

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, JANUARY 14, 2016**

PRESENT: Peter F. Murphy, Springfield District
Frank A. de la Fe, Hunter Mill District
Ellen J. Hurley, Braddock District
John C. Ulfelder, Dranesville District
Julie Strandlie, Mason District
Earl L. Flanagan, Mount Vernon District
Kenneth A. Lawrence, Providence District
Karen Keys-Gamarra, Sully District
James R. Hart, Commissioner At-Large
Janyce N. Hedetniemi, Commissioner At-Large
Timothy J. Sargeant, Commissioner At-Large

ABSENT: James T. Migliaccio, Lee District

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The meeting was called to order at 8:17 p.m., by Chairman Peter F. Murphy, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Sargeant announced that the Planning Commission would conduct a public information workshop for the upcoming Zoning Ordinance Amendment regarding Planned Development Commercial, Planned Development Residential Mixed Use, Commercial Revitalization Districts, and other related modifications on Wednesday, January 20, 2016 at 7:30 p.m. in the Board Auditorium. He noted that this workshop was not a public hearing, but welcomed the public to attend.

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Commissioner Lawrence announced that the Planning Commission's Tysons Committee met earlier this evening in the Board Conference Room to review the public comments that had been submitted regarding the draft plan. He then stated that the Tysons Committee would meet again on Wednesday, January 27, 2016 at 7:00 p.m. in the Board Conference Room of the Fairfax County Government Center and welcomed the public to attend.

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Commissioner Ulfelder MOVED THAT THE PLANNING COMMISSION DEFER THE PUBLIC HEARING FOR PCA/FDPA 2009-HM-017, FAIRFAX COUNTY BOARD OF SUPERVISORS, TO A DATE CERTAIN OF FEBRUARY 3, 2016.

Commissioner de la Fe seconded the motion, which carried by a vote of 11-0. Commissioner Migliaccio was absent from the meeting.

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ORDER OF THE AGENDA

Secretary Hart established the following order of the agenda:

1. PCA 78-P-130-02/FDPA 78-P-130-09/CDPA 78-P-130-03 – COPT FAIRVIEW, LLC
2. FDPA 81-S-058-01-02 – CENTREWOOD DRIVE APARTMENTS INC.
3. SEA 97-V-061 – ARA, INC. T/A GUNSTON SHELL SERVICE STATION
4. SE 2015-SU-014 – DEBRA E. GOODMAN t/a WEE TENDER CARE
5. RZ/FDP 2015-SP-007 – MRD PROPERTIES, LLC

This order was accepted without objection.

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PCA 78-P-130-02/FDPA 78-P-130-09/CDPA 78-P-130-03 – COPT FAIRVIEW, LLC – Appls. to amend the proffers, conceptual, and final development plan for RZ 78-P-130 previously approved for a commercial development to permit an office development and associated modifications to proffers and site design with an overall Floor Area Ratio (FAR) of 0.29. Located on the W. side of Fairview Park Dr., Falls Church, 22042, on approx. 6.09 ac. of land zoned PDC. Comp. Plan Rec: Mixed-Use. Tax Map 49-4 ((1)) 72. PROVIDENCE DISTRICT. JOINT PUBLIC HEARING.

Stuart Mendelsohn, Applicant's Agent, Holland & Knight, LLP, reaffirmed the affidavit dated January 4, 2016.

There were no disclosures by Commission members.

Carmen Bishop, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of applications PCA 78-P-130-02, FDPA 78-P-130-09, and CDPA 78-P-130-03.

Commissioner Lawrence pointed out that the subject applications pertained to a limited portion of the existing development at Fairview Park. A discussion ensued between Commissioner Lawrence and Ms. Bishop wherein Ms. Bishop confirmed the following:

- The subject applications would permit an existing building to remain on the site that had been scheduled for removal, which would increase the overall square-footage of the Fairview Park development;

- The proffer identified in Appendix 1 of the staff report as Proffer Number 1 included language that encouraged the implementation of underground and structured parking, but this provision was no longer applicable under the proposal; and
- The provision in Proffer Number 1 regarding the implementation of underground and structured parking would subsequently be applicable if the site were redevelopment.

Commissioner Lawrence then indicated that he would request that the applicant agree to a modification of Proffer Number 1 to address this issue.

Mr. Mendelsohn stated that the subject applications would permit an existing 7,359 square-foot office building to remain within the approximately 1.9 million square-foot office development currently constructed on the site. He indicated that the office development had been in operation for over 30 years and the applicant had requested this provision to accommodate a tenant seeking a long-term lease at the site. He also said that the increase in floor area ratio under the subject applications would be minimal.

In response to questions from Commissioner Lawrence, Mr. Mendelsohn stated the following:

- The applicant agreed to abide by the development conditions contained in Appendix 2 of the staff report;
- The applicant did not object to modifying the language in Proffer Number 1 that pertained to the encouragement of underground or structured parking; and
- The applicant would make the appropriate modifications to Proffer Number 1 prior to the Board of Supervisors' public hearing for these applications.

Chairman Murphy called for speakers from the audience, but received no response; therefore, he noted that a rebuttal statement was not necessary. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Lawrence for action on these cases.

(Start Verbatim Transcript)

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Chairman Murphy: Public hearing is closed. Mr. Lawrence, please.

Commissioner Lawrence: Thank you, Mr. Chairman. Mr. Chairman, I move – in three motions – that the Planning Commission – actually, it's two motions. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA 78-P-130-02 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN AMENDMENT, CDPA 78-P-130-03, SUBJECT TO THE EXECUTION OF THE PROFFER CONSISTENT WITH THAT DATED DECEMBER 14TH, AS AMENDED THIS EVENING.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve PCA 78-P-130-02 and CDPA 78-P-130-03, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Lawrence.

