Planning Commission Meeting
April 6, 2011
Verbatim Excerpt

2232-D11-3 – METROPOLITAN WASHINGTON AIRPORTS AUTHORITY (MWAA) IN COORDINATION WITH DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION (DRPT) ON BEHALF OF WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (WMATA) (Fisher Avenue Train Control Room)

Decision Only During Commission Matters
(Public Hearing held on March 23, 2011)

Commissioner Donahue: Thank you, sir. I have a decision only tonight. Mr. Chairman, on Wednesday, March 23rd, the Planning Commission held a public hearing on application 2232-D11-3, the Fisher Avenue Train Control Room. The applicants request approval of a new location for a proposed train control room –

Chairman Murphy: Hello?

Vice Chairman Alcorn: Go ahead, please.

Commissioner Donahue: That wasn't another email or something for me, was it for this case?

Vice Chairman Alcorn: Not that we're aware of.

Commissioner Donahue: – a late opinion coming in.

Commissioner Hall: That doesn't happen often.

Commissioner Donahue: The applicants request approval of a new location for a proposed – for a proposed train control room, which will allow a relocation from its currently approved site to a site farther east along Fisher Avenue, a location more central to the residential community. For reasons I will explain, I am unable to support this application. Pursuant to *Virginia Code* Section 15.2-2232, the Commission must conclude that the location, character, and extent of the proposed new site is substantially in accord with our Fairfax County adopted Comprehensive Plan. The Comprehensive Plan specifically states that the Kirby Community Planning Sector at issue in this application is characterized by stable residential development. The predominant housing type in this well-established area is single-family detached. Most lots are complemented by mature trees and 40- to 50-foot front-yard setbacks. This application will clear all existing trees from this site and construct a 15-foot high and 1-foot thick screen wall entirely around the TCR structure, an industrial building not at all compatible or in character with existing single-family dwellings. The 15-foot high wall along the entire front and sides of the building is clearly not the kind of front-yard bordering found in this residential neighborhood or, indeed, in other residential neighborhoods in Fairfax County. As such, it is far out of character with the provision – provisions of our County's adopted Comprehensive Plan and thereby fails the character criterion. The applicant will install plantings and trees in an attempt to screen and camouflage the

wall and TCR structure but the long-term effectiveness of such plantings is uncertain and, in any event, will require years if they survive to grow to sufficient height and maturity. Mr. Chairman, as noted in the March 23rd staff report on page 5, Objective 7 of the Policy Plan of the Fairfax County Comprehensive Plan is to provide transportation facilities and services that minimize community disruption and adverse environmental impacts. Policy b. of Objective 7 requires us to plan and design transportation facilities and services to mitigate and minimize adverse impacts to residents and neighborhoods. This proposal fails the requirement to minimize and mitigate, especially given the intent to abandon an already approved site favored by residents who have studied this proposal for the last many months. Given its increased proximity to the community's more central regions, this site actually maximizes rather than minimizes adverse impacts. Further, of the seven alternatives considered by the applicant, one of which is currently approved and has been approved since 2007, this proposed site has the most severe impacts of any of the seven. It was for this reason that the McLean Citizens Association strongly urged this Commission to deny this proposal. Finally, Mr. Chairman, this proposal excessively extends this public facility use and as such is not in substantial conformance with the adopted provisions of our Comprehensive Plan. The approved site immediately adjacent to the traction power substation at the outer edge of the Brilyn Park community consolidates the facilities in one edge location. The applicant has never claimed the approved location to be unfeasible and has actually agreed on a number of occasions that the approved site can work. The proposed site extends the location of this use an additional 150 feet or so into the residential neighborhood, an extension not necessary for the facility to operate properly and effectively deliver the required service necessary for Metrorail operation. The neighborhood would be effectively encumbered by two sites stretching 200 feet or more down the block of a currently tree-lined, quiet, and stable community. This reality by itself removes the proposal from substantial compliance with the provisions of the County's adopted Comprehensive Plan. This lack of compliance and the existence of an approved and more qualified alternative require denial of this application. Mr. Chairman, for the reasons that I have stated, I conclude that the subject proposal fails to satisfy the criteria of location, character, and extent as specified in *Virginia Code* Section 15.2-2232, as amended. And therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION DENY THE PROPOSAL BY FINDING SUBJECT APPLICATION 2232-D11-3, AS AMENDED, NOT SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE COMPREHENSIVE PLAN.

Commissioner Lawrence: Second.

Chairman Murphy: Seconded by Mr. Lawrence. Is there a discussion of the motion?

Commissioner Lawrence: Mr. Chairman?

Chairman Murphy: Mr. Lawrence.

Commissioner Lawrence: Thank you, Mr. Chairman. I had expected and hoped that, after the public hearing, we would hear that a solution had been reached as to the problem of siting this –

this – this building. So far from that, it appears now that any action except that that the applicant wants will lead to delay of the project. Mr. Chairman, I feel very strongly that it is not the action of this body which may delay this project. We have a Comprehensive land use Plan. That Plan belongs to every citizen in the County; we are a million strong and growing. These people are entitled to expect the guidance of that Plan in their stable residential neighborhoods. This is a large and important project. I have no more desire than any of you, I'm sure, to delay it, but I repeat: It is not this body that is the cause of the delay. Thank you, Mr. Chairman.

