMENT SHOULD BE WAIVED IN FAVOR OF THE EXISTING VEGETATION.

Commissioner Lawrence seconded the motion which carried by a vote of 7-0-2 with Commissioners Alcorn and Sargeant abstaining; Commissioners Flanagan, Hall, and Murphy absent from the meeting.

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ORDER OF THE AGENDA

Secretary Harsel established the following order of the agenda:

1. SEA 2005-SP-033 – WASHINGTON DC SMSA LTD PARTNERSHIP D/B/A VERIZON WIRELESS
2. SEA 99-H-022 – THE ACADEMY OF CHRISTIAN EDUCATION, INC.
3. ZONING ORDINANCE AMENDMENT (GRADE OF RESIDENTIAL STRUCTURES)

This order was accepted without objection.

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Commissioner Lusk noted that he would be handling this case in the absence of Commissioner Murphy.

SEA 2005-SP-033 – WASHINGTON DC SMSA LTD PARTNERSHIP D/B/A VERIZON WIRELESS – Appl. under Sect. 3-204 of the Zoning Ordinance to amend SE 2005-SP-033 previously approved for a telecommunications facility to permit site modifications and modifications to development conditions. Located at 7008 Elkton Dr. on approx. 2.59 ac. of land zoned R-2. Tax Map 89-4 ((5)) A. SPRINGFIELD DISTRICT.  
PUBLIC HEARING.

Frank W. Stearns, Esquire, Venable LLP, reaffirmed the affidavit dated July 14, 2009. There were no disclosures from the Commission.

On behalf of Commissioner Murphy, Commissioner Lusk asked that Vice Chairman Alcorn 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, Vice Chairman Alcorn closed the public hearing and recognized Commissioner Lusk for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Lusk MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SEA 2005-SP-033, SUBJECT TO DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED JULY 8, 2009.

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

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A REAFFIRMATION OF THE PREVIOUSLY APPROVED MODIFICATION OF TRANSITIONAL SCREENING IN FAVOR OF EXISTING SCREENING AS SHOWN ON THE SE PLAT.

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

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SEA 99-H-022 – THE ACADEMY OF CHRISTIAN EDUCATION, INC. – Appl. under Sect. 5-504 of the Zoning Ordinance to amend SE 99-H-022 previously approved for a private school of general education to permit an interior expansion and modifications to development conditions. Located at 1808-A Michael Faraday Ct. on approx. 2.31 ac. of land zoned I-5. Tax Map 18-3 ((5)) 6. HUNTER MILL DISTRICT. PUBLIC HEARING.

Sheri Hoy, McGuire Woods LLP, reaffirmed the affidavit dated June 22, 2009. Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had one pending case with Ms. Hoy's law firm but indicated that there was no financial relationship and it would not affect his ability to participate in this case.

Commissioner de la Fe asked that Vice Chairman Alcorn 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, Vice Chairman Alcorn closed the public hearing and recognized Commissioner de la Fe for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SEA 99-H-022, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JUNE 10, 2009.

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

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ZONING ORDINANCE AMENDMENT (GRADE OF RESIDENTIAL STRUCTURES) – To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: (1) Revise the grade definition such that grade for single-family detached dwellings is the average ground level adjoining a building at all exterior walls. For the purpose of determining building height for single-family detached dwellings, the lower average ground level of either the pre-existing or finished ground elevation that exists or is proposed at the time of Building Permit issuance for the dwelling shall be used. For accessory structures, the lowest point of finished ground level adjacent to the structure shall be used. (2) Allow the Board of Supervisors to approve, only in conjunction with the approval of a rezoning or special exception for another use, a special exception to modify the grade for purposes of measuring the height of single-family detached dwellings that are located within or in proximity to a floodplain when such structures must be elevated to meet all applicable floodplain regulations; and allow the Board of Zoning Appeals to approve a special permit for the same grade modification. Any applicant seeking grade modification approval shall demonstrate that the requested increase in grade is the minimum amount required to meet floodplain regulations. (3) A structure which met the requirements of the Zoning Ordinance in effect when the structure was constructed but does not meet the current minimum district, lot size, minimum yard, shape factor, building height, or angle of bulk plane requirements of the zoning district in which located shall not be deemed nonconforming. (4) Amend the required standards for variances in the Zoning Ordinance to conform to the *Virginia Code*, and require that applicants for a variance show that the strict application of the Zoning Ordinance would unreasonably restrict the utilization of the subject property and the granting of a variance will alleviate a clearly demonstrable hardship (striking the words “approaching confiscation” from the text of the Zoning Ordinance in conformance with a July 1, 2009, amendment to the *Virginia Code*). (5) Pursuant to authority granted

by §15.2-2286(A)(6) of the *Code of Virginia*, establish an application fee of no less than \$885 and no greater than \$7,935 for modifications of grade for single-family detached dwellings by special permit, special exception, or variance approvals, and establish a variance application fee of no less than \$885 and no greater than \$7,935 for an increase in building height for single-family detached dwellings. Copies of the full text are available for review at the County's website, [www.fairfaxcounty.gov/dpz](http://www.fairfaxcounty.gov/dpz), under the Zoning heading, by clicking on Pending Zoning Ordinance Amendments. COUNTYWIDE. PUBLIC HEARING.

Jack Reale, Zoning Administration Division (ZAD), Department of Planning and Zoning (DPZ), presented the staff report, which recommended that the Board of Supervisors adopt the amendment.

In response to questions from Commissioner Hart, Eileen McLane, Zoning Administrator, DPZ, explained that residences on larger lots might be situated from neighboring properties in a manner that would allow for extra building height without looming. She confirmed that such height differentiation was currently outside the scope of the advertising for the proposed amendment.

Mr. Reale confirmed that the variance procedural option would allow sufficient flexibility for extenuating circumstances that would drive the need to build up a residence, noting that the goal was compatibility in each neighborhood.

Commissioner Hart and Ms. McLane discussed the procedures for ensuring uniform building heights, from certification prior to construction to final development.

James Patteson, Department of Public Works and Environmental Services, said no recent applications had called for the maximum height limit. He said the majority of complaints occurred in the R-2, R-3, and R-4 Districts, where residential setbacks were smaller and, thus, looming would occur.

Commissioner Sargeant noted that the Mount Vernon Council of Citizens' Association voted to support the proposed amendment, noting that it addressed longstanding concerns including the impacts of looming from larger construction adjacent to smaller homes. He added that concerns regarding stormwater issues and runoff resulting from additional grading were also addressed in the proposal.

Vice Chairman Alcorn called for speakers but received no response. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, he

ZONING ORDINANCE AMENDMENT (GRADE  
OF RESIDENTIAL STRUCTURES)

July 23, 2009

closed the public hearing and recognized Commissioner Hart for action on this case. (A verbatim excerpt is in the date file.)

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Commissioner Hart MOVED THAT THE PLANNING COMMISSION DEFER DECISION AND ALLOW THE RECORD TO REMAIN OPEN ON THE PROPOSED ZONING ORDINANCE AMENDMENT REGARDING SINGLE FAMILY DETACHED DWELLING GRADE UNTIL SUCH TIME AS THE PLANNING COMMISSION MEETS ON JULY 30, 2009.

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

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The meeting was adjourned at 9:00 p.m.  
Peter F. Murphy, Jr., Chairman  
Suzanne F. Harsel, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, VA 22035.

Minutes by: Jeanette Nord

Approved: November 3, 2010

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