Commissioner Lawrence: And finally, I MOVE THAT THE PLANNING COMMISSION APPROVE FDPA 78-P-130-09, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED December 20th – DECEMBER 30TH, 2015, AND THE BOARD OF SUPERVISORS' APPROVAL OF PCA 78-P-130-02 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN AMENDMENT.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Discussion of that motion? All those in favor of the motion to approve FDPA 78-P-130-09, subject to the Board's approval of the PCA, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

(Each motion carried by a vote of 11-0. Commissioner Migliaccio was absent from the meeting.)

(End Verbatim Transcript)

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FDPA 81-S-058-01-02 – CENTREWOOD DRIVE
APARTMENTS INC. – Appl. for the second amendment to the first final development plan for RZ 81-S-058 to permit a maintenance facility and associated changes to the development conditions. Located S.W. of the intersection of Machen Rd. and Centrewood Dr., on approx. 26.14 ac. of land zoned PDH-12, WS. Tax Map 65-1 ((1)) 3C. SULLY DISTRICT. PUBLIC HEARING.

Sara Mariska, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, PC, reaffirmed the affidavit dated December 7, 2015.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had multiple cases where attorneys in Ms. Mariska's firm were representing adverse parties. However, he noted that this matter and those parties were not related to this case and there was no business or financial relationship; therefore, it would not affect his ability to participate in this case.

Joseph Gorney, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of application FDPA 81-S-058-01-02.

Referring to the depictions of the existing and proposed development on the subject property, as depicted on page 5 of the staff report, Commissioner Keys-Gamarra pointed out that the addition of the proposed structure to the site would affect the parking provisions in the area. A discussion ensued between Commissioner Keys-Gamarra and Mr. Gorney regarding the parking provisions around the proposed structure and the overall site wherein Mr. Gorney indicated the following:

- The addition of the proposed structure would remove seven of the existing parking spaces near the existing structure;
- The seven parking spaces that would be removed under the proposal were utilized by residents and a service vehicle; and
- The parking provisions for the overall development was sufficient to accommodate this reduction in parking.

Commissioner Keys-Gamarra expressed concern regarding the parking provisions for service vehicles that would utilize the proposed structure. She then asked whether there were any provisions to prevent parallel parking near the proposed structure. Mr. Gorney said that the applicant would install traffic bollards along the drive aisle of this structure to discourage such practices. In addition, he stated that sidewalk would also be installed to facilitate pedestrian traffic to the nearby recycling area. Mr. Gorney indicated that staff had concluded that this provision was sufficient to address this issue.

Ms. Mariska explained that the subject application proposed to replace a temporary storage building on the subject property with a larger permanent structure, adding that such a structure was necessary to accommodate the equipment required for the maintenance of the existing development on the site. She then addressed Commissioner Keys-Gamarra's concerns regarding the parking provisions for the maintenance staff working on the site, saying that the staff parked their vehicles near the main clubhouse prior to accessing the storage building. Ms. Mariska said that residents were sufficiently informed that parking within the drive aisle near the site was not permitted and the installation of traffic bollards would discourage parking in this area. She then indicated that the installation of striping or painted lines to further discourage this practice was not necessary and could potentially affect the visual impact of the proposed storage building.

A discussion ensued between Commissioner Keys-Gamarra and Ms. Mariska regarding the potential impact that striping or painted lines would have on the aesthetics of the proposed storage building.

Continuing her presentation, Ms. Mariska indicated that the subject application had the support of the Sully District Council and the Western Fairfax County Citizens Association.

Chairman Murphy called for speakers from the audience, but received no response; therefore, he noted that a rebuttal statement was not necessary. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Keys-Gamarra for action on this case.

(Start Verbatim Transcript)

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Chairman Murphy: Public hearing is closed; recognize Mrs. – Ms. Keys-Gamarra.

Commissioner Keys-Gamarra: Yes, Mr. Chairman, I make a motion to approve. I MOVE THAT THE PLANNING COMMISSION APPROVE FDPA 81-S-058-01-02, SUBJECT TO DEVELOPMENT CONDITIONS DATED DECEMBER 21ST, 2015. AND I FURTHER MOVE THAT, PURSUANT TO SECTION 13-305 OF THE ZONING ORDINANCE THAT THE PLANNING COMMISSION APPROVE:

- A MODIFICATION OF THE CURRENT TRANSITIONAL SCREENING REQUIREMENT AND A WAIVER OF THE BARRIER REQUIREMENT ALONG THE MACHEN ROAD FRONTAGE ADJACENT TO PARCEL 54-3 ((27)) A, IN FAVOR OF THE ALTERNATIVES AS SHOWN ON THE PROPOSED PLAN AND AS CONDITIONED; AND
- A MODIFICATION OF THE TRANSITIONAL SCREENING REQUIREMENT ALONG THE SOUTHERN LOT LINE ADJACENT TO PARCEL 65-1 ((6)) B1, IN FAVOR OF THE EXISTING CONDITIONS REFLECTED ON THE FDPA.

Commissioner Ulfelder: Second.

Chairman Murphy: Seconded by Mr. Ulfelder. Is there a discussion? Before we do discuss the motion, I think this is the time to bring Ms. Mariska back up so you could ask her if she understands the development conditions and will follow and agree to do them. Ms. Mariska.

Commissioner Keys-Gamarra: Okay. I request the –

Chairman Murphy: Go ahead.

Commissioner Keys-Gamarra: – the applicant confirm for the record agreement to the development conditions dated December 21st, 2015.

Sara Mariska, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, PC: We do agree to those.

Commissioner Keys-Gamarra: Okay. Thank you.