Chairman Murphy: Further discussion? Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. I will not be supporting the motion and I'd like to articulate my reasons. This is a very significant 2232 application in a number of ways. It is not a perfect case by any stretch of the imagination. And I think we heard at the public hearing some of the frustration from some of the neighbors about a number of issues: the current facility and how it's maintained; or the way that this amendment has been treated from a public relations standpoint. I think I would agree that more could have been done and, probably, more should have been done early on. I frankly don't understand at this point why the applicant seems to have put all of their eggs in one basket, that they would have assumed that the amendment, or that – that this 2232 would have been approved and that there not be some contingency plan to go forward with the original approval at – at some cost to the applicant and perhaps some additional time. But it sounds like, from the material that we have received, that what will happen if this is denied is that there is going to be a nine-month delay in the Silver line and a cost to the County of $300,000 a day, which is a pretty fancy ticket item. And if – if this is really upwards of $70 million, if we denied the 2232 tonight, I guess that's for the Board of Supervisors to sort out. I don't know that this ought to have been a $72 million problem. I think that with the landscaping, the impacts are about as mitigated for the new site as they would have been at the other site, which is no prize winner either. For me, the bottom line was that in both the staff report and the addendum, our professional staff concluded that this was in accordance with the Comprehensive Plan. The relocation of the facility, as I understood it, was because of a very expensive sub-surface utility problem that wasn't known at the time of the original application, and only blossomed as the engineering progressed. We evaluated – or we were to evaluate Site Number 2 in this 2232, not necessarily decide whether there were other sites that could have been of less impact to the community or whether the first site was a better site in some respects. Our function on a 2232, when an applicant comes in, is to look at the site that's in front of us and determine yes or no, does it meet these criteria. In staff's judgment, this one does, and given all the consequences that – that flow from the denial, I would have a lot of trouble supporting the denial. That's not to say that there aren't additional things that the applicant still could do to address some of these impacts. And whether, within the context of the current approval the 15-foot wall at the beginning – at the front of the site could be mitigated in some respects, the structure itself could be shifted perhaps slightly down the hill without necessarily creating very expensive foundationing problems on the slope, or access problems because of the different level from the street, or whatever it is – there are probably - - with some additional attention to this, within the context of what's been asked for, I think some of the impacts could be further

mitigated. But this is a pretty important 2232 and we are perhaps, I think, losing sight of also the impacts to the County – the consequences, if this is denied. So I will – I will not be supporting the motion. Thank you, Mr. Chairman.

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Ms. Hall, then Mr. de la Fe, then Mr. Flanagan.

Commissioner Hall: I'm not – I will not be - - I'll be abstaining from the vote because –

Chairman Murphy: Okay.

Commissioner Hall: – I wasn't present for the hearing.

Chairman Murphy: Mr. de la Fe.

Commissioner de la Fe: Yes, Mr. Chairman, I will not be able to support the motion as made. Frankly, when I saw the – and having sat through the public hearing and seeing all of the issues that the neighbors had with the current facility, I frankly thought that putting more stuff there made it even worse than it is already – so, you know, aside from all the other stuff. However, my main reason for not supporting the motion is, frankly, the impact on the Silver line schedule. We broke ground on the Weihle Station project yesterday with the expectation that train - - a train would arrive there on – some time in 2013. According to the information that we have received now, if we deny this it will be some time well into 2014 before a train arrives at that station. So I cannot support this.

Chairman Murphy: Mr. Flanagan.

Commissioner Flanagan: Thank you, Mr. Chairman. I will be supporting the motion, and primarily because I'm restricted to considering only location, character, and extent with regard to this application. I'm not here to make judgments on financing, timetables, or any other consideration other than location, character, and extent. So consequently, I find the – Commissioner Donahue's motion very persuasive, and that's why I'm going to – have to vote in favor.

Chairman Murphy: Further discussion of the motion? Mr. Donahue, please.

Commissioner Donahue: Thank you, Mr. Chairman. Just a couple of points with respect to the comments of Commissioner Hart and Commissioner de la Fe. I would associate myself - - on the delay issue, I would associate myself with the comments of Commissioner Lawrence. The delay – the delay – to the degree there may be one, I think has to lay at the feet of the applicant. The applicant has had an approved location since January 18th, 2007, okay. So what delay has come

up, I believe, is a result of the failure of the applicant to move in a timely fashion to develop the site. I'd also like to associate myself with the comments of Commissioner Flanagan. I did note in the email that came out today, which – which we requested in Supervisor Foust's Office last Monday; we had a meeting with the applicant. There was talk about a charge of $300,000 a day; not sure whether that's accurate or how it was gotten to. But more importantly to me, there was talk about the County bearing that cost of $300,000 a day. And for the best of me, I'm not a practicing attorney anyway, I don't know how that cost ends up getting paid by the County. Supervisor Foust was also concerned about the statement, called the County Attorney, and the County Attorney also doesn't know how that cost ends up getting charged to the County. So I'm not sure how legitimate an issue that is. Or at least I shouldn't say it that way. I'm not sure it is firmly decided that the County would pick up that cost. I guess that's all I have to say right now. Thank you.

Chairman Murphy: Further discussion? All right. All those in favor of the motion to deny 2232-D11-3, say aye.

Commissioners Donahue, Flanagan, Lawrence, Litzenberger, Migliaccio, and Murphy: Aye.

Chairman Murphy: Opposed?

Commissioners de la Fe, Hart, and Sargeant: No.

Commissioners Alcorn and Hall: Abstain, not present for the public hearing.

Chairman Murphy: The motion carries; Mr. Hart, Mr. de la Fe, and Mr. Sargeant vote no. Ms. Hall and Mr. Alcorn abstain.

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(The motion carried by a vote of 6-3-2, with Commissioners de la Fe, Hart, and Sargeant opposed; Commissioners Alcorn and Hall abstaining; Commissioner Harsel absent from the meeting.)

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