MINUTES OF
PLANNING COMMISSION MEETING
OCTOBER 5, 1995

PRESENT: John R. Byers, Mount Vernon District
Carl A. S. Coan, Jr., Providence District
Judith W. Downer, Dranesville District
Janet R. Hall, Mason District
Suzanne F. Harsel, Braddock District
John W. Hunter, Commissioner At-Large
Ronald W. Koch, Sully District
Peter F. Murphy, Jr., Springfield District
John M. Palatiello, Hunter Mill District
Carl L. Sell, Jr., Lee District
Alvin L. Thomas, Commissioner At-Large

ABSENT: Robert v. L. Hartwell, Commissioner At-Large

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The meeting was called to order at 8:27 p.m. by Chairman Peter F. Murphy, Jr.

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COMMISSION MATTERS

Commissioner Coan MOVED TO FURTHER DEFER THE DECISION ONLY ON PCA-84-D-049 AND FDPA-84-D-049, TYSONS II LAND COMPANY, L.L.C., TO THURSDAY, OCTOBER 12, 1995.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Downer, Hall, and Thomas not present for the vote; Commissioner Hartwell absent from the meeting.

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Chairman Murphy announced that the Dulles Airport Noise Contours Study Committee would meet on Wednesday, October 11, 1995, at 7:00 p.m. in the Board of Supervisors' Conference Room and that the meeting was open to the public.

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Commissioner Palatiello announced his intent to defer the public hearing on 456-H95-27, American Personal Communications, from October 12, 1995 to November 8, 1995.

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In the absence of Commissioner Downer, Chairman Murphy MOVED THAT THE PUBLIC HEARING ON PCA-86-D-093-9 AND FDPA-86-D-093-7, WORLDGATE ASSOCIATES, LP, BE DEFERRED TO A DATE CERTAIN OF OCTOBER 19, 1995.

Commissioner Sell seconded the motion which carried unanimously with Commissioners Downer, Hall, and Thomas not present for the vote; Commissioner Hartwell absent from the meeting.

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SEA-85-L-059-2 – BSI, INC., T/A BROWNE ACADEMY (Decision Only)
(The public hearing on this application was held on September 14, 1995. A complete verbatim transcript of the decision made on this item is included in the date file.)

Commissioner Sell MOVED THAT THE PLANNING COMMISSION RECOMMEND (TO THE BOARD OF SUPERVISORS) THAT SEA-85-L-059-2, BSI, INCORPORATED, TRADING AS BROWNE ACADEMY, BE APPROVED, SUBJECT TO THE CONDITIONS DATED OCTOBER 3, 1995.

Commissioner Byers seconded the motion which carried by a vote of 7-0-1 with Commissioner Coan abstaining; Commissioners Downer, Hall, and Thomas not present for the vote; Commissioner Hartwell absent from the meeting.

Commissioner Sell next MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD A MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS AROUND THE PERIPHERY OF THE SITE IN FAVOR OF THAT SHOWN ON THE SE PLAT AND SUBJECT TO THE DEVELOPMENT CONDITIONS DATED OCTOBER 3, 1995.

Commissioner Byers seconded the motion which carried by a vote of 7-0-1 with Commissioner Coan abstaining; Commissioners Downer, Hall, and Thomas not present for the vote; Commissioner Hartwell absent from the meeting.

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ORDER OF THE AGENDA ITEMS

Secretary Harsel established the following order for tonight's agenda items:

1. PCA-78-P-137-4 – KLM, LP
   FDPA-78-P-137-5 – KLM, LP
2. SE-95-P-041 – Hechinger Co.

3. Zoning Ordinance Amendment (Billboards)
4. Zoning Ordinance Amendment (Telecommunications Testing Facilities)

This order was accepted without objection.

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PCA-78-P-137-4 – KLM, LP – Appl. to amend the proffers for RZ78-P-137 to permit additional multi-family units w/in a mixed use development w/an overall FAR of 0.40 on property located S.W. of the intersection of Roseforest Dr. & Rosehaven St. on approx. 7.51 ac. zoned PDC. Comp. Plan Rec: Mixed use. Tax Map 47-4((1))1. (Concurrent with FDPA-78-P-137-5.) PROVIDENCE DISTRICT.