Chairman Murphy: Okay, thank you very much. Was there a second to the motion? It was seconded by Mr. Ulfelder. Is there a discussion? All those in favor of the motion to recommend

to the Board – to approve FDPA 81-S-058-01-02 and the motion to approve the modification of the current transitional screening requirements, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

(The motion carried by a vote of 11-0. Commissioner Migliaccio was absent from the meeting.)

(End Verbatim Transcript)

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SEA 97-V-061 – ARA, INC. T/A GUNSTON SHELL SERVICE STATION – Appl. under Sect. 4-604 of the Zoning Ordinance to amend SE 97-V-061 previously approved for a service station to permit modifications to the site design and development conditions. Located at 9801 Richmond Hwy., Lorton, 22079, on approx. 36,885 sq. ft. of land zoned C-6. Tax Map 113-2 ((1)) 24. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Mark Jenkins, Applicant's Agent, Mark Jenkins, PC, reaffirmed the affidavit dated September 25, 2015.

There were no disclosures by Commission members.

Nicholas Rogers, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of application SEA 97-V-061.

Referring to page 13 of the staff report, Commissioner Flanagan pointed out that staff recommended the applicant dedicate the necessary right-of-way for the future implementation of the Richmond Highway cross section, as recommended by the Comprehensive Plan. He then explained that the basis for this recommendation was articulated in the Zoning Ordinance, which required applicants to provide the necessary right-of-way to accommodate a transportation improvement that was included in the Comprehensive Plan. Mr. Rogers concurred with Commissioner Flanagan's remarks, stating that the Comprehensive Plan required a 176-foot cross section and an 88-foot half-section for the section of Richmond Highway that ran along the subject property. He then indicated that staff had coordinated with the applicant to secure the necessary commitments to implement this cross section and while the applicant was aware of this planned improvement, a commitment for this right-of-way dedication could not be secured. Commissioner Flanagan pointed out that the applicant had dedicated 40 feet of right-of-way for the planned cross section along Richmond Highway, but the Comprehensive Plan required 88 feet of right-of-way. A discussion ensued between Commissioner Flanagan and Robert Pikora, Fairfax County Department of Transportation, with input from Mr. Rogers, regarding whether the funds for widening the section of Richmond Highway that ran adjacent to the subject property had been secured wherein Mr. Pikora and Mr. Rogers indicated this section of Richmond Highway would be incorporated into multiple traffic studies.

Commissioner Flanagan noted the timeframe in which an 88-foot right-of-way dedication would be necessary to implement the improvements articulated in the Comprehensive Plan. However, he indicated that the applicant opposed requiring this dedication at the present time.

Commissioner Flanagan stated that while the staff report had not been made available to the South County Federation (SCF) in a timely manner, a resolution had been passed in support of the proposal, subject to the inclusion of four additional modifications. He added that this resolution had been distributed to the Commission prior to the public hearing. Commissioner Flanagan then announced his intent to defer the decision only on this case at the conclusion of the public hearing to permit additional time for reviewing the subject application and the SCF's resolution. (A copy of the SCF's resolution is in the date file.)

Commissioner Flanagan said he favored additional coordination between staff and the applicant during the deferral period to review possible methods of securing the necessary right-of-way dedication for the planned improvements to Richmond Highway prescribed by the Comprehensive Plan. Mr. Rogers indicated that staff would continue such coordination on this issue and those articulated in the SCF's resolution.

Commissioner Flanagan noted the location of the existing right-of-way that the applicant had dedicated compared to the amount that would be necessary to accommodate the planned improvements to Richmond Highway.

When Commissioner Flanagan asked about the possible improvements that the 88-foot right-of-way would accommodate, Mr. Pikora explained that the Comprehensive Plan had prescribed features such as a bus rapid transit station, a median platform, additional travel lanes, a buffer strip, and a shared-use path. A discussion ensued between Commissioner Flanagan and Mr. Pikora regarding the designs of these improvements, the existing condition of the portion of Richmond Highway that ran adjacent to the subject property, and the possible need for additional turn lanes on Richmond Highway wherein Mr. Pikora indicated that some of these improvements would extend into portions of the subject property, but noted that possible designs for the intersection between Richmond Highway and Gunston Road had not been sufficiently studied.

A discussion ensued between Commissioner Flanagan and Mr. Rogers regarding the methods for securing the necessary right-of-way for the planned improvements to Richmond Highway articulated in the Comprehensive Plan if the subject application were approved without providing the necessary dedication wherein Commissioner Flanagan indicated that he favored securing such dedications in conjunction with Special Exception (SE) applications.

A discussion ensued between Commissioner Sargeant and Mr. Rogers, with input from William O'Donnell, ZED, DPZ, regarding the ownership of the service station on the subject property and the possibility that the parties involved would not concur on the provisions of the proposed right-of-way dedication wherein Mr. Rogers deferred to the applicant to clarify this issue, but indicated that the title owner of the property had consented to the provisions articulated in the subject application during staff's review.

When Commissioner Sargeant asked about the possible installation of additional structures within the proposed right-of-way to be dedicated, Mr. Rogers indicated that the applicant would not construct additional structures in this area.

Responding to questions from Commissioner Sargeant, Mr. Rogers explained that Development Condition Number 6, which required the applicant to grant an interparcel access easement to the property owner located to the south and west of the site, was intended to formalize an agreement with the neighboring property owner to provide the necessary easement for interparcel access. In addition, he indicated that the language in Development Condition Number 14, which precluded the service station from conducting major repairs, had been carried over from the previously-approved special exception for the site. A discussion ensued between Commissioner Sargeant and Mr. O'Donnell regarding the operations associated with major repairs at a service station and the impact of the language in Development Condition Number 14 on the economic viability of the service station wherein Mr. O'Donnell stated that permitting major repairs on the site would require a separate application. Commissioner Sargeant then indicated he favored modifying the language to ensure it delineated the appropriate operations on the site, as permitted by the Zoning Ordinance.

