

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, SEPTEMBER 15, 2011**

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
Suzanne F. Harsel, Braddock District
James R. Hart, Commissioner At-Large
Kenneth A. Lawrence, Providence District
John L. Litzenberger, Jr., Sully District
James T. Migliaccio, Lee District
Timothy J. Sargeant, Commissioner At-Large

ABSENT: Janet R. Hall, Mason District
Peter F. Murphy, Jr., Springfield District

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The meeting was called to order at 8:23 p.m., by Vice Chairman Walter L. Alcorn in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Hart noted that on Wednesday, September 14, 2011, the Planning Commission held an Environmental Workshop to provide an overview of the comments received to date on the strawman draft document of the proposed changes to the Green Building Policy. He added that staff continued to review citizen statements provided at the workshop as well as online and said that the Committee would meet again on Thursday, November 17, 2011, at 7 p.m., in the Board Conference Room, to continue the review. He stated that everyone was welcome to attend.

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Vice Chairman Alcorn announced that the Planning Commission's Tysons Corner Committee would meet on Thursday, September 22, 2011, at 7:00 p.m. in Conference Rooms 9/10. In addition, he noted that at the Planning Commission meeting on Wednesday, September 21, 2011, during Commission Matters, the action would be proposed on an interim report informing the Board of Supervisors of progress on the implementation of the Tysons Corner Comprehensive Plan. He said the proposed report would be distributed to the Commissioners prior to September 20, 2011, to allow time for review.

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Commissioner Hart MOVED TO DEFER THE PUBLIC HEARING ON THE PROPOSED ZONING ORDINANCE AMENDMENT REGARDING INDEPENDENT LIVING FACILITIES FOR LOW-INCOME RESIDENTS AND MODIFICATIONS TO THE DEFINITIONS OF DWELLING UNIT AND INDEPENDENT LIVING FACILITY, FROM THURSDAY, SEPTEMBER 15, 2011, TO A DATE CERTAIN OF THURSDAY, NOVEMBER 17, 2011.

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

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FS-D11-28 – AT&T MOBILITY, 9916 Georgetown Pike

Commissioner Donahue MOVED THAT THE PLANNING COMMISSION FIND THAT FS-D11-28, AT&T MOBILITY LOCATED AT THE GREAT FALLS FIRE STATION, IS 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 Migliaccio seconded the motion which carried unanimously with Commissioners Hall and Murphy absent from the meeting.

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FSA-P96-57-1 – SPRINT, 1766 Chain Bridge Road

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION FIND THE PROPOSED TELECOMMUNICATIONS FACILITY IN FSA-P96-57-1, SPRINT, 1766 CHAIN BRIDGE ROAD, A “FEATURE SHOWN” OF THE COMPREHENSIVE PLAN, PURSUANT TO *VIRGINIA CODE* SECTION 15.2-2232, AS AMENDED.

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

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FS-V11-23 – SPRINT, 2709 Popkins Lane

Commissioner Flanagan MOVED THAT THE PLANNING COMMISSION FIND THAT FS-V11-23 SATISFIES THE CRITERIA OF LOCATION, CHARACTER, AND EXTENT, AS SPECIFIED IN *VIRGINIA CODE* SECTION 15.2-2232, AS AMENDED.

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

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FSA-D97-61-1 – AT&T MOBILITY, 11000 Leesburg Pike
FSA-V97-57-3 – AT&T MOBILITY, 10112 Furnace Road
FSA-V09-191-1 – AT&T MOBILITY, 8616 Pohick Road

Vice Chairman Alcorn MOVED THAT THE PLANNING COMMISSION APPROVE THE FOLLOWING CONSENT AGENDA ITEMS: FSA-D97-61-1, AT&T MOBILITY, 11000 LEESBURG PIKE; FSA-V97-57-3, AT&T MOBILITY, 10112 FURNACE ROAD; AND FSA-V09-191-1, AT&T MOBILITY, 8616 POHICK ROAD.

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

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Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR RZ/FDP 2006-PR-027 AND SEA 00-P-050, FAIRFAX RIDGE CONDOMINIUM UNIT OWNERS ASSOCIATION, TO A DATE CERTAIN OF OCTOBER 6, 2011.

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

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SEA 96-B-010-02 – TRINITY CHRISTIAN SCHOOL (Decision Only) (The public hearing on this application was held on July 28, 2011. A verbatim transcript of the decision made is in the date file.)

Commissioner Harsel MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THEY APPROVE SEA 96-B-010-02, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED SEPTEMBER 9, 2011.

