

**MINUTES OF  
FAIRFAX COUNTY PLANNING COMMISSION  
THURSDAY, JUNE 30, 2016**

PRESENT: Frank A. de la Fe, Hunter Mill District  
James R. Hart, Commissioner At-Large  
Timothy J. Sargeant, Commissioner At-Large  
John C. Ulfelder, Dranesville District  
James T. Migliaccio, Lee District  
Earl L. Flanagan, Mount Vernon District  
Karen Keys-Gamarra, Sully District  
Janyce N. Hedetniemi, Commissioner At-Large

ABSENT: Peter F. Murphy, Springfield District  
Ellen J. Hurley, Braddock District  
Julie M. Strandlie, Mason District  
Kenneth A. Lawrence, Providence District

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The meeting was called to order at 8:16 p.m., by Vice Chairman Frank A. de la Fe, 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 his intent to defer the public hearing on PA 2016-CW-1CP – Public Schools Policy Plan Amendment, from July 21, 2016, to a date certain of July 28, 2016.

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RZ/FDP 2015-HM-013/SEA 94-H-049-02 - WIEHLE STATION VENTURES LLC

*(Start Verbatim Transcript)*

Vice Chairman de la Fe: And I would like to MOVE THAT WE DEFER THE PUBLIC HEARING FOR RZ/FDP 2015-HM-13/SEA 94-H-49-02, WIEHLE STATION VENTURES, LLC, TO A DATE CERTAIN OF 7/20.

Commissioner Flanagan and Hedetniemi: Second.

Vice Chairman de la Fe: Seconded by Commissioners Flanagan and Hedetniemi. Any discussion? 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 8-0. Commissioners Hurley, Lawrence, Murphy and Strandlie were absent from the meeting.)

*(End Verbatim Transcript)*

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Commissioner Hedetniemi announced that the Tysons Committee had met earlier this evening and would meet again at 6:30 p.m. in the Board Conference Room of the Fairfax County Government Center on July 20, 2016.

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#### ORDER OF THE AGENDA

Secretary Hart established the following order of the agenda:

- SE 2015-MV-035 – STARBUCKS COFFEE COMPANY

This order was accepted without objection.

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SE 2015-MV-035 – STARBUCKS COFFEE COMPANY – Appl. under Sects. 7-607 and 9-611 of the Zoning Ordinance to permit fast food restaurant with drive-thru in a highway corridor overlay district. Located at 7511 Richmond Hwy., Alexandria, 22306, on approx. 36,590 sq. ft. of land zoned C-6, CRD, and HC. Tax Map 93-3 ((2)) (1) 8A. MOUNT VERNON DISTRICT. PUBLIC HEARING.

Lynne Strobel, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, P.C., reaffirmed the affidavit dated May 2, 2016, and introduced her firm's new attorney, Robert Brant, who was handling the application.

Robert Brant, Applicant's Agent, Walsh, Colucci, Lubeley & Walsh, P.C., reaffirmed the affidavit dated May 2, 2016.

Commissioner Hart disclosed that his law firm, Hart & Horan, PC, had three pending cases with Ms. Strobel and Mr. Brant's law firm in which there were attorneys representing an adverse party, but indicated that it would not affect his ability to participate in this case.

Kelly Posusney, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of application SE 2015-MV-035.

In response to Commissioner Flanagan's question regarding the facility's hours of operation, Ms. Posusney said that the applicant would potentially operate twenty-four hours per day, although staff did not include this as a development condition. Ms. Posusney then deferred to Robert Pikora, Transportation Planning Division, Department of Transportation, who in response to Commissioner Flanagan's questions indicated the following:

- The property was a part of the Embark Richmond Highway project; and
- As the construction related to the Embark Richmond Highway project begins, the service drive would be removed to accommodate bus rapid transit in the median and the addition of a third outside lane. Additionally, the driveway access would be shifted to the north of the property.

In response to Commissioner Flanagan's questions, Ms. Posusney and Mr. Pikora noted that the site plan was not submitted since the structure had already been constructed and the applicant was presented with the timeframe in which they had to satisfy the site distance requirements.

