

**MINUTES OF
PLANNING COMMISSION MEETING
NOVEMBER 19, 1992**

PRESENT: Lawrence C. Baldwin, Commissioner At-Large
David P. Bobzien, Centreville District
John R. Byers, Mount Vernon District
Patrick M. Hanlon, Providence District
Suzanne F. Harsel, Braddock District
Stephen J. Hubbard, Dranesville District
Maya A. Huber, Commissioner At-Large
Ronald W. Koch, Sully District
Peter F. Murphy, Jr., Springfield District
Henry E. Strickland, Mason District

ABSENT: Carl L. Sell, Jr., Lee District
Alvin L. Thomas, Commissioner At-Large

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

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COMMISSION MATTERS

Commissioner Harsel announced that the decision only on SE-91-B-056, Exxon Corporation, would be on December 3, 1992.

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Commissioner Harsel also announced her intent to defer the public hearing on SE-85-B-082, Exxon Corporation, presently scheduled for December 3, 1992, to a date to be determined.

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Commissioner Hubbard announced his intent to take action on a "feature shown" determination for the Dead Run Sewer Force Main Replacement on December 2, 1992.

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Chairman Murphy called attention to RZ-92-P-020 and SE-92-P-032, Lynden Enterprises, Inc. scheduled for public hearing this evening. In Commissioner Hanlon's temporary absence, Chairman Murphy MOVED THAT WE DEFER THE PUBLIC HEARING ON THOSE TWO APPLICATIONS TO A DATE CERTAIN OF DECEMBER 16, 1992.

Commissioner Byers seconded the motion which passed unanimously with Commissioner Hanlon not present for the vote; Commissioners Sell and Thomas absent from the meeting.

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Commissioner Bobzien noted that the Commission had received on Wednesday, November 18, 1992, from Mr. Irving Birmingham, Director, Department of Environmental Management, Subdivision Plan 8358-SD-01 submitted by Reston Land Corporation. He then MOVED THAT WE RECOMMEND TO THE DIRECTOR OF DEM THAT HE APPROVE SUBDIVISION PLAN 8358-SD-01.

Commissioners Huber and Koch seconded the motion which passed unanimously with Commissioner Hubbard not present for the vote; Commissioners Sell and Thomas absent from the meeting.

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RZ-89-D-060 - ALAN I. KAY
FDP-89-D-060 - ALAN I. KAY

(Decision-only) (The public hearing on this application was held on November 5, 1992. A complete verbatim transcript of the decision made on this item is included in the date file.)

Commissioner Hubbard MOVED THAT RZ-89-D-060 AND FDP-89-D-060, ALAN KAY, BE TAKEN OFF THE TABLE.

Commissioner Huber seconded the motion which passed unanimously with Commissioners Sell and Thomas absent from the meeting.

Commissioner Hubbard MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT RZ-89-D-060 BE DENIED.

Commissioner Byers seconded the motion which passed unanimously with Commissioners Sell and Thomas absent from the meeting.

Commissioner Hubbard MOVED TO DENY FDP-89-D-060.

Commissioner Byers seconded the motion which passed unanimously with Commissioners Sell and Thomas absent from the meeting.

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ORDER OF THE AGENDA

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

1. SE-92-V-034 - Mt. Vernon Ladies Association of the Union
2. Zoning Ordinance Amendment (Site Plan Approval, Revisions, Extensions, & Appeals)
3. S92-CW-3CP - Out-Of-Turn Plan Amendment
Zoning Ordinance Amendment (Mobile and Land Based Telecommunications Facilities)

This order was accepted without objection.

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SE-92-V-034 - MT. VERNON LADIES ASSOCIATION OF THE UNION - Appl. under Sects. 2-904 & 9-601 of the Zoning Ord. to permit uses in a floodplain for an agricultural exhibition in Mt. Vernon on property located on the grounds of Mt. Vernon on approx. 8.54 ac. zoned R-2. Tax Maps 110-2((1)) pt.12; 110-4((1)) pt.3A. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Sarah Reifsnyder, Esquire, Keith and Blankingship, reaffirmed the affidavit. There were no disclosures by Commission members.

