

**MINUTES OF  
FAIRFAX COUNTY PLANNING COMMISSION  
WEDNESDAY, JULY 28, 2004**

PRESENT: Walter L. Alcorn, Commissioner At-Large  
Frank A. 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  
Kenneth A. Lawrence, Providence District  
Rodney L. Lusk, Lee District  
Peter F. Murphy, Jr., Springfield District  
Laurie Frost Wilson, Commissioner At-Large

ABSENT: John R. Byers, Mount Vernon District  
Ronald W. Koch, Sully District

//

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 at 12000 Government Center Parkway, Fairfax, Virginia 22035.

//

**COMMISSION MATTERS**

Commissioner de la FE MOVED THAT THE PUBLIC HEARING ON RZ 2003-HM-046, FDP 2003-HM-046, PCA 2000-HM-044, PCA 77-C-098-5, AND PCA 80-C-028-7, TST WOODLAND L.L.C., BE DEFERRED TO A DATE CERTAIN OF SEPTEMBER 9, 2004.

Commissioner Hopkins seconded the motion which carried unanimously with Commissioners Alcorn and Harsel not present for the vote; Commissioners Byers and Koch absent from the meeting.

//

Commissioner Hall MOVED THAT THE PUBLIC HEARING ON OUT-OF-TURN AMENDMENT, S04-I-B2, BE DEFERRED TO A DATE CERTAIN OF SEPTEMBER 8, 2004.

Commissioner de la Fe seconded the motion which carried unanimously with Commissioners Alcorn and Harsel not present for the vote; Commissioners Byers and Koch absent from the meeting.

//

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY ON PCA 2002-PR-016 AND FDPA 2002-PR-016, WEST\*GROUP PROPERTIES, TO A DATE CERTAIN OF JULY 29, 2004, WITH THE RECORD TO REMAIN OPEN FOR WRITTEN COMMENT.

Commissioner Lusk seconded the motion which carried unanimously with Commissioners Alcorn and Harsel not present for the vote; Commissioners Byers and Koch absent from the meeting.

//

CONSENT AGENDA ITEM - FS-V04-48 – T-MOBILE, 8230 SOUTHRUN ROAD

On behalf of Commissioner Byers, Chairman Murphy MOVED THAT THE PLANNING COMMISSION APPROVE CONSENT AGENDA ITEM, FS-V04-48, T-MOBILE, 8230 SOUTHRUN ROAD, IN THE MOUNT VERNON DISTRICT.

Commissioner de la Fe seconded the motion which carried unanimously with Commissioners Alcorn and Harsel not present for the vote; Commissioners Byers and Koch absent from the meeting.

//

APR ITEMS – ALL TYSONS RAIL NOMINATIONS

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION DEFER ALL TYSONS CORNER RAIL APR ITEMS (PC 2004-004, PC 2004-006, PC 2004-008, PC 2004-009, PC 2004-010, PC 2004-013, PC 2004-017, PC 2004-022, PC 2004-025, PC 2004-030, PC 2004-035, PC 2004-037, PC 2004-049, PC 2004-060, PC 2004-069, PC 2004-077, PC 2004-078, PC 2004-079, PC 2004-080, AND PC 2004-081), EXCEPT PC 2004-38, AS REQUESTED BY THE BOARD OF SUPERVISORS.

Commissioner Lusk seconded the motion which carried unanimously with Commissioners Alcorn and Harsel not present for the vote; Commissioners Byers and Koch absent from the meeting.

//

ORDER OF THE AGENDA

Secretary Harsel established the following order of the agenda:

1. SE 2004-PR-016 - PRENTISS PROPERTIES ACQUISITION PARTNERS LP

2. PCA 84-P-002-04 - FAIR OAKS PENDERBROOK APARTMENTS  
SE 2004-PR-014 - FAIR OAKS PENDERBROOK APARTMENTS
3. SEA 85-L-022-02 - PUBLIC BROADCASTING SERVICE  
2232-M04-10 - PUBLIC BROADCASTING SERVICE
4. RZ 2004- PR-006 - WHITESTONE INVESTMENTS, INC.  
FDP 2004-PR-006 - WHITESTONE INVESTMENTS, INC.

This order was accepted without objection.