Referencing Development Condition 7, Commissioner Migliaccio asked when the applicant would be able to proceed with the site modifications to address sight distance at the service drive. Ms. Posusney responded that the provisions set forth in the Development Conditions 6 and 7 should occur within a year of application approval. Commissioner Migliaccio suggested that a specific timeline for the execution of Development Condition 7 be included without tying it to Development Condition 6.

Answering Commissioner Ulfelder's questions, Ms. Posusney confirmed the following:

- No direct access to the Richmond Highway was available from the property;
- The only exit point from the property was from the service drive;
- A left turn would be allowed either to the left or right from the service drive;
- There was nothing that would block or impair the vision from the site distance easement;
- An access point from the subject parcel may be removed if deemed appropriate as stipulated in Development Condition 12; and
- A site distance easement would still be needed once the road was widened.

Responding to Commissioner Ulfelder's question, Mr. Pikora indicated that the Comprehensive Plan Amendment on the Embark Richmond Highway project would be submitted in the fall of 2017 and the actual construction of the Bus Rapid Transit would begin in 2028.

Commissioner Hart indicated that the timeline for Development Condition 7 should begin after the twelve months-time period stipulated in Development Condition 6. He further noted that the word “may” in Development Condition 7 should be replaced by the word “shall.”

Commissioner Hart recited the Comprehensive Plan text that said “strongly discourage fast food, car washes, and pawn shops; as they are not consistent with quality revitalization” and expressed his disagreement with staff’s recommendation to approve the application justifying it by the fact that the intent of the Plan was not met. A conversation ensued between Commissioner Hart and Kris Abrahamson, ZED, DPZ, about the fast food status of the facility, wherein Ms. Abrahamson noted that the adaptive reuse areas were described in the Plan text for Commercial Revitalization Districts and these characteristics should be applied to the subject facility.

Commissioner Flanagan brought up two approved cases in the Lorton area, the first on Richmond Highway and the second on Gunston Road, where the gas station’s mini-marts were used as drive-through facilities. He emphasized that the objective of the Comprehensive Plan text was to discourage the new drive-through facilities and not existing uses.

Commissioner Sargeant reminded the Commission that the letter from the Southeast Fairfax Development Corporation endorsed the subject application as it would contribute to the revitalization of the Richmond Highway Corridor. Answering Commissioner Sargeant’s questions, Ms. Abrahamson explained that the restrictions to the hours of operation for the commercially zoned property were based on the surrounding uses. She further explained that the subject facility was located in close proximity to the residential area; although, there was an intervening property which prevented any negative impact on the residential area and, therefore, staff did not place a restriction on the hours of operation in the staff report. Commissioner Sargeant inquired whether the shifting of the service drive location would cause any ingress/egress transportation issues. Ms. Abrahamson said that in a circumstance when the service drive location is changed, the application would have to go through the interpretation process which would be submitted for the Planning Commission’s review.

Commissioner Migliaccio concurred with the comments made by Commissioner Flanagan and indicated that the citizens’ support of the subject application was present in the Lee District and there were no objections received from the neighboring District.

Ms. Abrahamson pointed out that the decision on the subject application should be based on the current characteristics of the infrastructure and reinforced that the applicant was making incremental improvements to better it.

Mr. Brant explained that previously, the subject facility was used as a Checkers restaurant that included a drive-through under the prior Special Exception, which was approved in 1998 and was classified as an eating establishment. Mr. Brant provided a brief overview of the building location and neighboring properties. He addressed the concern regarding the hours of operation by saying that the hours of operation were 5 a.m. to 11 p.m. which was consistent with the previous schedule. He indicated that the applicant’s intention was to explore the possibility of a 24-hour operation; although, it was not an immediate need and would be considered if the customer demand was present. Mr. Brant added that the research of similar approved cases

indicated that several facilities located in the close proximity to the subject property had no restrictions on hours of operation. He pointed out that the applicant intended to construct the site distance easement in cooperation with the neighboring properties to the north and if those properties were not willing to proceed with the construction, the applicant intended to work with VDOT to obtain a partial waiver or modification of the site distance requirements. Mr. Brant indicated that if the above mentioned steps were not reached, the applicant's actions would be identical to those indicated in Development Condition 7, which would be enhanced with the language specifying the timeline before the Board of Supervisors meeting scheduled for July 21, 2016. Mr. Brant highlighted the community outreach efforts that the applicant had gone through. In conclusion, he said that the applicant would continue to work diligently with the staff and the community to ensure that the use did not have any adverse impacts on the surrounding area.