Ms. Mary Ann Godfrey, Zoning Evaluation Division (ZED), Office of Comprehensive Planning (OCP), presented the staff report, a copy of which is contained in the date file. Ms. Godfrey indicated that staff had determined the proposed use was in harmony with the Comprehensive Plan and met the applicable Zoning Ordinance requirements; therefore, staff recommended approval of the application, subject to revised development conditions dated November 19, 1992. Ms. Godfrey said that staff also supported the waiver of on-site detention.

During Chairman Murphy's temporary absence, Vice Chairman Hanlon called on Ms. Reifsnyder for her presentation.

Ms. Reifsnyder said that no clearing would be required for the exhibit and the additional fill would have a minimal environmental impact. She said that staff had made suggestions for mitigating the impact which were incorporated into the application. Ms. Reifsnyder also said that the application had been approved by the Army Corp of Engineers, the Fish and Wildlife Service, the Fairfax County Wetlands Board, and the Virginia Department of Historic Resources. She then urged that the application be approved.

Chairman Murphy resumed the Chair at this time.

Ms. Reifsnyder, in responding to Commissioner Byers' question, said that the applicant would meet the flood proofing criteria imposed by the State of Virginia in the Building Code.

Chairman Murphy called the only listed speaker and outlined the Planning Commission's rules for speakers.

Dr. Charles Schulte, 3414 Wessynton Way, Alexandria, said that in 1977 the owner of the development had entered into a lease agreement with the County and money had been put into escrow by Miller & Smith Developers of Wessynton to close the end of Wessynton Way and properly drain water from Wessynton Way to the property to the west. He added that it had been planned that there would be easements across The Ladies of Mount Vernon property into the floodplain to carry away the water. Dr. Schulte said that the proper easements had not been provided to carry away the stormwater and would have to be done at County expense.

Ms. Diane Donley, 3508 Riverwood Road, Alexandria, had several concerns regarding the circular barn proposed for the application, (See letter submitted in date file.) Ms. Donley said that the Commission did not have sufficient information to know at this time what impact the barn and its related facilities would have on the adjacent housing.

There being no further speakers, Chairman Murphy called upon Ms. Reifsnyder for a rebuttal statement.

Ms. Reifsnyder said that the applicant had renegotiated a new easement which had been signed by the Ladies Association in August to take care of the stormwater drainage problem. Ms. Reifsnyder said that the applicant had notified everyone living along the perimeter of the 500 acres of Mount Vernon.

Ms. Godfrey had no closing staff comments.

In responding to Commissioner Hanlon's question, Ms. Godfrey said that given the location of the special exception area, within the Mount Vernon property, the barn would be 100 feet from the special exception area and another considerable distance from the neighborhood, noise was not considered as an issue. She added that there would be oxen or cattle in the treading barn and would not be a noisy exhibit. Ms. Godfrey said that the animals would be brought to the fields and treading barn for exhibit purposes but would not be housed in that area. She said that staff did not feel that they were issues.

Ms. Godfrey, in response to Commissioner Huber's question, said that the property would be sewerred.

There being no further questions or comments, Chairman Murphy closed the public hearing and recognized Commissioner Byers for action on the case. (A verbatim excerpt is contained in the date file.)

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Commissioner Byers MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SE-92-V-034, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED NOVEMBER 19, 1992.

Commissioner Bobzien seconded the motion which passed unanimously with Commissioner Hubbard not present for the vote; Commissioners Sell and Thomas absent from the meeting.

Commissioner Byers also MOVED THAT THE PLANNING COMMISSION RECOMMEND THE BOARD OF SUPERVISORS DIRECT THE DIRECTOR OF DEM TO WAIVE THE REQUIREMENT FOR ON-SITE STORMWATER DETENTION.

Commissioners Bobzien and Hanlon seconded the motion which passed by a vote of 9-0-1 with Commissioner Hubbard abstaining; Commissioners Sell and Thomas absent from the meeting.