//

SE 2004-PR-016 - PRENTISS PROPERTIES ACQUISITION PARTNERS LP - Appl. under Sects. 4-304 of the Zoning Ordinance to permit a university/college. Located at 8270 Willow Oaks Corporate Dr. on approx. 4.05 ac. of land zoned C-3. Tax Map 49-3 ((1)) 140. PROVIDENCE DISTRICT.  
PUBLIC HEARING.

Elizabeth Baker, Walsh, Colucci, Lubeley, Emrich & Terpak, PC, reaffirmed the affidavit dated March 17, 2004. Commissioner Hart disclosed that his law firm, Hart and Horan, P.C., had one pending case with Ms. Baker's law firm, but it would not affect his ability to participate in this case.

William Mayland, 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 application.

Ms. Baker explained that the applicant was seeking approval to allow the University of Phoenix to occupy 29,000 square feet in an existing office building. She added that no changes to the site would be made other than signage.

Chairman Murphy called for speakers from the audience, but received no response.

The Commission had no comments or questions and staff had no closing remarks, therefore Chairman Murphy closed the public hearing and recognized Commissioner Lawrence for action on this case. (A verbatim excerpt is in the date file.)

//

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE SE 2004-PR-016, PRENTISS PROPERTIES, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS CONTAINED IN APPENDIX 1 OF THE STAFF REPORT DATED JULY 14, 2004.

Commissioner Lusk seconded the motion which carried unanimously with Commissioners Byers and Koch absent from the meeting.

//

PCA 84-P-002-04 - FAIR OAKS PENDERBROOK APARTMENTS, LLC - Appl. to amend the proffers for RZ 84-P-002 previously approved for residential development at a density of 6.15 dwelling units per acre (du/ac) to permit revisions to approved proffers. Located in the S.E. quadrant of the intersection of W. Ox Rd. and Penderbrook Dr. on approx. 19.38 ac. of land zoned PDH-8 and HC. Comp. Plan Rec: Fairfax Center: 6.6 du/ac at overlay. Tax Map 46-3 ((1)) 71. (Concurrent with SE 2004-PR-014.)  
PROVIDENCE DISTRICT.

SE 2004-PR-014 - FAIR OAKS PENDERBROOK APARTMENTS, LLC - Appl. under Sects. 9-614 of the Zoning Ordinance to permit nonconforming condominium conversions. Located at 3905 Penderview Dr. on approx. 19.38 ac. of land zoned PDH-8 and HC. Tax Map 46-3 ((1)) 71. (Concurrent with PCA 84-P-002-04.)  
PROVIDENCE DISTRICT. JOINT PUBLIC HEARING.

Jonathan Rak, Esquire, McGuire Woods, LLP, reaffirmed the affidavit dated July 7, 2004. Commissioner Hart disclosed that his law firm, Hart and Horan, PC, had one pending case with Mr. Rak's law firm, but it would not affect his ability to participate in this case.

Tracy Swagler, 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 staff recommended approval of the applications.

Mr. Rak described the potential conversion of the existing rental apartments to condominiums. He claimed that the conversion would not have an adverse affect on the existing parking situation. He pointed out that the applicant had met with the Penderbrook Community Association and their Board of Directors, who did not express objection to this proposal. He revealed that the applicant had contacted the association's representatives and reached an agreement regarding the collection of community association assessments. He said that he had informed the association that the County was not prepared to enforce a permit parking system on a routine basis. He concluded that the proposed conversion would be a benefit to the County by providing more home ownership opportunities to new and existing tenants at more affordable prices.

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

David Braun, President of the Penderbrook Community Association Board of Directors, expressed support for the proposal but said that there were concerns related to parking. He described the problems that were caused by unavailable parking such as accidents and congestion. He noted that the conversion would exacerbate the parking situation and he requested that these applications be deferred to allow more time to attain a resolution.

Mr. Braun responded to questions from Chairman Murphy about a parking permit system that would limit the number of spaces assigned to each unit; from Commissioner Hall about parking needs for one-bedroom condominiums compared to one-bedroom rental units; and from Commissioner de la Fe about permit parking in other parts of the community.

