Planning Commission Meeting
April 15, 2009
Verbatim Excerpt

S09-IV-LP1 – OUT-OF-TURN PLAN AMENDMENT (SOUTH COUNTY MIDDLE SCHOOL)

After Close of the Public Hearing

Vice Chairman Alcorn: The public hearing is closed; recognize Commissioner Flanagan.

Commissioner Flanagan: First of all Mr. Chairman, I would like to note that I have had emails from various members of the community that I would like to make part of the record. They are basically letters from the Crosspointe Swim Club President and Mr. Hudson from the Mason Neck Citizens Association as well, plus those two that I previously noted from the Newington Forest Community. And also note that in spite of our concerns here this evening, this has been one of the most pleasant thorny problems that I've ever had the opportunity to participate in. And it's primarily due to the people that you see here tonight from the community. The Land Use Committee of the Lorton Federation has been a pleasure to work with, and staff has also been very helpful in that regard. Leanna and other members of the staff had come out and met with the committee, and we've talked about all these things, and worked them through. At first I didn't think there was going to be any possibility of any language that the community would support. And so we finally have got some language that they will support, and I feel very fortunate to have had good advice from the community, good advice from the staff. My understanding is that Fred Selden – this was sent up to Fred Selden as to whether this was appropriate text and even he indicated that this was appropriate, that one size doesn't always fit all. And so consequently as staff indicated, the amendment would modify the Plan language for Tax Map parcels 98-3 ((1)) 25 and a portion of Tax Map parcel 107-3 ((1)) 19 to facilitate a land exchange between the Fairfax County Public Schools and the Fairfax County Park Authority to develop the South County Middle School. The language distributed this evening with my motion dated April 15, 2009, includes a minor change to the staff recommendation that will ensure public input during future Park Master Planning processes, particularly regarding light and noise. My proposed change is noted in bold italics on page 3. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE ADOPTION OF A PLANNING COMMISSION ALTERNATIVE TO THE STAFF RECOMMENDATION FOR PLAN AMENDMENT S09-IV-LP1, AS SHOWN ON TONIGHT'S HANDOUT.

Commissioner Sargeant: Second.

Vice Chairman Alcorn: Seconded by Commissioner Sargeant. Any discussion?

Commissioner de la Fe: Mr. Chairman?

Vice Chairman Alcorn: Mr. de la Fe.

Commissioner de la Fe: Mr. Chairman, as I said during the discussion earlier, I am very concerned about the language that is being introduced tonight as it affects the Park Authority's

Master Planning process and the unenforceability, legally, of the term "shall;" however, this is a very important action that we need to take and it is unfortunate that we have had to have this kind of distraction to what is a very necessary action. So I will not oppose the motion for the land swap and I will support it because I think it's very important, but I do so despite this rather unnecessary language.

Vice Chairman Alcorn: Commissioner Hall.

Commissioner Hall: I have a real problem with, you know, the "shall" and the "will" and the "should" and the "maybe" and etcetera. And I think it's inappropriate to include this language; that's number one. But to take it in a different direction for something that the community may want to think about is, is this the only place where you say that the community shall have input on any proposed – proposal to light athletic fields as part of the Park Authority's Master Planning process? So that means that the Park Authority doesn't have to ask them about anything else. Is that what you're saying?

Vice Chairman Alcorn: Commissioner Flanagan.

Commissioner Flanagan: I believe that it says that it just assures, it says, "When planning the park process the following considerations should be satisfied." This is one –

Commissioner Hall: Where are you?

Commissioner Flanagan: On page 3, just before the text that you're referring to.

Commissioner Hall: Okay. Go ahead.

Commissioner Flanagan: The last sentence says, "When planning the park uses, the following considerations should be satisfied." In other words, it indicates this is one of those that should be satisfied.