FDPA-78-P-137-5 – KLM, LP – Appl. to amend the FDP for RZ-78-P-137 for mixed use development to permit additional multi-family residential development on property located S.W. of the intersection of Roseforest Dr. & Rosehaven St. on approx. 7.51 ac. zoned PDC. Tax Map 47-4((1))1. (Concurrent with PCA-78-P-137-4. PROVIDENCE DISTRICT. JOINT PUBLIC HEARING.

Benjamin F. Tompkins, Esquire, with Hazel & Thomas, reaffirmed the affidavit dated March 22, 1995. There were no disclosures by Commission members.

Ms. Regina Murray, Zoning Evaluation Division, Office of Comprehensive Planning, presented the staff report, a copy of which is contained in the date file. She said that staff recommended approval of the applications.

Mr. Tompkins gave a brief explanation of the history and planned zoning of the subject property. He noted that the project achieved one of the goals of the Comprehensive Plan because it reduced the artificial segregation between housing and employment centers.

Mr. Tompkins pointed out that both the Virginia Department of Transportation and the County's Office of Transportation approved of the proposed development noting that it provided for different peak traffic hours. He summarized his presentation by noting that the applications were consistent with the Comprehensive Plan and the intent of the PDC zoning district, provided a mix of commercial and residential development, had a positive impact on traffic by providing different uses for different peak traffic hours, and would enhance the suburban character of that area of the County.

Chairman Murphy called for speakers from the audience. Receiving no response, he noted that no rebuttal was necessary. Ms. Murray had no closing staff comments; therefore Chairman

Murphy closed the public hearing and recognized Commissioner Coan for a motion on the applications. (Verbatim excerpts are in the date file.)

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Commissioner Coan MOVED THAT THE COMMISSION RECOMMEND APPROVAL OF PCA-78-P-137-4, SUBJECT TO THE EXECUTION OF DRAFT PROFFERS CONSISTENT WITH THOSE CONTAINED IN APPENDIX 1 OF THE STAFF REPORT.

Commissioner Downer seconded the motion which carried by a vote of 9-0-1 with Commissioner Thomas abstaining; Commissioner Hall not present for the vote; Commissioner Hartwell absent from the meeting.

Commissioner Coan (MOVED THAT THE PLANNING COMMISSION) APPROVE FDPA-78-P137-5, SUBJECT TO THE BOARD OF SUPERVISORS' APPROVAL OF PCA-78-P-137-4 AND SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED OCTOBER 3, 1995.

Commissioner Byers seconded the motion which carried by a vote of 9-0-1 with Commissioner Thomas abstaining; Commissioner Hall not present for the vote; Commissioner Hartwell absent from the meeting.

Commissioner Coan (MOVED THAT THE PLANNING COMMISSION) RECOMMEND APPROVAL OF A MODIFICATION OF THE 50 PERCENT LIMITATION OF DWELLING UNITS AS A SECONDARY USE WITHIN A PDC DISTRICT.

Commissioner Byers seconded the motion which carried by a vote of 9-0-1 with Commissioner Thomas abstaining; Commissioner Hall not present for the vote; Commissioner Hartwell absent from the meeting.

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> SE-95-P-041 – HECHINGER COMPANY – Appl. under Sec. 9-620 of the Zoning Ord. to permit a waiver of certain sign regulations to permit the replacement of a freestanding sign on property located at 2051 Chain Bridge Rd. on approx. 72.00 sq. ft. of land zoned C-8, HC, & SC. Tax Map 39-1((6))pt.9. PROVIDENCE DISTRICT. PUBLIC HEARING.

Ms. Alisa S. T. Cowen, architect for the applicant, reaffirmed the affidavit dated October 5, 1995. Commissioner Hunter disclosed that his firm represented the applicant on unrelated matters and therefore he would recuse himself from this case. There were no other disclosures by Commission members.

Ms. Regina Murray, Zoning Evaluation Division, Office of Comprehensive Planning, presented the staff report, a copy of which is contained in the date file. Ms. Murray stated that the proposed sign modifications would reduce the height and square footage but the sign area of 127 feet combined with its blue and yellow colors would be obtrusive within the Sign Control Overlay District. She explained that the applicant had not proposed a modification addressing staff's concerns; therefore, staff believed that the proposal was not in harmony with the "principles of good design" within the Tysons Urban Core recommended by the Comprehensive Plan regarding creating visual appeal. Ms. Murray stated that staff recommended denial.

Ms. Cowan explained that the applicant sought to comply with the Ordinance by reducing the sign's height and size but conceded that the sign was larger than what staff had requested. She said that Hechinger's believed that their request was reasonable and responsible and that strict conformance with the Ordinance would result in customer-vehicular confusion due to the location of the store's service drive entrance off the major arterials.