Replying to questions from Commissioner Hart, Mr. Rogers said the following:

- The improvements for Richmond Highway prescribed by the Comprehensive Plan that required the 88-foot right-of-way dedication from the site were intended to better-accommodate the current and expected traffic volume on this road;
- The Courts have ruled that the County was prohibited from requiring the dedication of sufficient right-of-way for a planned improvement articulated in the Comprehensive Plan as a criterion for approval of an application unless there was a nexus between an application and a need for the prescribed improvement;
- The evaluation of a special exception application by staff was conducted on a case-by-case basis and staff had taken the determinations of the Courts into account when evaluating the subject application; and
- The County Attorney would be consulted during the deferral period to confirm that there was no nexus between the subject and a transportation improvement prescribed by the Comprehensive Plan.

Commissioner Hart expressed concern about requiring the dedication of right-of-way for a special exception application when the proposed use of the application did not warrant implementing an improvement prescribed by the Comprehensive Plan.

Commissioner Hart said that he favored retaining the existing operations offered by service stations, such as the one on the site, noting the lack of such services at similar facilities in other parts of the County.

Referring to Development Condition Number 18, which required the applicant to submit a retroactive building permit application within 90 days of the approval of the subject application, Commissioner Hart asked why this timeframe had been chosen. Mr. Rogers stated that this timeframe had been selected to provide sufficient flexibility to obtain this permit, adding that the existing site had no outstanding violations. A discussion ensued between Commissioner Hart and Mr. Rogers regarding the manner in which the timeframe for obtaining a building permit was determined for an SE application wherein Commissioner Hart noted that he favored modifying this timeframe.

Referring to Development Condition Number 19, which required the applicant to obtain final approved inspections for the retroactive building permit, Commissioner Hart asked how this condition related to the provisions of Development Condition Number 18. Mr. Rogers indicated that the building permit requirement articulated in Development Condition Number 18 was referring to the same permit mentioned in Development Condition Number 19. A discussion ensued between Commissioner Hart and Mr. Rogers regarding the need for the language referring to the final approved inspections for the building permit mentioned in Development Condition Number 19 wherein Commissioner Hart said he favored revising this condition to improve its clarity and Mr. Rogers did not object to implementing such a revision during the deferral period.

Commissioner Hart suggested additional coordination to determine the applicant's plans for dedicating the necessary right-of-way to accommodate the improvements prescribed by the Comprehensive Plan. When Commissioner Hart asked whether approval of the subject application hindered the County's ability to obtain the necessary right-of-way for these improvements, Mr. Rogers indicated that staff had determined that this application did not contain provisions that would hinder such an effort.

Mr. Jenkins gave a brief presentation on the proposal wherein he explained the following:

- The subject application was necessary to permit the installation of new, state-of-the-art underground storage tanks to replace the existing tanks;
- The subject application was necessary to permit a fourth service bay, which would cover an area of approximately 497 square feet;
- The site was owned by Wayland Jones and was leased to Quarles Petroleum, Inc., but the operation of the service station on the site was managed by Raj Kapoor, who was listed on the affidavit;
- The owner of the site did not support dedicating the necessary right-of-way to accommodate the improvements to Richmond Highway articulated in the Comprehensive Plan because the provisions articulated in the staff report did not meet the criteria to warrant requiring such a dedication;
- The proposal would not install any additional features on the site other than the fourth service bay;

- The parking provisions on the site would be modified to accommodate the fourth service bay;
- The fourth service bay was necessary to accommodate repair services for modern cars, which required specialized equipment;
- The existing service station on the site had been in operation since 1969 and the proposal would not significantly modify or intensify this use;
- The installation of the new underground tanks and the fourth service bay would improve the quality of the service of the service station on the site;
- The applicant had met with the SCF to discuss the application and the SCF's primary concerns pertained to the visual impact of the site;
- The applicant incorporated architecture on the site that was consistent with the character of the surrounding area to address the SCF's concerns;
- The SCF expressed no objections to the subject application in its resolution and this resolution had been subsequently modified to ensure continued coordination with the applicant prior to the Board of Supervisors' public hearing for this case;
- The SCF did not object to the applicant's justification for precluding the requested right-of-way dedication for the improvements to Richmond Highway articulated in the Comprehensive Plan;
- The staff report noted a request for the necessary right-of-way dedication to accommodate the improvements to Richmond Highway articulated in the Comprehensive Plan, but such a dedication was not required because there was no nexus located near the site to warrant such a requirement;
- The Courts had ruled that an applicant could not be required to dedicate right-of-way as a condition for approval in the absence of such a nexus;
- The applicant conducted a trip-generation study for the proposed modifications to the site and this study concluded that the installation of the fourth service bay would incur approximately five additional vehicular trips per day, which was not a significant increase to the existing traffic volume for the portion of Richmond Highway located near the site;
- The applicant's traffic study had also concluded that there was no nexus near the subject property to warrant the right-of-way dedication for the improvements to Richmond Highway articulated in the Comprehensive Plan;
- The applicant had coordinated with staff to organize the parking provisions and drive aisles on the site to improve internal circulation;

- The applicant had formalized an agreement with the property located south of the site to secure an interparcel access easement, as requested by staff;
- The parking provisions for the site had been organized to ensure that these provisions did not impact areas that would be subject to a taking for future right-of-way dedication, as requested by staff; and
- The applicant would not construct any features or structures within areas that would be subject to a taking for future right-of-way dedication to accommodate the improvements to Richmond Highway articulated in the Comprehensive Plan.