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ZONING ORDINANCE AMENDMENT (Site Plan Approval, Revisions, Extensions, & Appeals) - On the matter of an amendment to Chapt. 112, the Zoning Ord. of the 1976 Code of the County of Fairfax, as follows: Amend Article 17 to revise the provisions regarding site plan approvals, revisions & extensions, & to delete Sect. 17-110, Appeals; amend Article 13 to delete Sect. 13-107, Appeals; amend Article 18 to delete Para. 4 of Sect. 18-603, regarding a ten-day wait period for the issuance of building permits. PUBLIC HEARING.

Ms. Suellen Stewart, Zoning Administration Division, Office of Comprehensive Planning, presented the staff report, a copy of which is contained in the date file. She said that the proposed amendment incorporated mandatory *State Code* revisions, and simplified and clarified the Zoning Ordinance provisions governing site plan approvals, revisions, and extensions. She emphasized that the deletion of provisions did not eliminate the right to appeal provided for under State law, but was intended to eliminate a separate appeal process not expressly authorized by State law.

Ms. Karen Harwood, Assistant County Attorney, said that she was in Richmond for the General Assembly Session when this was discussed. She said that the rationale for the legislation was due to the economy and the way it had drawn development to a halt. She commented that the General Assembly felt that since there were developments with approved site plans, this legislation would give an assurance to developers, who had an approved site plan or would be coming on line with an approved site plan, that it would be valid for a specified period of time (six years).

In response to Commissioner Huber's question on bonding, Mr. John Winfield, Department of Environmental Management (DEM), said that he did not know whether the developer could get a six-year bond from a financial institution. He added that if the bond was in default a building permit would not be issued. Mr. Winfield also said that every time the bond was extended it would be updated to the current bond values.

There being no further questions of staff, Chairman Murphy called for speakers.

Mr. Thomas D. Fleury, 1600 Anderson Road, McLean, represented West*Group and endorsed the Zoning Ordinance Amendment. (See position statement in date file.) He also encouraged staff to expedite amendments to the Subdivision Ordinance, the Zoning Ordinance, and the Public Facilities Manual to address subdivision plats and preliminary plans.

Chairman Murphy called on Mr. Winfield for closing staff comments.

Mr. Winfield said that DEM was following up on Subdivision Ordinance changes to address the State mandates.

Ms. Stewart clarified, in response to Commissioner Hanlon's previous question, that the deletion of the ten day wait waiver would be discretionary.

In response to Commissioner Huber's questions regarding appeals, Ms. Harwood said that the appeal provisions set forth in the *Virginia Code* remain unchanged from the last General Assembly session. She noted that there were three avenues for appeal under the *Virginia Code*, Section 15.1-496.1: to appeal to the BZA; Section 15.1-475 for landowners to appeal to the Circuit Court; and Section 15.1-499 for an injunction. Ms. Harwood said that the amendment eliminated the appeal process to the Planning Commission.

Chairman Murphy closed the public hearing and recognized Commissioner Huber for action on the case. (Verbatim excerpts are contained in the date file.)

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Commissioner Huber MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS ADOPTION OF AMENDMENTS TO ARTICLES 13, 17 AND 18 OF THE ZONING ORDINANCE AS DETAILED IN STAFF REPORT DATED OCTOBER 19, 1992, WITH THE ADDITION OF THE LAST SENTENCE TO THE OPENING PARAGRAPH OF 17-110, AS HANDED OUT BY MS. STEWART EARLIER TONIGHT.

Commissioner Hubbard seconded the motion which passed by a vote of 6-2-1 with Commissioners Baldwin and Huber opposed; Commissioner Harsel abstaining; Commissioner Bobzien not present for the vote; Commissioners Sell and Thomas absent from the meeting.

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The Commission recessed at 10:10 p.m. and reconvened at 10:25 p.m.