Chairman Murphy called for speakers from the audience. Receiving no response, he noted that no rebuttal was necessary. Ms. Murray had no closing staff comments; therefore Chairman Murphy closed the public hearing and recognized Commissioner Coan for a motion on this application. (Verbatim excerpts are in the date file.)

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Commissioner Coan (MOVED THAT THE PLANNING COMMISSION) RECOMMEND APPROVAL OF SE-95-P-041 SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS IN APPENDIX 1 OF THE STAFF REPORT, MODIFIED IN CONDITION 4 TO STRIKE THE SECOND SENTENCE AND CHANGE 80 SQUARE FEET TO 127 SQUARE FEET.

Commissioner Koch seconded the motion which carried unanimously with Commissioners Downer, Hall, and Hunter not present for the vote; Commissioner Hartwell absent from the meeting.

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ZONING ORDINANCE AMENDMENT (Billboards) – On the matter of an amendment to Chap. 112, the Zoning Ord., of the Fairfax County Code as follows: Amend Art. 9, 12, & 14 to delete the provisions allowing outdoor advertising signs (billboards) as special exception uses in the I-5 & I-6 Districts & add language stating that non-commercial content is allowed on signs wherever the Zoning Ord. allows signs containing other content. PUBLIC HEARING.

Ms. Jane Gwinn, Director, Zoning Administration Division, Office of Comprehensive Planning, presented the staff report, a copy of which is contained in the date file. She noted that staff recommended adoption of the proposed amendment.

Ms. Gwinn responded to questions from Commissioners Byers and Palatiello regarding grandfathered signs and the relationship between the County Ordinance and federal law regarding interstate highways.

Chairman Murphy called for speakers from the audience. Receiving no response, he noted that no rebuttal was necessary. Ms. Gwinn had no closing staff comments; therefore Chairman Murphy closed the public hearing and recognized Commissioner Hunter for a motion on this matter. (Verbatim excerpts are in the date file.)

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Commissioner Hunter MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS ADOPT AMENDMENTS TO ARTICLES 9, 12 AND 14, SIGNS, TO THE COUNTY CODE AS CONTAINED IN THE STAFF REPORT DATED SEPTEMBER 18, 1995.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Downer, Hall, and Sell not present for the vote; Commissioner Hartwell absent from the meeting.

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ZONING ORDINANCE AMENDMENT (Telecommunications) – On the matter of an amendment to Chap.112, the Zoning Ord., of the Fairfax County Code as follows: Amend Art. 3 & 8 to either delete the provisions which allow the location of temporary mobile & land based telecommunication testing facilities as a Group B special permit use or to revise the limitations on such use. PUBLIC HEARING.

Ms. Mavis Stanfield, Zoning Administration Division, Office of Comprehensive Planning, presented the staff report, a copy of which is contained in the date file. She explained that staff had prepared two alternatives for consideration. She added that staff believed that advertising both alternatives would provide the most flexibility and would allow consideration of possible revisions to address the needs of both the citizens and the industry.

In response to Commissioner Palatiello's question, Mr. James Zook, Director, Office of Comprehensive Planning, explained the 456 review process with relation to telecommunications testing.

To address Commissioners Harsel's and Palatiello's questions, David Mullet, Director, Office of Communications, explained the telecommunications industry's rationale for the necessity to test areas and the time-frames required to effectively gauge a testing area. Mr. Zook further explained the issue of testing.

In response to Commissioner Downer's query, Ms. Gwinn conceded that there was no definition for the word "testing." She commented that whether the industry was performing an antenna height for geographical coverage versus operating a system on a temporary basis to ensure that it worked would effect the time-limit deemed appropriate for the use.

In order to clarify what was before the Commission this evening, Commissioner Sell explained that the Board of Supervisors had directed the Planning Commission to review the existing Ordinance that allowed six months of testing with an option of up to a year and that would appear as if it was a permanent fixture while this Zoning Ordinance Amendment proposed to allow no testing whatsoever versus limited testing for a short duration. He reminded the audience that that was the issue before them rather than the entire monopole problem.

Chairman Murphy called the first speaker and outlined the Commission's rules for speakers.

