

**MINUTES OF
PLANNING COMMISSION MEETING
NOVEMBER 8, 1995**

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

ABSENT: Judith W. Downer, Dranesville District
Carl L Sell, Jr., Lee District

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The meeting was called to order at 8:35 p.m. by Chairman Peter F. Murphy, Jr.

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COMMISSION MATTERS

Chairman Murphy congratulated the winners in Tuesday's elections for the Fairfax County Board of Supervisors: Chairman Hanley, and Supervisors McConnell, Frey, Dix, Connolly, Hyland, and Bulova who were re-elected and new Supervisors-elect Penelope Gross, Mason, Stuart Mendelsohn, Dranesville, and Dana Kauffman, Lee. He commended Commissioner Sell on his campaign for the Lee District seat and wished him the best in the future.

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Commissioner Murphy announced his intention to defer 456-S95-30, Voyten and Associates, Inc., scheduled for public hearing on November 9, 1995, to an undetermined date. He noted that an exact date would be set at tomorrow's meeting.

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In the absence of Commissioner Downer, Chairman Murphy MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING ON SEA-87-D-084, STANLEY MARTIN COMPANIES, INC., TO A DATE CERTAIN OF NOVEMBER 29, 1995.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Downer and Sell absent from the meeting.

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Commissioner Coan announced his intention to defer RZ-95-P-030, Edgemoore Homes, L.L.C., scheduled for public hearing on November 9, 1995, to a date certain of November 30, 1995.

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Commissioner Byers, Chairman of the Policy and Procedures Committee, noted that the Commission had recently completed its review of the 1996 Policy Review Year Work Program for amendments to the Comprehensive Plan, as well as the Citizen's Guide for that process. He added that those documents were in the Commissioners' packets tonight and asked that they be reviewed with the intention of taking action next Wednesday, November 15, 1995.

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Commissioner Thomas, Chairman of the Dulles Airport Noise Contours Study Committee, announced that the next meeting of that Committee would take place on Wednesday, November 29, 1995 at 7:00 p.m. He noted that the public was invited.

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At the request of the applicant, Commissioner Hall MOVED THAT RZ-95-M-038 AND SEA-84-M-082, JAE SOOK CHANG, BE DEFERRED TO A DATE CERTAIN OF FEBRUARY 15, 1996.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Downer and Sell absent from the meeting.

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Due to a potential change in the location of the proposed facility, Commissioner Palatiello MOVED THAT 456-H95-27, AMERICAN PERSONAL COMMUNICATIONS, BE DEFERRED INDEFINITELY.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Downer and Sell absent from the meeting.

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Chairman Murphy referred to a recently received memorandum concerning the Board of Supervisors' policy regarding submission of affidavits for land use cases. He suggested that the policy should be reviewed by the Planning Commission's Policy and Procedures Committee with

the possibility of a revision to the Commission's Bylaws. Commissioner Byers concurred and requested that staff provide all Committee members with a copy of that document.

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SE-94-M-010 – MAHMOUD MOIN-AMIN (Decision Only)

(The public hearing on this application was held on September 27, 1995. A complete verbatim transcript of the decision made this evening is in the date file.)

Commissioner Hall MOVED TO RECOMMEND TO THE BOARD OF SUPERVISORS THAT WE RECOMMEND APPROVAL OF SE-94-M-010, SUBJECT TO THE REVISED DEVELOPMENT CONDITIONS DATED SEPTEMBER 27, 1995.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Downer and Sell absent from the meeting.

Commissioner Hall MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF THE SERVICE DRIVE.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Downer and Sell absent from the meeting.

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ORDER OF THE AGENDA ITEMS

Secretary Harsel established the following order for the agenda items:

1. RZ-94-Y-056 – Darrell H. Hildreth
2. SEA-89-C-047 – JEM II, L.L.C.

This order was accepted without objection.

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RZ-94-Y-056 – DARRELL H. HILDRETH – Appl. to rezone approx. 3.03 ac. located on the N. side of Poplar Tree Rd. approx. 100 ft. E of its intersection with Orr Dr. from R-1 & WS to R-3 & WS to permit residential development at a density of 1.98 du/ac. Comp. Plan rec: 2-3 du/ac. Tax Map 44-2((1))12 & 12A. SULLY DISTRICT. PUBLIC HEARING.

Robert A. Lawrence, Esquire, Hazel and Thomas, reaffirmed the affidavit dated October 10, 1995. There were no disclosures by Commission members.

