Planning Commission Meeting
May 28, 2009
Verbatim Excerpt

RZ 2005-HM-028 – PEDRO AND CARMEN TOSCANO
SE 2007-HM-023 – PEDRO AND CARMEN TOSCANO

Decision Only During Commission Matters
(Public Hearing held on April 30, 2009)

Commissioner de la Fe: Thank you, Mr. Chairman. I have a decision only that I would like to handle. First - - Mr. - - and you - - you have received development conditions and proffers, both last week and this week, however - - you know. Mr. Chairman, the public hearing for this case was held on April 30, 2009. There were two speakers, immediate neighbors. Both opposed. The decision was deferred because the Hunter Mill Land Use Committee had not had an opportunity to make its final recommendation prior to the public hearing. The Land Use Committee recommended approval at its May 2009 meeting. In its recommendation for approval, the Land Use Committee stressed the need to assure that the proposed proffers and regulatory requirements be adhered to and that the County carefully monitor their implementation. Staff, on the other hand, recommended denial. Although the Rezoning and Special Exception requests are technically separate actions, they are linked to each other. In general, the Rezoning itself meets the requested R-2 zoning requirements, except for the lot width for the proposed lot 1. Therefore, that's why we have a SE with it. For this - - me - - for me, this case is unique in at least two aspects. One, it is the first time since the special exception for lot width waiver Ordinance provision was approved a couple of years ago that a rezoning has been the reason for the waiver request. In the few cases that have been considered, at least in the Hunter Mill District, the zoning was not changed. Generally, the lot width waiver was requested so that a more suitable development could occur than under a by-right option. And, two, it is the first time that the applicant has proceeded to implement a by-right option while a rezoning request for the same property was under consideration. This case was accepted by the County in August 2005. The Land Use Committee reviewed it formally at least five times between acceptance and making its final recommendation. During this period, approximately one year after acceptance, the applicant requested a building permit for a new house under the existing R-l zoning. The applicant also requested and was granted permission to occupy the then existing house until the new one was completed, at which time the old house would be demolished. At the public hearing, the applicant was asked why he pursued the by-right option in the middle of the rezoning request. He answered that he wanted a new home. The staff report specifies the residential development criteria and special exception standards which are met and are not met. The staff report also states, "The site contains one existing single family detached dwelling, which was recently constructed. Most of the site was cleared and graded for construction for this dwelling." The Land Use Committee worked with the applicant and staff to develop a set of proffers to attempt to correct conditions created during construction of the by-right house. The applicant has proposed proffers that limit the new house footprint and orientation, use of pervious pavers and surfaces on the driveway, contributions for parks and affordable housing, construction of trails along the property frontage on Vale Road. I commend the applicant for the promises he has made. This is the first time I have received contradictory recommendations from the staff and the Land Use Committee. In the past, when there have been differences, they were worked out. It has not been possible to do so in this case. I fully recognize the applicant's

right to proceed as he did. However, I cannot ignore the consequences of that action. From my perspective, I cannot recommend approval. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS DENIAL OF RZ 2005-HM-028 AND SE 2007-HM-023.

Commissioners Lawrence and Flanagan: Second.

Vice Chairman Alcorn: Seconded by Commissioners Lawrence and Flanagan. Any discussion? All those in favor of the motion that the Planning Commission recommend denial of RZ 2005-HM-028 and SE 2007-HM-023, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All those opposed? That motion carries.

Commissioner de la Fe: Thank you very much.

Vice Chairman Alcorn: Thank you, Commissioner de la Fe.

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(The motion carried unanimously with Commissioners Harsel and Murphy absent from the meeting.)

KAD