Commissioner de la Fe seconded the motion which carried by a vote of 8-0-2, with Commissioners Alcorn and Donahue abstaining; Commissioners Hall and Murphy absent from the meeting.

Commissioner Harsel MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THEY APPROVE A WAIVER OF THE BARRIER REQUIREMENT ALONG ALL PROPERTY LINES IN FAVOR OF THAT SHOWN ON THE SEA PLAT.

Commissioner de la Fe seconded the motion which carried by a vote of 8-0-2, with Commissioners Alcorn and Donahue abstaining; Commissioners Hall and Murphy absent from the meeting.

Commissioner Harsel MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THEY APPROVE A MODIFICATION OF THE TRANSITIONAL SCREENING REQUIREMENT ALONG ALL PROPERTY BOUNDARIES IN FAVOR OF THAT SHOWN ON THE SEA PLAT.

Commissioner de la Fe seconded the motion which carried by a vote of 8-0-2, with Commissioners Alcorn and Donahue abstaining; Commissioners Hall and Murphy absent from the meeting.

Commissioner Harsel MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT THEY DIRECT THE DIRECTOR OF THE DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES TO WAIVE THE REQUIREMENT FOR INTERPARCEL ACCESS TO FOREST DRIVE.

Commissioner de la Fe seconded the motion which carried by a vote of 8-0-2, with Commissioners Alcorn and Donahue abstaining; Commissioners 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. SE 2011-MV-002 – MUHAMMAD T. BUTT
2. 2232-D10-18 – NEWPATH NETWORKS, LLC, NEW CINGULAR WIRELESS PCS, LLC, AND SPRINT-NEXTEL COMMUNICATIONS (Nodes 3, 4, & 11)

This order was accepted without objection.

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SE 2011-MV-002 – MUHAMMAD BUTT – Appl. under Sect. 6-105 of the Zoning Ordinance to permit a home child care facility with a maximum enrollment of 10 children and a maximum of two employees. Located at 8740 Talbott Farm Dr. on approx. 4,150 sq. ft. of land zoned PDH-5, CRD, and HC. Tax Map 110-1 ((27) 11A. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Muhammad T. Butt reaffirmed the affidavit dated April 2, 2011. There were no disclosures from the Commissioners.

Before providing the staff report, Nicholas Rogers, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), noted that home child care facilities located in residential districts were typically reviewed by the Board of Zoning Appeals; however, since SE the subject property was located in a Planned Development Housing (PDH) District, it required a Special Exception for the proposed use.

Mr. Rogers presented the staff report, a copy of which is in the date file. He noted that staff recommended denial of the application, since the proposal was neither in harmony with the Comprehensive Plan nor in conformance with the applicable Zoning Ordinance provisions.

In response to questions from Vice Chairman Alcorn, Mr. Rogers said the *Virginia State Code* also contained standards for home child care facilities and confirmed that the applicant was in compliance with those standards.

Answering questions from Commissioner Flanagan, Mr. Rogers confirmed that the applicant had prepared a pick-up/drop-off policy, as recommended in the Fairfax County Department of Transportation memorandum in Appendix 11 of the staff report. He also noted that the Talbott Farms Homeowners Association had submitted a letter in support of the application, a copy of which is in the date file. Mr. Rogers added that the storm structure in the backyard conformed to State safety standards; however, it remained a concern for County staff.

Responding to questions from Commissioner Hart, Mr. Rogers confirmed that the proposed facility could operate by-right with seven children. With regard to the storm structure, Commissioner Hart and Mr. Rogers briefly discussed its proximity to the play equipment and hazards therein; the addition of development conditions to address maintenance and repair of the play equipment and the storm structure; and steps to ensure that the storm structure remain clear of debris or other items.

In reply to questions from Commissioner Lawrence, Kristen Abrahamson, ZED, DPZ, explained that staff had determined that the unused parking space could become occupied by a future employee and so it could not be considered in the traffic and parking analysis. She also said that adding a development condition to use the space to accommodate parking for clients and employees alike could create unforeseen consequences. Ms. Abrahamson further stated that the only truly effective way to regulate a home child care facility would be to assume a worst-case scenario of a maximum number of children on-site at all times.

Commissioner Flanagan clarified that operation would take place in a single-family detached home and added that the photographs in Appendix 4 depicted sufficient space in the backyard for the play equipment. Ms. Abrahamson agreed, but cited the lot's measurements and explained that the existing arrangement of the play equipment did not meet County Code standards. In addition to continue discussion regarding concerns about the storm structure and encroachment of the deck, she confirmed that the existing operation was a by-right use.