Ms. Denise James, Zoning Evaluation Division, Office of Comprehensive Planning, presented the staff report, a copy of which is in the date file. She noted that staff recommended denial of the application because of consolidation, design, and compatibility issues.

Mr. Lawrence noted that the density requested had been reduced to 1.98 dwelling units per acre, which was below the planned density, to accommodate the extension of Smallwood Court bisecting the site. He said the consolidation suggested by staff was impossible because the adjoining property owner (Lot 13) steadfastly refused to sell her land, in whole or part. He commented on the surrounding zoning and maintained that the lot configuration and design were compatible. Regarding the dedication of land for a maintenance road requested by staff for a possible future stormwater retention pond, he stated that the applicant declined to offer such an easement at the request of citizens in the area who felt that existence of such a dedication might influence the decision regarding the exact location of the proposed pond.

In response to a question from Commissioner Koch, Mr. Lawrence said that access was available to Lot 13 and that it could be developed separately.

In response to a question from Commissioner Byers, Mr. Lawrence explained that the two lots north of Smallwood Court on the subject property were not pipestems, but would share a common driveway in order to preserve as many trees as possible. He said it was unlikely that parcel 13 would be able to develop as two lots because of its narrowness.

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

Mr. Joseph Stuart, 3616 Smallwood Court, Chantilly, spoke in opposition to the application. He said that children in the area played on Smallwood Court, which was currently a dead end street, and that he was concerned for their safety during the construction process and after the street was opened to the new development. He concurred with the objections raised by staff.

In response to a question from Commissioner Byers, Mr. Stuart explained that children played in the street because the public park nearby was heavily wooded and unsafe. He reiterated his concern for the children's safety during construction.

In response to inquiries from Commissioner Harsel, Mr. Stuart pointed out the small stream that ran behind his house and on the subject property. He added that a regional stormwater management pond in the area would create further safety problems.

Ms. Valerie Tucker, Department of Public Works, and Ms. James responded to further questions from Commissioner Harsel regarding the regional pond and the stream.

Commissioner Coan and Mr. Stuart discussed the location options for children to play. Mr. Stuart maintained that the street was the only open play area. Commissioner Coan maintained that streets were not safe play areas.

In response to a question from Commissioner Harsel, Mr. Stuart acknowledged that he was aware of the plans for Smallwood Court to be extended when he bought his house.

Commissioner Hall and Mr. Stuart discussed his objections to construction traffic coming through the neighborhood.

There being no further speakers, Chairman Murphy called upon Mr. Lawrence for rebuttal.

Mr. Lawrence, in regard to the construction traffic issue, said that an existing driveway on Poplar Tree Road could be used as an access point for construction vehicles during part of the project, but that some traffic would have to use Smallwood Court to extend that road and that the applicant was willing to proffer to that arrangement. He pointed out that the only way to improve the lot layout would be to consolidate with Lot 13 which, as he previously explained, was impossible. He reiterated that there was no floodplain or resource protection area on the site and that the small stream would be piped.

Commissioner Harsel and Mr. Lawrence discussed lot sizes and density. Mr. Lawrence pointed out that the lot sizes proposed were compatible with the surrounding area.

In response to a question from Commissioner Koch, Mr. Lawrence confirmed that he would revise the proffers to include the reference to construction traffic before the public hearing before the Board of Supervisors.

There being no further questions and Ms. James having no closing staff comments, Chairman Murphy closed the public hearing and recognized Commissioner Koch for action on this case. (Verbatim excerpts are in the date file.)

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Commissioner Koch MOVED THAT WE RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ-94-Y-056, SUBJECT TO THE EXECUTION OF THE PROFFERS DATED OCTOBER 2, 1995.

Commissioner Byers seconded the motion which carried unanimously with Commissioners Downer and Sell absent from the meeting.

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SEA-89-C-047 – JEM II, L.L.C. – Appl. under Sec. 4-604 of the Zoning Ord. to amend SE-89-C-047 for a drive-in bank to permit a fast food restaurant with a drive-through window & delete the drive-in bank use on property located on the E. side of Centreville Rd., approx. 250 ft. S. of its intersection with Lawyers Rd. on approx. 41,200 sq. ft. of land zoned C-6. Tax Map 25-3((1))pt.23A. SULLY DISTRICT. PUBLIC HEARING.

Lynne Strobel, Esquire, Walsh, Colucci, Stackhouse, Emrich and Lubeley, reaffirmed the affidavit dated June 13, 1995. There were no disclosures by Commission members.

Ms. Julie Schilling, Zoning Evaluation Division, Office of Comprehensive Planning, presented the staff report, a copy of which is in the date file. She added that staff had distributed revised development conditions dated today and recommended approval of the application.