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S92-CW-3CP - OUT-OF-TURN PLAN AMENDMENT
ZONING ORDINANCE AMENDMENT (Mobile and Land
Based Telecommunication Facilities)

November 19, 1992

S92-CW-3CP - OUT-OF-TURN PLAN AMENDMENT - To consider proposed revisions to The Adopted Comprehensive Plan for Fairfax County, VA, in accordance with the *Code of Virginia*, Title 15.1, Chapt. 11, to provide guidance for locating & establishing mobile & land based telecommunication facilities in the County. This Plan Amendment will add language to the Public Facilities element of the County's Policy Plan & create the framework for evaluating the appropriate location, character, & extent of such facilities under the County's Section 15.1-456 review process.

ZONING ORDINANCE AMENDMENT (Mobile and Land Based Telecommunication Facilities) - On the matter of an amendment to Chapt. 112, the Zoning Ord. of the 1976 Code of the County of Fairfax, as follows: Amend Articles 2, 3, 4, 5, 6, 8, 9, 12, & 20 to establish new terms & definitions for telecommunication uses, to establish new regulations for mobile & land based telecommunications facilities as permitted use & special exception use in residential, commercial, industrial & planned development districts, to establish a new temporary special permit use of temporary testing facilities for mobile & land based telecommunication facilities, & to clarify the existing provisions regarding structures excluded from the maximum height limitations, radio, & television facilities & signs on monopoles.
JOINT PUBLIC HEARING.

Mr. Michael Congleton, Deputy Zoning Administrator, Zoning Administration Division, Office of Comprehensive Planning (OCP), presented the staff report, a copy of which is contained in the date file. Mr. Congleton said that the advertised Plan amendment proposed to establish additional guidance for determining the appropriate location, character, and extent for telecommunication cellular facilities. He added that the proposal would also provide that cellular telecommunication facilities such as antennas for mobile telephone and radio uses, when located on existing structures or rooftops, may be deemed a "feature shown" on the Comprehensive Plan. Mr. Congleton said that the proposed Zoning Ordinance Amendment established new standards for the location of the types of cellular telecommunication facilities, when rooftop or structure mounted or free standing on a tower or monopole. He noted that in the commercial and industrial districts the uses were not subject to the maximum height limitations of the zoning district. In a residential district, the uses would require special exception approval by the Board of Supervisors. Mr. Congleton said that the amendment had been closely coordinated with the representatives of the cellular industry as well as Fairfax County's Division of Communications, and that staff recommended approval.

Chairman Murphy called the first listed speaker.

S92-CW-3CP - OUT-OF-TURN PLAN AMENDMENT
ZONING ORDINANCE AMENDMENT (Mobile and Land
Based Telecommunication Facilities)

November 19, 1992

Mr. Thomas Fleury, 1600 Anderson Road, McLean, represented West*Group. He said that after discussing his concerns with staff, the Department of Communications, Bell Atlantic and Cellular One representatives, he had all the information he needed.

Chairman Murphy called for speakers from the audience.

Frank Stearns, Esquire, Wilkes, Artis, Hedrick & Lane, P.C., represented Bell Atlantic Mobile Systems in support of the application. He quoted articles from various newspapers in support of cellular telephones. Mr. Stearns said that there would not be any danger from energy radiating from any of the sites. He noted that timing was critical when the need arose for another site and urged the Commission to accept staff's recommendation.

James Michal, Esquire, represented Cellular One and echoed the remarks of Mr. Stearns. Mr. Michal proposed a new Item #3 under the proposed Section 2.514, which would be subject to the same limitations that would apply to monopoles under Item #2. (See proposal in date file.)

In response to Chairman Murphy's question on why an SE would be required, Mr. Congleton said that staff had worked very closely with industry in the preparation of the amendment and this was the only area where they had agreed to disagree. He added that staff felt with the expansion in the number of locations where the facilities would be permitted by right, including multiple-family dwellings in residential districts on public use sites, the by-right erection of towers in commercial and industrial districts might not be appropriate. He noted that it would not preclude any applicant from getting a special exception for a tower and that in many circumstances a monopole would suffice. He also noted that staff felt that due to the special impacts that may arise with the establishment of a tower, that a special exception review was appropriate.

Chairman Murphy called on Mr. James Zook, Director, OCP, for closing comments.