In response to questions from Commissioner Harsel, Mr. Rogers clarified that the square footage listed in the Statement of Justification in Appendix 3 was actually the lot size. In addition, he described the driveway, noting that it could easily accommodate visitors, and confirmed the description of the daycare operation on the first and lower levels of the home.

Commissioner Sargeant and Ms. Abrahamson discussed the differences between State and County requirements for day care services and the problems encountered by applicants and staff in attempting to ensure compliance. In addition, Ms. Abrahamson answered questions about the storm structure and the deck, noting that the latter would pose no hazard. Additionally, she confirmed that a railing similar to the one on the deck would also be required on a commercial child care facility.

Answering questions from Commissioner Migliaccio, Ms. Abrahamson agreed that the existing equipment arrangement did not meet the requirement in Development Condition Number 11, noting that the storm structure was an obstacle, as were the size and shape of the backyard.

Mr. Butt stated that he would be willing to comply with all County Code requirements and staff requests. He explained that he had spoken with staff and agreed to rearrange the equipment to mitigate any hazards and meet the County guidelines. He also noted that requests for additional outside activities could be accommodated. Mr. Butt noted that although the request was for 10 children, all 10 would never be on-site at one time. He explained that the existing client group of children's ages varied, but also pointed out that the rule at Sunny Day Care provided for no more than five children at one time to be outside with a supervisor. He added that he had been unaware of County day care requirements until receiving a notice of violation, but reiterated his willingness to comply with the regulations.

Responding to questions from Commissioner de la Fe, Mr. Butt said that at most, six or seven children were present at one time while the rest of the children attended school.

In reply to a question from Commissioner Litzenberger, Mr. Butt explained the staggered pick-up and drop-off procedures.

Answering questions from Commissioner Flanagan, Mr. Butt said that, although not specifically stated, County inspections had been performed at his residence and none of the reports had shown any violation regarding the storm structure.

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

Hwa Grimsley, 8744 Talbott Farm Drive, Alexandria, spoke in support of the application and provided a petition with signatures from 15 of the 24 homes in the immediate area. She noted that several homes in the neighborhood had gone into foreclosure and that failure to approve the application could increase the negative impact on the neighborhood. (A copy of the petition is in the date file.)

Responding to a question from Commissioner Lawrence, Ms. Grimsley confirmed that the petition had been signed by the residents directly adjacent to and across from the subject property.

Answering a question from Commissioner de la Fe, Ms. Grimsley confirmed that the play area near the day care facility was available for use.

Ralph Boynton, 8801 Northern Spruce Lane, Alexandria, supported the application, noting that the applicant provided excellent educational services and a well-organized operation with no traffic or parking issues.

Answering questions from Commissioner Flanagan, Mr. Boynton said that he was not concerned about the storm structure and had never witnessed parents parking in neighbors' driveways.

Marcia Boynton, 8801 Northern Spruce Lane, Alexandria, echoed the previous speakers' remarks in support of the applications, but pointed out that some parents dropped off multiple children. She also noted that denial of the application could create financial problems for the parents.

Leslie DuVal, 4016 Laurel Road, Alexandria, also spoke in support of the application and echoed previous speakers' remarks regarding traffic and parking.

In response to questions from Commissioner Flanagan, Ms. DuVal explained that all of her children attended the applicant's facility, noting that her two older children attended school and only used the day care afterwards while her youngest child was enrolled full-time. She stated that the children were always supervised.

Leonard Spalding, 8738 Talbott Farm Drive, Alexandria, also supported the application and echoed comments by previous speakers regarding traffic and parking. He added that no safety issues had occurred while his daughter attended Sunny Day Care.

Audrey Moeller, 8729 Talbott Farm Drive, Alexandria, supported the application and echoed previous speaker comments, adding that denial of the application could severely affect the applicant's livelihood. She added that she had known of only one complaint regarding traffic and said that the applicant had immediately resolved the issue.

Imran Khan, 8732 Talbott Farm Drive, Alexandria, stated that he had never experienced any traffic or noise problems with the facility.

Efstathia Papoulakos, 8612 Woodlawn Court, Alexandria, supported the application and reiterated previous speakers' remarks.

There being no more speakers, Vice Chairman Alcorn called for a closing remarks from Mr. Butt, who reiterated that he was willing to comply with all of the requirements and development conditions.