In conclusion, Mr. Jenkins stated that the proposal would improve the operation of the service station on the subject property. In addition, he said that the proposal would improve the visual impact, landscaping, character, and environmental impact of the existing use on the site and was consistent with the necessary criteria for a special exception, as articulated in the Zoning Ordinance.

Commissioner Lawrence asked whether the applicant had designed the site in a manner to accommodate an acquisition of right-of-way by the County to accommodate the improvements to Richmond Highway articulated in the Comprehensive Plan. Mr. Jenkins indicated that the subject property had been designed to accept such a land acquisition, but reiterated that the applicant did not support requiring a dedication of this right-of-way as a criterion for approval of the subject application.

When Commissioner Hart reiterated his concerns regarding the 90-day timeframe noted in Development Condition Number 18 for the obtainment of a building permit, Mr. Jenkins said that he did not object to modifying this timeframe, but noted that he favored providing additional time to ensure sufficient flexibility. A discussion ensued between Commissioner Hart and Mr. Jenkins regarding the purpose for this timeframe and the procedures for obtaining a building permit.

In reply to questions from Commissioner Ulfelder, Mr. Jenkins and Craig McBride, Applicant's Agent, Quarles Petroleum, Inc., explained the following:

- The existing underground storage tanks on the site were installed in 1969;
- The existing underground storage tanks on the site were composed of metal and were utilized for the storage of gasoline;
- The applicant had not documented any leaks from the existing underground storage tanks during the time in which they were in use;
- The existing condition of the site included three above-ground storage tanks, which were utilized for the storage of antifreeze, motor oil, and heating oil;

- The heating oil stored on the site was utilized for the heating of the service station and was not intended for sale;
- The applicant had not documented any instances of leaks in the above-ground storage tanks on the site;
- The operator of the service station on the site was responsible for the emptying and disposal of the contents of the above-ground storage tanks;
- The operator of the service station on the site would be required to abide by the necessary procedures articulated by the Virginia Department of Environmental Quality (DEQ) for the removal of the existing underground storage tanks and these procedures included the monitoring of soils around these tanks to determine whether any unknown leaks had occurred;
- The process for the removal of the existing underground storage tanks on the site in a manner consistent with DEQ procedures would be conducted by a contractor and this process would take approximately one week to complete; and
- The installation of the new underground storage tanks on the site could not occur until the DEQ procedures were completed and soils that had been subject to leaks by the previous tanks had been removed.

Commissioner Sargeant reiterated his concerns regarding the language in Development Condition Number 14 and asked whether the prohibition of major repairs would hinder the service stations operations. Mr. Jenkins stated that the Zoning Ordinance included language that defined what constituted major repairs. He then indicated that the operations conducted by the service station had been reviewed and the applicant had determined that such operations were consistent with the Zoning Ordinance. Mr. Jenkins added that the applicant would review this issue during the deferral period to address this concern.

A discussion ensued between Commissioner Flanagan and Mr. Jenkins regarding the applicant's coordination with staff regarding the right-of-way dedication for the planned improvements to Richmond Highway articulated in the Comprehensive Plan and the absence of a nexus near the subject property wherein Commissioner Flanagan concurred with the applicant's conclusion that there was no nexus located near the subject property to warrant requiring this dedication, but noted that such a nexus could occur at a later date.

Chairman Murphy called for speakers from the audience, but received no response; therefore, he noted that no rebuttal statement was necessary. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Flanagan for action on this case.

(Start Verbatim Transcript)

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Chairman Murphy: Public hearing is closed. Mr. Flanagan, please.

Commissioner Flanagan: Thank you, Mr. Chairman. As I indicated, we have just – I have just received the final wording of the Federation's recommendations for modifications to the application. And I also want to clarify all the discussion that we've had about nexus and all that sort of thing. So, with that I'M GOING TO MOVE that – THE DEFERRAL OF SEA 97-V-061 FOR A DECISION ONLY TO A DATE CERTAIN OF JANUARY 28, 2016, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENT.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to defer the decision only SEA 97-V-061 to a date certain of January 28th, with the record remaining open for comment, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

(The motion carried by a vote of 11-0. Commissioner Migliaccio was absent from the meeting.)

(End Verbatim Transcript)

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SE 2015-SU-014 – DEBRA E. GOODMAN t/a WEE TENDER CARE – Appl. under Sects. 6-105, 6-106, and 8-305 of the Zoning Ordinance to permit a home child care facility. Located at 13565 Melville Ln., Chantilly, 20151, on approx. 10,034 sq. ft. of land zoned PDH-2, WS. Tax Map 55-1 ((9)) 706. (Concurrent with SE 2015-PR-021.) SULLY DISTRICT. PUBLIC HEARING.

Christopher Goodman, Applicant/Title Owner, reaffirmed the affidavit dated May 28, 2015.

There were no disclosures by Commission members.

Sharon Williams, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of application SE 2015-SU-014.

Mr. Goodman explained that the applicant had been operating a home child care facility on the subject property for approximately 24 years. He indicated that this facility had been licensed by the State of Virginia to care for a maximum of 12 children with 2 non-resident employees, but changes to the State of Virginia's policies regarding home child care facilities required the applicant to obtain a special exception from the County to operate this facility.

Chairman Murphy called for speakers from the audience, but received no response; therefore, he noted that a rebuttal statement was not necessary.

When Commissioner Strandlie asked about the ground cover the applicant utilized for the outdoor play area on the site, Mr. Goodman said that a removable sports court overlay was utilized. A discussion ensued between Commissioner Strandlie and Mr. Goodman regarding the equipment that would be utilized in the outdoor play area wherein Mr. Goodman indicated that the sports court was the only piece of equipment that would be utilized and the applicant did not intend to install additional equipment.