Commissioner Hall: No, but I would think that would be limited to anything that's in – I'm not a lawyer, but lord knows there's a few of them here tonight. But I am not convinced that that ties in there. And I think to put something like this, even when you're using the word "shall," is to limit what the community is going to have input. We have a process in place. The process is: We have a Comprehensive Plan, and the Comprehensive Plan has a process for public input. Likewise, after a few debacles many years ago, the Park Authority goes out of its way to make sure they have a public hearing. I can't imagine in my wildest dreams that anybody – that it could happen that lighted athletic fields would not have public input. That just is not going to happen. And I think it's inappropriate to put the word "shall" there and I will not support it if it stays.

Vice Chairman Alcorn: Commissioner Hart.

Commissioner Hart: Thank you, Mr. Chairman, I MOVE TO AMEND THE MOTION AS FOLLOWS:

- ON PAGE THREE, DELETE THE TWO LINES THAT ARE IN THE BULLET that's the first one that's indented THAT ARE IN ITALICS THAT SAYS: "THE COMMUNITY SHALL, ETCETERA. Just delete those two lines and leave everything else the way it is in Commissioner Flanagan's handout. JUST TAKE OUT THOSE TWO LINES. That's my motion.

Vice Chairman Alcorn: That amendment's been made. Is there a second?

Commissioner de la Fe: I would second that.

Vice Chairman Alcorn: Seconded by Commissioner de la Fe. Okay. Any discussion on the amendment?

Commissioner Sargeant: Mr. Chairman?

Vice Chairman Alcorn: Mr. Sargeant, followed by Mr. Flanagan.

Commissioner Hart: It was my –

Vice Chairman Alcorn: Actually, Mr. Hart first and then Mr. Sargeant.

Commissioner Sargeant: Oh, go ahead.

Vice Chairman Alcorn: We don't do many amendments.

Commissioner Hart: I know we don't and we don't usually try and draft while we're on verbatim, but I think that by cutting out those two lines we accommodate Commissioner Hall's concern and Commissioner de la Fe's and Commissioner Lawrence's concern and my concern about whether this belongs here or not. And I think also it goes back to, I hope, where the staff recommendation was to begin with. At least that's my intention. I think it deletes this controversy about "should" and "shall." Of course there's going to be input into it but we are not setting a strange and perhaps inappropriate and unenforceable precedent by using a word that we shouldn't be using.

Vice Chairman Alcorn: Commissioner Sargeant.

Commissioner Sargeant: Thank you, Mr. Chairman. There was community input in the original process. If you look in the original language for the Comprehensive Plan for this site, there was no specific reference to lighted fields. And when the Master Planning process did occur, and there was public input, and the community said, very loudly, no, and it got to the Planning

Commission and you said yes. So there is genuine community concern that their voice will not be heard on this particular issue. They are trying to make that emphasis not only to the Planning Commission but to the Park Authority as well. I think language that completely obliterates that concern by removing it is of grave concern to the local community.

Vice Chairman Alcorn: Mr. Flanagan.

Commissioner Flanagan: Yes, I have a feeling that the community would be extremely upset, having taken the time to come out here this evening and establish the approval that they have, you know, for what has eventually been brought forward with great difficulty. And there have always been two bullets there, one provided by the staff which is in the staff report. Right?

Leanna O'Donnell, Planning Division, Department of Planning and Zoning: Yes, I wanted to – for your consideration, the staff recommendation that's shown in the staff report – I don't know if you have that in your packets tonight – it's page 9 of the staff report. The staff recommendation, the first bullet to address this community concern states, "Any proposal to light athletic fields includes the opportunity for public input," preceded by, "When planning the park uses, the following considerations should be satisfied." I believe, and correct me if I'm wrong, Commissioner Sargeant or Flanagan, that the South County Federation Land Use Committees prior to the alternate language that was presented, I believe they supported the staff recommendation. I know that there's now a new proposal, but I believe that they were in support of this initially, if that helps.

Commissioner Flanagan: Yes, the residents nearby were not satisfied with the staff language and asked for reconsideration of the language that I eventually brought forward after taking it up with staff.

Vice Chairman Alcorn: Okay, let's move this one forward. Mr. Hart, as the maker of the motion, after hearing that information –

Commissioner Hart: I'm happy to take a friendly amendment TO GO BACK TO THE STAFF RECOMMENDATION WITH ADDING THOSE WORDS AT THE BOTTOM OF PAGE 9 OF 12 TO REPLACE THE BULLET THAT WE'RE TAKING OUT.