Answering a question from Commissioner de la Fe, Ms. Abrahamson explained that, regardless of the actual number of children on-site, the proposed maximum enrollment was what staff considered for the application.

In response to questions from Commissioner Sargeant, Ms. Abrahamson said that staff could create a development condition that would address the number of children in the backyard at one time. She noted, however, that staff could not alter the conditions enough to address the outstanding traffic and parking issues, and pointed out that doing so might cause restrictions elsewhere. Further discussion ensued regarding the *State Code* and the impacts of staff's denial of the application.

Commissioner Flanagan noted that he had worked with staff prior to this evening's meeting to develop a new Development Condition Number 12 which required that a copy of the approved development conditions be forwarded to the President of the Talbott Farms Homeowners Association within 6 months after approval. In addition, he noted that the Mount Vernon Council had voted unanimously to support this application

Commissioner Hart noted that it might be preferable to have a child care operation of 10 children with a set of development conditions over a by-right operation with no conditions. He noted that this application was less controversial than most and suggested that, with additional time and reflection, it could be developed and brought into compliance with the current requirements.

Commissioner Sargeant concurred with Commissioner Hart's remarks and suggested deferral of the decision.

Commissioner Lawrence listed outstanding issues as follows:

- Clarify in the development conditions that no more than five children shall be in the backyard at one time;
- Ensure that two spaces were available at all times for drop-off/pick-up; and
- Obtain written permission from the HOA for parents to use two parking spaces in the common area during emergencies.

Answering questions from Commissioner Harsel, Mr. Rogers confirmed that staff's denial was based on the backyard space/equipment arrangement and traffic issues. He also described how the subject property was accessed from the main road.

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 Flanagan for action on this application. (A verbatim excerpt is in the date file.)

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Commissioner Flanagan MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY FOR SE 2011-MV-002, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENTS, TO A DATE CERTAIN OF SEPTEMBER 21, 2011.

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

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2232-D10-18 – NEWPATH NETWORKS LLC, NEW CINGULAR WIRELESS PCS, LLC & SPRINT-NEXTEL COMMUNICATIONS

– Appl. to modify three telecommunication facilities within a distributed antenna system (DAS) located in VDOT rights-of-way near 11198 Beach Mill Road (Node #3 –Utility Pole BH73 – Lat. 39°01’50.558”, Long. -77°19’47.837”); near 10903 Beach Mill Road (Node #4 -Utility Pole GG68 – Lat. 39°01’48.635”, Long. -77° 19’ 16.270”) and near 9600 Beach Mill Road (Node #11 – Utility Pole HB81 – Lat. 39°01’21.307”, Long. -7°16’37.932), Great Falls. Tax Maps: 3-3, 8-1. Area III. DRANESVILLE DISTRICT. PUBLIC HEARING

Commissioner Sargeant disclosed that he was an employee of Dominion Virginia Power and that, because this application involved Dominion Virginia utility poles, he would recuse himself from the public hearing.

Before providing the staff report, Anita Capps, Planning Division, Department of Planning and Zoning, noted that the staff report had listed the utility pole number incorrectly for Node 11 on the cover page and in the last paragraph on page 8, noting that it should be “HB81.” She then presented the staff report, a copy of which is in the date file. She noted that staff recommended that the Planning Commission find the proposal met the criteria of character, location, and extent and was substantially in accord with the provisions of the adopted Comprehensive Plan.

Commissioner Donahue noted that Attachment B in the Staff Report Addendum contained a letter from Edward L. Donohue, dated September 14, 2011, which stated that NewPath Networks, LLC, would install antennas only on the utility poles proposed in the application or submit a new application for consideration should any of those poles become unavailable.

Edward Donohue, Esquire, Donohue and Stearns, PLC, noted that the utility poles had been replaced approximately six years ago and that only the whip antennas would be replaced. He added that 300 invitations had been sent out for a community meeting that was held on June 23, 2011, and that the citizens who had attended supported the application.

Vice Chairman Alcorn called for speakers from the audience, but received no response. 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 Donahue for action on this item. (A verbatim excerpt is in the date file.)

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Commissioner Donahue MOVED THAT THE PLANNING COMMISSION FIND 2232-D10-18, AS AMENDED, SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioners Lawrence and Migliaccio seconded the motion which carried unanimously with Commissioner Sargeant recusing himself from the vote; Commissioners Hall and Murphy absent from the meeting.

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The meeting was adjourned at 10:57 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: Jeanette Nord

Approved on: June 28, 2012

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