Commissioner Strandlie asked about the presence of wood chips in the outdoor play area. Mr. Goodman indicated that wood chips were utilized in certain portions of this area.

Replying to questions from Commissioner Hurley, Mr. Goodman stated the following:

- The subject property contained a wooden deck, but children were not permitted to access this area;
- The wooden deck on the subject property did include space under it, but this deck did not include lattice, which had been removed to ensure its compliance with the Zoning Ordinance;
- The applicant had incorporated appropriate provisions to ensure the children utilizing the home child care facility could not access certain areas under the deck;
- The children at the home child care facility would be cared for in the basement of the existing dwelling unit; and
- The basement in which the children would be cared for included areas dedicated to the care of infants and toddlers.

Commissioner Hurley expressed concern regarding the safety of the infant sleeping area, noting that such an area was required to include immediate access to an emergency egress. Mr. Goodman addressed this concern, stating that there were no features or provisions that hindered access to the egress point that exited into the outdoor play area. A discussion ensued between Commissioner Hurley and Mr. Goodman regarding the care for children of different age ranges at the home child care facility wherein Mr. Goodman said the following:

- The care of infants and toddlers at the facility would occur in separate areas of the basement;
- The existing home child care facility on the site had been inspected by the State of Virginia and no violations or complaints had been issued; and
- The applicant had received multiple letters of support for the proposal from members of the surrounding community.

(Copies of the letters of support for the subject application are in the date file.)

Referring to Attachment 2 of Appendix 2 in the staff report, which depicted a floor plan of the basement area in which the children attending the home child care facility would be cared for, Commissioner Flanagan asked about the location of a bathroom in the basement. Mr. Goodman pointed out the location of a bathroom, noting that this bathroom was in operation and the floor plan in the staff report had been crafted prior to its installation. A discussion ensued between Commissioner Flanagan and Mr. Goodman regarding the location of storage areas in the basement, the ability of the children to access the bathroom in the basement, and the ability to prepare food in the basement wherein Mr. Goodman said that children could access the bathroom in the basement and indicated that there was no kitchen in this basement, noting that only a microwave and refrigerator would be utilized in this area.

When Commissioner Keys-Gamarra asked for additional information about the landscaping around the deck in the outdoor play area, Mr. Goodman pointed out the location of two landscaping ties located near the stairs to the deck. A discussion ensued between Commissioner Keys-Gamarra and Mr. Goodman regarding the potential safety issues associated with these landscaping ties wherein Mr. Goodman stated that there had been no instances where these ties had incurred a safety issues.

Answering questions from Commissioner Keys-Gamarra, Mr. Goodman reiterated that the basement area in which the children were cared for at the home child care facility included an appropriate emergency egress point. He also said that the facility would utilize two non-resident employees.

Commissioner Keys-Gamarra indicated that she had coordinated with the neighboring residents surrounding the subject property and had reviewed the numerous letters of support for the subject application.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Keys-Gamarra for action on this case.

(Start Verbatim Transcript)

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Chairman Murphy: The public hearing is closed; recognize Ms. Keys-Gamarra.

Commissioner Keys-Gamarra: Okay, can I have you confirm on the record your agreement to the development conditions dated November 24th, 2015?

Mr. Goodman, Applicant/Title Owner: We agree.

Commissioner Keys-Gamarra: Okay, and that – I MOVE THAT THE PLANNING COMMISSION APPROVE SE 2015-SU-014, SUBJECT TO PROPOSED DEVELOPMENT CONDITIONS DATED NOVEMBER 24TH, 2015. The applicant requests approval to operate a home child care for up to 12 children and up to 2 assistants in a single-family detached dwelling.

Chairman Murphy: You just want to amend that motion to recommend to the Board of Supervisors that it approve, okay? Without objection, all those in favor of the motion –

Commissioner Lawrence: Second.

Chairman Murphy: – to recommend to the Board of – what?

Commissioner Lawrence: Second the motion.

Chairman Murphy: Okay. All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2015-SU-014, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

(The motion carried by a vote of 11-0. Commissioner Migliaccio was absent from the meeting.)

(End Verbatim Transcript)

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The final public hearing was in the Springfield District; therefore, Chairman Murphy relinquished the Chair to Vice Chairman de la Fe.

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RZ/FDP 2015-SP-007 – MRD PROPERTIES, LLC – Appls. to rezone from R-1, WS to PDH-3, WS to permit residential development with an overall density of 2.4 dwelling units per acre (du/ac) and approval of the conceptual and final development plan. Located on the N. side of Westbrook Dr., opposite the intersection with Devlin Green Ln., on approx. 9.9 ac. of land. Comp. Plan Rec: Fairfax Center Area 2.5 du/ac at Overlay Level. Tax Map 55-1 ((8)) H and 55-2 ((3)) G1 and G2. SPRINGFIELD DISTRICT. JOINT PUBLIC HEARING.

Sara Mariska, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, PC, reaffirmed the affidavit dated December 1, 2015.

Commissioner Sargeant disclosed that a shareholder identified in the affidavit might have contributed to his campaign for Mount Vernon District Supervisor in 2015; therefore, he recused himself from this public hearing.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had a case where attorneys in Ms. Mariska's firm were representing an adverse party. However, he noted that this matter and

those parties were not related to this case and there was no business or financial relationship; therefore, it would not affect his ability to participate in this case.

Commissioner Murphy announced his intent to defer the decision only for these applications at the conclusion of the public hearing to provide additional time to review the public comments that had been submitted.

Carmen Bishop, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of applications RZ/FDP 2015-SP-007.

When Commissioner Murphy asked about the date ascribed to the proffers that had been included in Appendix 1 of the staff report compared to the date ascribed to the staff report itself, Ms. Bishop clarified that the proffers were dated December 16, 2015, and the staff report was dated December 22, 2015.