Ms. Fran Wallingford stated that Mr. John Fee, the President of the Federation, had asked her to speak on behalf of the Federation of Citizens Associations. (A copy of its adopted resolution is in the date file.) She noted that the Federation supported Alternative 1 which deleted the provision for Temporary Special Permits (TSP) for temporary mobile and land based telecommunications testing facilities.

Mr. Barton Day, 1329 Kirby Road, McLean, representing the Local Task Force in Opposition to the Kirby Road monopole, voiced their support of Alternative 1 as it offered protection to neighborhoods. (A copy of the Task Force's position paper is contained in the date file.)

Mr. Thomas Tarantino, 9523 Jomar Drive, Fairfax, strongly urged the adoption of Alternative 1 as it placed the burden on telecommunication companies to apply for approval and present their case before the County government and residents before disrupting a neighborhood. (A copy of Mr. Tarantino's position statement is contained in the date file.)

In response to Commissioner Palatiello's question, Ms. Stanfield noted that Alternative 2, Number 5, page 8 of the staff report, briefly addressed the issue of temporary grading or earth moving for the installation of temporary testing equipment.

Ms. Patricia Foley, 7419 Spencer Court, McLean, voiced her opposition to the proliferation of telecommunication sites because their placements in residential areas were totally unfair to the residents. She stated that the telecommunication companies were, in effect, seeking squatters rights and if they were allowed to place a temporary 150-foot monopole for a year, that the ensuing special exception use permit would surely be approved and she believed that that was

what the industry was anticipating. Ms. Foley affirmed that the industry sought to utilize the Zoning Ordinance's "monopole loophole" to streamline the infrastructure of the telecommunications industry. She strongly supported Alternative 1.

Ms. Ursala Potter, 958 Saigon Road, McLean, representing Saigon Citizens Association, requested that Section 8 of the Zoning Ordinance be repealed. She said that the industry should be responsible for finding alternative technology in lieu of obtrusive monopoles.

Mr. Daniel Ellis, 1316 Pine Tree Road, McLean, representing the Westmont Homeowners Association, submitted written testimony, a copy of which is contained in the date file. He stated that the residential neighborhoods were strictly opposed to any commercial development and the erection of monopoles and telecommunication sites were physically obtrusive and unacceptable.

Ms. Carol Cole, 3915 Pineland Street, Fairfax, representing the Mason District Council of Civic Associations, submitted written testimony, a copy of which is in the date file. She stated that the Council proposed the total deletion of the Group 8 TSP provisions for temporary mobile and land based telecommunications testing facilities and therefore supported Alternative 1.

Mr. Arthur Cecelski, 8130 Carr Place, Springfield, representing the West Springfield Civic Association, submitted written testimony, a copy of which is contained in the date file. He stated that his association was strongly opposed to action which would permit the temporary installation of monopoles without employing the same approval process that was applied to permanent installation. Mr. Cecelski urged the Board to deny such a provision.

Mr. Zook responded to Commissioner Palatiello's questions regarding the procedures for handling free-standing monopoles through the public hearing process and its correlation to a 456 review and the "feature shown" process.

Mr. Herbert Becker, 2009 Lorraine Avenue, McLean, representing the McLean Citizens Association (MCA), stated that the MCA supported Option 1, to delete the testing until it could be governed by guidelines to assure proper geographic delineation and impact evaluation.

Mr. John Straka, 9315 Mira Drive, Great Falls, registered his opinion in support of Alternative 1 as he believed that this was the proverbial "camel's nose under the tent" and he was strongly opposed to this technology.

Frank Stearns, Esquire, 11320 Random Hills Road, Fairfax, representing Bell Atlantic Mobile, pointed out that the telecommunications technology had received very negative publicity but it was technology that was very much in demand. He stressed the importance of the provider to test facilities as the installation of sites was very expensive and the increase in users necessitated more sites. He requested a window of time, perhaps six months, in order to schedule cell site testing. Mr. Stearns responded to questions from Commissioners Coan, Downer and Hall regarding the necessity for sites, the equipment used, and the types of testing done in the field and on-site.

James Michal, Esquire, with Jackson & Campbell, Suite 300 South, 1120 20th Street, NW, District of Columbia, explained why the testing that the industry was requesting was necessary under certain circumstances when the computer model suggested one thing and confirmation was needed. He also pointed out that the industry strove to be sensitive to the requests of neighborhoods when they didn't want the monopoles to be over a certain height; therefore, testing was needed to assure that a lower pole would provide the required service. Mr. Michel stressed that the sites were very expensive and it was important that the companies be allowed to take every reasonable measure to assure that the facility they're looking to place in a permanent location would work.