Ms. Swagler pointed out that staff was not opposed to the idea of a permit parking system. She noted, however, that it was not appropriate as a condition because it would put the County in an enforcement position that should be handled by the association.

In response to a question from Chairman Murphy, Kristen Abrahamson, ZED, DPZ, explained that the association was amenable to the staff recommendation that an Association by-law require a parking permit system, but more time was needed to work out the details.

Commissioner Wilson suggested that a condition be added that would establish a permit parking system that would be the responsibility of the community association to enforce. Ms. Abrahamson stated that staff would encourage the applicant to put such a condition in writing.

Ms. Abrahamson responded to a question from Commissioner de la Fe about Development Condition Number 6 concerning reserved parking.

In response to a question from Commissioner Alcorn about the policy for condominium conversion, Ms. Abrahamson explained that if there was not a proffer requiring rental units, special exception approval would still be necessary, but that the Proffered Condition Amendment application would not be.

Ms. Abrahamson reiterated that the County did not want to enforce the daily operations of the condominium association, but would encourage it to have a pool of spaces open if there were to be reserved parking in the community. She added that the County only regulated the quantity and location of parking but not how parking regulations would be administered.

There were no further speakers; therefore, Chairman Murphy called for a rebuttal statement from Mr. Rak.

Mr. Rak addressed the concerns expressed by Mr. Braun and noted that the applicant was willing to participate in an overall Penderbrook permit parking system.

In response to a question from Commissioner de la Fe, Mr. Rak said that if it were necessary for the applicant to provide the number of parking spaces now required by the Zoning Ordinance, open space would have to be reduced. He disclosed that when he met with the Penderbrook Community Association, they had expressed opposition to any reduction to the open space.

Responding to questions from Commissioners Alcorn, Hart, and Hall, Ms. Abrahamson pointed out that the only non-conformity that needed to be addressed by the special exception application was parking. She noted that staff did not believe that the conversion would make the existing parking problem in Penderbrook worse.

Ms. Abrahamson responded to a question from Commissioner Harsel about the amount of overall open space in the Penderbrook community.

Chairman Murphy suggested that Mr. Rak and Mr. Braun meet with each other to resolve the parking issue.

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

//

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION TABLE THE ACTION ON PCA 84-P-002-04 AND SE 2004-PR-014, FAIR OAKS PENDERBROOK APARTMENTS, TO THE END OF THE MEETING.

Commissioner Alcorn seconded the motion which carried unanimously with Commissioner Harsel not present for the vote; Commissioner Byers and Koch absent from the meeting.

//

Commissioner Hall MOVED THAT THE ACTION ON PCA 84-P-002-04 AND SE 2004-PR-014, FAIR OAKS PENDERBROOK APARTMENTS, BE TAKEN OFF THE TABLE.

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

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY ON PCA 84-P-002-4 AND SE 2004-PR-014, FAIR OAKS PENDERBROOK APARTMENTS, TO A DATE CERTAIN OF SEPTEMBER 9, 2004, WITH THE RECORD TO REMAIN OPEN FOR WRITTEN COMMENT.

Commissioner Alcorn seconded the motion which carried unanimously with Commissioners Byers and Koch absent from the meeting.

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT ITS PUBLIC HEARING ON THIS MATTER BE DEFERRED TO A DATE SUBSEQUENT TO THE PLANNING COMMISSION'S DECISION.

Commissioner Hall seconded the motion which carried unanimously with Commissioners Byers and Koch absent from the meeting.

//

SEA 85-L-022-02 - PUBLIC BROADCASTING SERVICE - Appl. under Sect. 5-504 of the Zoning Ordinance to amend SE 85-L-022 previously approved for a radio, television, microwave facility, and satellite earth station to permit building addition and site modifications. Located at 6455 Stephenson Wy. on approx. 4.31 ac. of land zoned I-5. Tax Map 81-1 ((9)) A. (Concurrent with 2232-M04-10.) MASON DISTRICT.

2232-M04-10 - PUBLIC BROADCASTING SERVICE - Appl. under Sects. 15.2-2204 and 15.2-2232 of the *Code of Virginia* to permit the addition of an office building and site improvements for a radio, television, microwave facility and satellite earth station. Located at 6455 Stephenson Way on approx. 4.31 ac. of land zoned I-5. Tax Map 81-1 ((9)) A. (Concurrent with SEA 85-L-022-2.) MASON DISTRICT. JOINT PUBLIC HEARING.