Ms. Mariska gave a brief presentation on the proposal wherein she explained the following:

- The areas surrounding the subject property included multiple infill subdivisions, which were similar to the proposed development;
- The subject application would permit the construction of a 24-lot, single-family detached dwelling unit subdivision in a manner consistent with the recommendations of the Comprehensive Plan and the County's policies pertaining to infill developments;
- The applicant had coordinated with staff to ensure the character of the proposed development was consistent with the surrounding development;
- The proposed development would reserve approximately 40 percent of the subject property as open space and approximately 1.5 acres would be reserved as a tree-preservation area;
- The tree-preservation area would be located in manner to ensure that the proposed development's character and visual impact was consistent with that of the surrounding subdivisions;
- The proposed development would include an area reserved for various amenities in the northwest portion of the site, which would include an outdoor play area, a pedestrian path that connected to the adjacent community, and landscaping improvements on the frontage along Westbrook Drive;
- The subject application included contributions to schools, parks, the Fairfax Center Area Road Fund, and the Affordable Housing Fund;
- The subject application included commitments to green building practices, an acoustical study, and an archeological study; and

- The proposal had the support of the Springfield District Land Use Committee.

Referring to Development Condition Number 6 in Appendix 2 of the staff report, which required the applicant to construct the improvements shown on Attachment 1 of Appendix 2 if the necessary permits could not be obtained, Commissioner Hart asked for additional information about the circumstances that would hinder the obtainment of the necessary permits for the improvements referenced in this conditions. Ms. Mariska explained that certain road improvements referenced in this Development Condition required off-site right-of-way and the condition had been worded in a manner to provide two possible options for implementing these improvements. She indicated that if the applicant could not obtain the necessary off-site right-of-way, then the applicant would coordinate with staff and the Virginia Department of Transportation to implement the necessary improvements in a different configuration that did not require this right-of-way.

When Commissioner Hart expressed concern about the possible inclusion of popsicle signs on the subject property, Ms. Mariska stated that these signs would not be utilized and said she did not object to stating such in the proffers.

In response to questions from Commissioner Hurley, Ms. Mariska stated that each dwelling unit within the proposed development would include four parking spaces with two in the garage and two in the driveway. She also indicated that street parking would be available. David McElhaney, Urban Engineering & Associates, Inc. t/a Urban Ltd., added that additional street parking would add approximately 2 spaces for each dwelling unit for a total of approximately 40 spaces for the overall development, but noted that these spaces were not counted in determining the parking accommodations of each dwelling unit because the street that would serve these units was a public street.

Vice Chairman de la Fe called the first listed speaker and recited the rules for public testimony.

Anthony J. Costigan, 20902 Cedarpost Square #302, Ashburn, stated that he had withdrawn himself as a speaker.

Vice Chairman de la Fe called for speakers from the audience.

Marty Mayer, 5015 Devin Green Lane, Fairfax, spoke in opposition to the subject applications because the proposed development would be too dense, would not be consistent with the character of the surrounding neighborhoods, and would incur a negative visual impact. He described the existing subdivisions near the subject property and noted the density of these subdivisions compared to that of the proposed development, adding that such density would negatively impact home values. In addition, Mr. Mayer expressed safety concerns about Westbrook Drive, pointing out that this road was subject to uneven terrain and included limited pedestrian paths. He also said that the presence of school buses and the increased traffic generated by the proposed development would incur additional safety concerns. Mr. Mayer expressed concern that the loss of trees that would be incurred by the proposed development would negatively impact stormwater drainage on the surrounding area, stating that the applicant's proposed stormwater management provisions did not sufficiently address the impact

to the soil. In conclusion, he said he favored limiting the density of the proposed development to a maximum of two dwelling units per acre.

Kathryn Rosaaen, 13014 Dunhill Drive, Fairfax, spoke in opposition to the proposal, echoing Mr. Mayer's remarks regarding the proposed development's safety impact along Westbrook Drive. She indicated that Westbrook Drive could not accommodate additional development, noting that the road was narrow and had been subject to multiple accidents. In addition, Ms. Rosaaen pointed out that the surrounding community had been subject to significant demographic changes in recent years, which had increased the number of residents residing in each dwelling unit. She then expressed concern that the parking provisions for the proposed development were not sufficient to accommodate such trends. Ms. Rosaaen also aligned herself with Mr. Mayer's suggestion that the density of the proposed development be reduced to mitigate the impact on safety. She added that reducing the density of the proposed development would ensure that this development remained consistent with the character of the surrounding community. In addition, Ms. Rosaaen echoed remarks from Mr. Mayer regarding the proposed development on stormwater drainage in the surrounding area.

A discussion ensued between Commissioner Murphy and Ms. Rosaaen regarding the density of the existing communities located near the subject property compared to the density of the proposed development wherein Ms. Rosaaen indicated that she resided in a community that contained 43 dwelling units at a density of 1.94 dwelling units per acre and Commissioner Murphy pointed out that another community contained 91 units at a density of 2.2 dwelling units per acre.

There being no more speakers, Vice Chairman de la Fe called for a rebuttal statement from Ms. Mariska, who stated the following:

- The concerns raised by speakers regarding the safety of school bus stops along Westbrook Drive would be addressed by the applicant's proposed improvements to this road, which included the installation of additional pedestrian paths;
- The applicant's planned improvements to Westbrook Drive would encourage slower speeds;
- The entrance to the community would be aligned with Devin Green Lane to create a four-way intersection, which would improve the safety conditions for vehicles in this area;
- The density of the proposed development of 2.2 dwelling units per acre was not significantly higher than the densities of the surrounding communities;
- The density of the proposed development was consistent with the recommendations of the Comprehensive Plan and had met the necessary criteria for the Fairfax Center area to warrant such density;
- The proposed development's stormwater management provisions would improve stormwater drainage on the subject property and in the surrounding areas; and

- The existing condition of the subject property did not include stormwater management provisions that were consistent with standards prescribed by the Public Facilities Manual and the proposed development would be consistent with these standards.