Mr. John Villarosa, 7419 Spencer Court, McLean, voiced his opposition to any testing whatsoever because he believed that testing was unnecessary in a residential area if one followed the Comprehensive Plan which stipulated no uses such as that on anything other than industrial, commercial or public lands. He contended that to allow the industry such blanket freedom to place testing facilities was sending the wrong message to homeowners.

Mr. Marc Denkinger, representing Ridgelea Hills Homeowners Association, P. 0. Box 2032, Fairfax, submitted written testimony, a copy of which is contained in the date file. He noted his association's concern over the possible location of a monopole adjacent to their development. He stated that until Fairfax County developed a general plan for locating monopoles in a manner that was compatible and harmonious with adjacent land uses, Ridgelea Hills HOA opposed the erection of monopoles and supported Alternative 1.

Mr. Don Hoffman, address unknown, pointed out that Fairfax County was an area of sophisticated technology which should be able to find a less obtrusive way in which to test for telecommunication sites. He requested that the Commission facilitate a plan for installation and testing and that, at this stage, he supported Alternative 1.

Francis McDermott, Esquire, Hunton & Williams, representing Nextel Communications, affirmed that each carrier had different technology and needs. He pointed out that the need for these facilities and infrastructure was driven predominantly by the private citizen user and to a lesser degree by private and high-technology businesses. Mr. McDermott believed that the worst message one could send to high-technology industries was that their technology was not wanted in Fairfax County. He conceded that concerns over the facilities' heights and locations were legitimate and that the expansion into the more western part of the County was due to the greater demand from those areas. Mr. McDermott explained Nextel's typical testing procedures and the importance of interrelation between the facilities. He pointed out that there was no other jurisdiction in the country that regulated testing facilities to the extent proposed by Alternative 2 and that it was an extreme position which would send the wrong message to technology communities that required this kind of infrastructure for their operations.

There being no further speakers, Chairman Murphy called upon staff for a closing statement.

Mr. Zook acknowledged that a good deal of citizen testimony heard tonight had expressed their desire for Alternative 1 and that staff maintained its position that some testing was desirable. He

explained that if Alternative 1 was adopted and someone were to request a temporary testing time of just a few days, staff would be in the uncomfortable position of having to deny the request because it was against the Zoning Ordinance. He conceded that he did not know how many days were the right numbers necessary for testing but a limitation of the allowed number of days needed to be determined. At this time, he said, he encouraged the Commission to consider Alternative 2, that staff suggested two days was a place to start, and that testing of less than a 24-hour period should not be regulated.

Commissioner Sell explained his understanding of the specifics of the Plan's language regarding monopoles stating that they should have no adverse impact on the surrounding residential neighborhoods. He added that if a provider wanted to place a facility, they had to prove that it would not be obtrusive to its surroundings and that the Plan was clearly written to protect peoples' rights and should be strictly adhered to.

Ms. Gwinn responded to questions from Commissioner Harsel regarding Alternative 2 being subject to denial by the Zoning Administrator and what the current filing fee for temporary special permits was.

There being no further questions or comment from the Commission, Chairman Murphy closed the public hearing and recognized Commissioner Sell for action on the case. (Verbatim excerpts are in the date file.)

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Commissioner Sell MOVED THAT THE PLANNING COMMISSION DEFER DECISION ONLY ON THE ZONING ORDINANCE AMENDMENT, GROUP 8, SPECIAL PERMIT USE OF TEMPORARY, MOBILE AND LAND BASED TELECOMMUNICATIONS TESTING FACILITIES, TO A DATE CERTAIN OF OCTOBER 26, 1995.

Commissioner Byers seconded the motion which carried unanimously with Commissioner Hartwell absent from the meeting.

Commissioner Sell requested that staff prepare a statement which identified and clarified what the industry considered as temporary testing and the types of equipment used for performing testing to be submitted to the Commission at least one week before the decision date. Mr. Zook affirmed that it would be done.

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The meeting was adjourned at 11:30 p.m.
Peter F. Murphy, Jr., Chairman
Suzanne F. Harsel, Secretary

For a verbatim record of the meeting, reference may be made to the audio and video recordings which can be found in the Office of the Planning Commission of Fairfax County, Virginia.

Minutes by: Paula A. McFarland

Approved on: March 6, 1997

Mary A. Pascoe, Clerk to the
Fairfax County Planning Commission