Mr. Zook suggested that on page 8, policy f, change the second sentence to read: "In circumstances which may be appropriate and when all Zoning Ordinance requirements are met, consider approving such antennas and their related unmanned equipment buildings as a 'feature shown' of the Comprehensive Plan."

Mr. Congleton noted that for purposes of clarity a document dated 11/19/92 had been passed out this evening which had some minor revisions recommended by staff. He added that the untitled sheet handed out, page 13 of the amendment under "Definitions", staff recommended a change in the definition of mobile and land based telecommunication facility in the fourth line, to strike the word "audio" and in the same line, after "low wattage" insert the word "transmitters." He then recommended inclusion of the revisions as stated in the 11/19/92 memorandum.

Mr. David Mullet, Director, Division of Communications, said that he had worked very closely with Bell Atlantic, Cellular One, and OCP and felt comfortable that the modifications would allow them to enhance the County's public safety communications and his division was supportive of the proposed changes.

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

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Commissioner Baldwin MOVED THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE PROPOSED AMENDMENT TO THE ENERGY AND COMMUNICATIONS SERVICES SECTION OF THE PUBLIC FACILITIES ELEMENT OF THE COMPREHENSIVE PLAN AS SET FORTH BY THE STAFF REPORT DATED OCTOBER 9, 1992, MODIFIED AS FOLLOWS:

ON PAGE 13, INSERTION OF THE WORD "TRANSMITTER" FOLLOWING THE WORDS "LOW WATTAGE", AND A REVISION OF THE DEFINITION OF ANTENNA,

AND ON PAGE 14, WORD CHANGES (TO) ACCOMMODATE THE REGULATION AND LIMITATION OF THE NUMBER, TYPE AND SO ON, IN A MORE SPECIFIC MANNER.

CHANGE FOR POLICY f, PAGE 8, THE SECOND SENTENCE TO READ: "ENCOURAGE STRUCTURES OR ROOF TOP MOUNTED ANTENNAS ON BOTH PUBLIC AND PRIVATELY OWNED PROPERTIES FOR MOBILE AND LAND BASED TELECOMMUNICATION SERVICE PROVIDERS, AND IN CIRCUMSTANCES WHICH MAY BE APPROPRIATE, AND WHEN ALL ZONING ORDINANCE REQUIREMENTS ARE MET, CONSIDER APPROVING SUCH ANTENNAS AND THEIR RELATED UNMANNED EQUIPMENT BUILDINGS AS A 'FEATURE SHOWN' DETERMINATION ON THE COMPREHENSIVE PLAN."

Commissioner Byers seconded the motion which passed unanimously with Commissioner Bobzien not present for the vote; Commissioners Sell and Thomas absent from the meeting.

Commissioner Baldwin further MOVED THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE PROPOSED ZONING ORDINANCE AMENDMENT TO ARTICLES 2, 3, 4, 5, 6, 8, 9, 12, AND 20 FOR MOBILE AND LAND BASED TELECOMMUNICATION FACILITIES AS SET FORTH IN THE STAFF REPORT DATED OCTOBER 9, 1992, WITH THE RECOMMENDED REVISIONS THAT ARE DATED NOVEMBER 19, 1992.

S92-CW-3CP - OUT-OF-TURN PLAN AMENDMENT
ZONING ORDINANCE AMENDMENT (Mobile and Land
Based Telecommunication Facilities)

November 19, 1992

Commissioner Byers seconded the motion which passed unanimously with Commissioner Bobzien not present for the vote; Commissioners Sell and Thomas absent from the meeting.

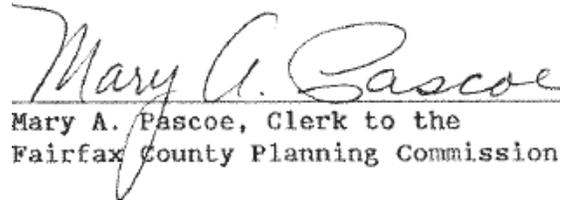
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The meeting was adjourned at 11:30 p.m.
Peter F. Murphy, Jr., Chairman
Suzanne F. Harsel, Secretary

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: Sandra L. Stever

Approved on: April 7, 1993


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