Addressing concerns raised by speakers regarding the safety of the bus stops located along Westwood Drive, Commissioner Murphy stated that the drivers for the buses for Fairfax County Public Schools were sufficiently trained to utilize this road, citing similar roads in other parts of the County that had been successfully utilized. He also acknowledged the rural character of Westwood Drive, but noted that the school bus drivers and the parents of the students utilizing these buses were sufficiently informed of the safety policies for utilizing a road of this character.

Responding to questions from Commissioner Flanagan, Ms. Mariska said the following:

- The average size of the lots for the proposed development was approximately 7,000 square feet;
- The lot sizes of the developments located near the subject property ranged from approximately 10,000 to 15,000 square feet, which was significantly larger than the lots of the proposed development;
- The topography of the subject property, and its associated impact on tree preservation and stormwater management, was a significant factor in determining the lot size of the proposed development; and
- The size of the lots for the proposed developments accommodated the applicant's commitment to preserve 40 percent of the site as open space, which was significantly greater than the open space provisions of neighboring developments.

A discussion ensued between Commissioner Flanagan and Ms. Mariska regarding the size of the dwelling units compared to the size of the lots in the proposed development wherein Ms. Mariska referred to Sheet 2 of the Final Development Plan in the staff report as general depictions of a typical dwelling unit in the development.

When Commissioner Flanagan asked about the distances between the dwelling units in the proposed developments, Ms. Bishop said that there was approximately 12 feet of space, consisting of two 6-foot side yards, between each dwelling unit. A discussion ensued between Commissioner Flanagan and Ms. Mariska regarding the visual impact of the dwelling units in the proposed development compared to the units in neighboring properties wherein Ms. Mariska described the visual impact of the development for vehicles traveling along Westbrook Drive, noting that the presence of mature trees along this road would preserve the character of the surrounding area.

In reply to questions from Commissioner Hart, Ms. Bishop and Ms. Mariska stated the following:

- The density of the proposed development was similar to that of the surrounding community, but the proposed development included more open space compared to these communities;
- The review conducted by staff for the proposed development concluded that this development was sufficiently compatible with the character of the surrounding communities and was consistent with the Comprehensive Plan;
- The applicant had given a presentation regarding the subject applications to the Springfield District Land Use Committee and had met with representatives of the surrounding communities to address their concerns; and
- The applicant intended to construct additional sidewalks that would connect with existing sidewalks in the surrounding area.

When Commissioner Lawrence asked whether the screening proposed by the applicant was sufficient, Ms. Bishop indicated that staff had concluded that the applicant's screening provisions were sufficient and were consistent with the character of the surrounding communities, as required by the Residential Development Criteria.

Commissioner Hurley asked about the visibility and screening for the rear yards of the dwelling units located on the northern portion of the subject property. Ms. Bishop explained that the rear yards for these units would be screened by trees that would be planted along the northern property line, adding that there was additional open space in neighboring community to the north, which would provide additional screening.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Vice Chairman de la Fe closed the public hearing and recognized Commissioner Murphy for action on these cases.

(Start Verbatim Transcript)

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Vice Chairman de la Fe: Public hearing is closed. Mr. Murphy.

Commissioner Murphy: Thank you very much, Mr. Chairman. As I said, I'm going to defer decision on it to prepare a verbatim and motion. But, coincidentally with that, this is one of those applications that successfully addresses the Comprehensive Plan. And the development level in the overlay district is actually under, but not by much, but it's still under the 2.5 dwelling units per acre permitted in the overlay district in this Fairfax Center area with 2.4 dwelling units. It's in conformance with the Comprehensive Plan. It's in conformance with the applicable Zoning Ordinances. It meets and addresses, successfully, the Fairfax Center Checklist for the Overlay District and the Residential Development Criteria. Conformance with the Plan does not mean housing areas are identical. And if you travel through Fairfax County in rural, suburban areas, you will find different patterns. This is a little bit different. They're preserving 40 percent of the

vegetation in that site, providing buffers and screening, providing a sidewalk, and so forth. And I just want to make sure that my motion is correct. So I will again defer decision on this. And I MOVE THAT THE PLANNING COMMISSION DEFER DECISION ONLY ON THIS APPLICATION, RZ/FDP 2015-SP-007, TO A DATE CERTAIN OF THURSDAY THE 21ST – 21ST – OF JANUARY, WITH THE RECORD REMAINING OPEN FOR WRITTEN COMMENT.

Commissioners Hart and Lawrence: Second.

Vice Chairman de la Fe: Seconded by Commissioners Lawrence and Hart. Any discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries.

(The motion carried by a vote of 10-0. Commissioner Sargeant recused himself from the public hearing. Commissioner Migliaccio was absent from the meeting.)

(End Verbatim Transcript)

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At the conclusion of the case, Chairman Murphy resumed the Chair.

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The meeting was adjourned at 10:20 p.m.

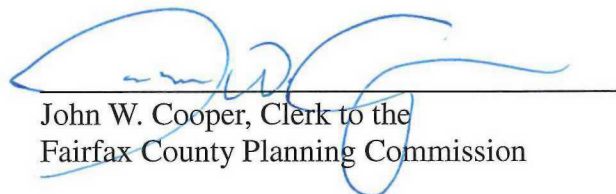
Peter F. Murphy, Chairman

James R. Hart, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jacob Caporaletti

Approved on: July 14, 2016



John W. Cooper, Clerk to the
Fairfax County Planning Commission