William Thomas, Jr., Fagelson, Schonberger, Payne & Deichmeister, PC, reaffirmed the affidavit dated March 5, 2004. There were no disclosures by Commission members.

Kristen Abrahamson, 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.

Mr. Thomas explained that approval of the applications would meet the critical needs of the applicant.

There being no speakers for these applications, Chairman Murphy noted that a rebuttal statement was not necessary. There were no comments or questions from the Commission and staff had no closing remarks; therefore Chairman Murphy closed the public hearing and recognized Commissioner Hall for action on this case. (A verbatim excerpt is in the date file.)

//

Commissioner Hall MOVED THAT THE PLANNING COMMISSION FIND THAT THE FACILITIES PROPOSED UNDER 2232-M04-10 SATISFY THE CRITERIA OF LOCATION, CHARACTER, AND EXTENT AS SPECIFIED IN SECTIONS 15.2-2204 AND 15.2-2232 OF THE *CODE OF VIRGINIA* AND ARE SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioner Lusk seconded the motion which carried unanimously with Commissioners Lawrence and Wilson not present for the vote; Commissioners Byers and Koch absent from the meeting.

Commissioner Hall MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SEA 85-L-022-02, SUBJECT TO THE DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED JULY 26, 2004.

Commissioner Lusk seconded the motion which carried unanimously with Commissioners Lawrence and Wilson not present for the vote; Commissioners Byers and Koch absent from the meeting.

Commissioner Hall MOVED THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS TO THE SOUTH, IN FAVOR OF THAT SHOWN ON THE SE PLAT.

Commissioner Lusk seconded the motion which carried unanimously with Commissioners Lawrence and Wilson not present for the vote; Commissioners Byers and Koch absent from the meeting.

//

The Commission went into recess at 9:30 p.m. and reconvened in the Board Auditorium at 9:45 p.m.

//

RZ 2004- PR-006/FDP 2004-PR-006 - WHITESTONE  
INVESTMENTS, INC. - Appls. to rezone from R-1 and HC to  
PDH-12 and HC to permit residential development at a density  
of 9.16 dwelling units per acre (du/ac) and approval of the  
conceptual and final development plans. Located on the S. side  
of Leesburg Pi. approx. 400 ft. E. of George C. Marshall Dr. on  
approx. 1.31 ac. of land. Comp. Plan Rec: 12-16 d/ac. Tax Map  
39-2 ((1)) 56. PROVIDENCE DISTRICT. PUBLIC HEARING.

H. Kendrick Sanders, Esquire, on behalf of the applicant, reaffirmed the affidavit dated December 17, 2003. Commissioner Hart disclosed that his law firm, Hart and Horan, PC, currently leased two office condominium units from GSBB Partnership, in which Mr. Sanders was an investor, and would, therefore, recuse himself from this public hearing.

Aaron Shriber, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended denial of the application due to the applicant's failure to satisfy the P District standards.

Mr. Sanders described the proposed development's features and its benefits to the Marshall Heights community. He noted that the Marshall Heights Homeowners Association supported this application and submitted for the record a letter from the association, a copy of which is in the date file. He addressed the issues concerning Route 7 access, parking, density, plan design, landscaping, and site constraints.

Mr. Sanders responded to a question from Commissioner Wilson about the size of the backyards and the accommodation of decks.

In response to a question from Commissioner Wilson, Kristen Abrahamson, ZED, DPZ, replied that staff was not in agreement with the escrowing of funds for the trail construction.

There being no speakers for this application, Chairman Murphy 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 Lawrence for action on this case. (A verbatim excerpt is in the date file.)

//

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY ON RZ 2004-PR-006 AND FDP 2004-PR-006, UNTIL A DATE CERTAIN OF SEPTEMBER 9, 2004, WITH THE RECORD TO REMAIN OPEN FOR WRITTEN COMMENT.

The motion carried unanimously with Commissioner Hart not present for the vote;  
Commissioners Byers and Koch absent from the meeting.

//

The meeting was adjourned at 10:32 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: January 31, 2007

---

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