Vice Chairman Alcorn: Okay, that's fine with the seconder. So, the motion, then is to –

Commissioner Hart: – the staff recommendation.

Vice Chairman Alcorn: – the staff recommendation for the bullet relating to athletic fields lighting.

Commissioner Harsel: Are we at discussion?

Vice Chairman Alcorn: Now we're in discussion.

Commissioner Harsel: Mr. Chairman?

Vice Chairman Alcorn: Commissioner Harsel.

Commissioner Harsel: If we go above the bullets we're back where we started from because it says the approximately 40-acre park site is planned for development as a local park which includes active and passive recreation opportunities, which we've got the soccer. Active recreation may include lighted irrigated fields; may include lighted fields. So there we go, we're back where the neighbors were concerned. And as Mr. Sargeant said, and I will use my favorite word, with the high school, the neighborhood was snookered.

Vice Chairman Alcorn: Oh, I thought we were going to get "pig in a poke."

Commissioner Harsel: No, it's "snookered."

Vice Chairman Alcorn: Snookered.

Commissioner Harsel: They were snookered.

Vice Chairman Alcorn: Commissioner Flanagan and then Commissioner Lawrence.

Commissioner Flanagan: I wonder, if you're going to go back to the staff recommendation – consider the staff recommendation – the staff recommendation uses the word "should." Right?

Commissioner Hart: They took it out.

Commissioner Flanagan: There's no "should" in the staff –

Commissioners Hart and Hall: Any proposal to light athletic fields includes the opportunity for public input.

Commissioner Flanagan: Okay. Well, I was wondering if the text of my motion, if it was modified to say the community "should," would that satisfy Commissioner Lawrence?

Commissioner Lawrence: Instantly.

Commissioner Flanagan: Instantly?

Commissioner Lawrence: Yes. If you changed the word "shall" in that bullet to "should" –

Vice Chairman Alcorn: Let's – Hold on, let's –

Commissioner Hall: That's where we started.

Vice Chairman Alcorn: Let's, let's – we have an amendment under consideration. And the maker of the amendment, is there –

Commissioner Hart: I tell you, I will accept as a friendly amendment TO CHANGE THE WORD "SHALL" TO "SHOULD" in Commissioner Flanagan's handout if that will move this along.

Vice Chairman Alcorn: Is the seconder okay with that?

Commissioner de la Fe: Yes.

Vice Chairman Alcorn: Okay, so let me ask the maker of the main motion, would you then accept as a friendly amendment from the floor changing "shall" to "should?"

Commissioner Flanagan: I will.

Vice Chairman Alcorn: And is that okay with the seconder of the main motion?

Commissioner Sargeant: Yes, it will be.

Vice Chairman Alcorn: I now pronounce you – no, I'm just kidding.

Commissioner Flanagan: And I'd like to qualify my statement. As has been stated here several times, there will be public input at the 2232 hearing. And so it really doesn't make any difference whether the word is "shall" or "should," you know.

Vice Chairman Alcorn: Okay. Commissioner de la Fe.

Commissioner de la Fe: Mr. Chairman, I believe as the seconder of the substitute motion or the alternate motion that it has been – that is being withdrawn?

Vice Chairman Alcorn: It's now incorporated.

Commissioner Hart: I think I was amending it to put it back, which if you take the word "should" – put "should" in instead of "shall."But that's still, sort of, my motion.

Vice Chairman Alcorn: Yes, here's what's happened. The amendment proposed by Commissioner Hart has now been accepted as a friendly amendment by Commissioner Flanagan. So the main motion now – let me restate it, and also by the seconder, is Commissioner Flanagan's motion that was distributed with one change: "shall" in that first bullet is now "should." Any more discussion? All those in favor of the main motion, as articulated by me just now, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries.

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(The main motion, as amended, carried unanimously with Commissioner Murphy absent from the meeting.)

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