In response to a question from Commissioner Palatiello, Ms. Schilling stated that the fact that a school would be built nearby did not affect staff's position.

Ms. Strobel explained that the subject property was part of the McLearen Square Shopping Center, that it had previously been approved for a bank with a drive-in window, and that the applicant was now requesting approval of a fast food restaurant with a drive-in window. She noted that the Sully District Council had no objection to the application and had met with the Highland Mews Homeowners Association. She stated that the applicant concurred with the revised proposed development conditions.

In response to a question from Commissioner Koch, Ms. Strobel said it was her understanding that the residents of Highland Mews had some concerns regarding the shopping center which were unrelated to the subject application.

Chairman Murphy called for speakers from the audience.

Ms. Connie Mueller, 3093 McGrane Court, Herndon, representing the Highland Mews Homeowners Association, expressed concern about other uses in the shopping center and unfulfilled proffers from the original rezoning. She felt that the subject application should be deferred until these unresolved issues were settled. She further expressed concern that only a few homeowners in Highland Mews received legal notices of this public hearing.

Chairman Murphy explained that the notification process followed by applicants was reviewed by Planning Commission staff to assure compliance with State Code requirements. He also explained the process in the Office of Comprehensive Planning (OCP) which resulted in the staff report presented to the Commission.

Commissioner Koch thanked Ms. Mueller for her testimony, but pointed out that the issues she raised were not relevant to the application before the Commission tonight. He explained that the Commission could not legally withhold approval of the application because of other problems the homeowners were experiencing. He suggested that she contact the Zoning Enforcement Branch of OCP.

In response to a question from Commissioner Palatiello regarding a traffic issue raised in a letter from Milton and Thelma Radesky, a copy of which is in the date file, Mr. Dennis Egan, 13597 Kristen Place, Herndon, explained that upon contacting Supervisor Frey's office, he had discovered that funds had been escrowed for installation of a traffic signal at the entrance to Highland Mews, thereby resolving this issue.

In response to a question from Commissioner Hall, Mr. Egan stated that the homeowners had spoken with Mr. Jacobson, a representative of the shopping center's management, regarding their concerns, but had not contacted the County.

In reply to a question from Commissioner Coan, Mr. Egan said that it was his understanding that Food Lion was the property owner. Ms. Schilling confirmed that information.

There being no further speakers, Chairman Murphy called upon Ms. Strobel for rebuttal.

Ms. Strobel referred to the development plan for the entire shopping center and identified the approved special exception uses, building by building.

In response to questions from Commissioner Harsel, Ms. Strobel stated that the applicant had reduced the scope of the shopping center since the approval of the original rezoning in 1981 and that the special exception plat in the front of the staff report, which showed fewer buildings than the plan submitted with the rezoning, was the most accurate depiction of the center.

Ms. Schilling confirmed that the plat in the front of the staff report was the one approved with SE-89-C-047. Ms. Strobel and Commissioner Harsel discussed the other uses proposed in the shopping center.

In response to a question from Commissioner Koch, Ms. Strobel confirmed that the bonds for the project were still in effect. Chairman Murphy, Ms. Strobel, and Ms. Schilling discussed the proffers associated with the rezoning.

In reply to Commissioner Byers' question, Ms. Strobel explained that landscaping was not shown on the plan depicting the entire shopping center, but was on the smaller special exception plat for the subject property.

Chairman Murphy and Commissioner Harsel briefly discussed the landscaping and berm issue raised by Ms. Mueller.

Commissioner Koch announced his intention to defer decision on this application to allow time for the applicant and the citizens to resolve any outstanding issues.

There being no further questions and Ms. Schilling having no closing staff comments, Chairman Murphy closed the public hearing and recognized Commissioner Koch for a deferral motion. (Verbatim excerpts are in the date file.)

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Commissioner Koch MOVED THAT WE DEFER, FOR DECISION ONLY, LEAVING THE RECORD OPEN FOR WRITTEN COMMENT, SEA-89-C-047 TO NOVEMBER 29, 1995.

Commissioners Byers and Hartwell seconded the motion which carried unanimously with Commissioners Downer and Sell absent from the meeting.

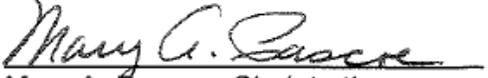
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The meeting was adjourned at 10:15 p.m.
Peter F. Murphy, Jr., Chairman
Suzanne F. Harsel, Secretary

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

Minutes by: Gloria L. Watkins

Approved on: April 16, 1997


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