Commissioner Flanagan inquired if the applicant was willing to defer the decision only on the application to a date certain of July 13, 2016. Mr. Brant responded that it would require a deferral of the Board of Supervisors decision of the application. Ms. Abrahamson noted that the Commission's concerns were clear to the staff and they were willing to work with the applicant to make necessary changes to Development Conditions 6 and 7 prior to the case being heard before the Board. Ms. Strobel concurred with the comments made by Ms. Abrahamson and expressed their willingness to maintain the scheduled Board date.

Commissioner Sargeant inquired whether the line of site easement and the variability of the location conflicted with the landscaping. Mr. Brant responded negatively since there was no landscaping located on the site and the potential relocation of the service drive entrance would not impact the landscape.

In response to Commissioner Migliaccio's question, Mr. Brant said that the current hours of operation were 5 a.m. to 11 p.m.

Vice Chairman de la Fe announced that there were no listed speakers and called for the 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 de la Fe closed the public hearing and recognized Commissioner Flanagan for action on this case.

*(Start Verbatim Transcript)*

Commissioner Flanagan: With that then, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF THE SUPERVISORS APPROVAL OF SE 2015-MV-035, SUBJECT TO THE REVISED DEVELOPMENT CONDITIONS DATED JUNE 13, 2016, AS MODIFIED BY TESTIMONY THIS EVENING.

Commissioners Sargeant and Hedetniemi: Second.

Chairman de la Fe: Seconded by Commissioners Sargeant and Hedetniemi. Any discussion?

Commissioner Hart: Mr. Chairman.

Chairman de la Fe: Yes, Mr. Hart.

Commissioner Hart: Thank you. I'm not going to be able to support the motion in for voting tonight. I think this not an unreasonable use for this site given the context that doesn't seem to be in an opposition to it. But it also is not in harmony with the adopted Comprehensive Plan text given the language strongly discouraging fast food uses. I don't see this is a continuation of the existing use, in fact, I think it's apparent from the staff report that the – the – the Checkers was characterized as an eating establishment, for some reason, that may raise other questions. But this is a new approval of a new fast food introducing that you sent to an area where the Plan text asks for something else. I think, also, the conclusion that it's not an intensification is not necessarily correct given the expansion of the hours to 5 a.m. from the earlier development conditions began the hours for the Checkers, as I understand it, at 10 a.m. And that increases the time every day of the activity, especially in the morning. I think they probably should have had a Plan amendment and I think there are other parts of the County where, if we had a Plan text like this, a Plan amendment would obviously have been requested. I think more importantly for – for what we're doing – every time we rationalize disregarding Plan text when it's convenient it diminishes the value of the Plan text when we really need it. Therefore, I won't be able to support this particularly – particular application tonight. Thank you.

Chairman de la Fe: Okay.

Commissioner Flanagan: Mr. Chairman.

Chairman de la Fe: Yes, Mr. Flanagan.

Commissioner Flanagan: Yes. I just wanted to comment upon that. Of course, we recently had a – another special exception before us where we – we were in somewhat disagreement about what the Comprehensive Plan required us to take into consideration. And we have been a little unfaithful in that regard, I must agree. But in this particular case, I think the – the fact that this use was already established and we've given permission to several other gas stations, you know, in disregarding that is, you know, may not have – may not have wanted to do that, but I think we exhibited our own judgement, as Commissioner Migliaccio reminded us the other evening on another application. So, I – and the – the Mount Vernon Council addition to the Southeast Fairfax Development Corporation – this has been vetted through the Mount Vernon Council's Land Use Committee as well. And they were very much in favor of the – the change in the hours. And they are the ones who are going to have to live with the hours because they are the residents around this area that will be either enjoying or not enjoying the change in the hours. I'm always amazed when I drive by there that there is so many people interested in having...

Chairman de la Fe: We are on verbatim.

Commissioner Flanagan: ...Starbucks on their way to work every morning. So – so it's really quite a – a unique application – land use application in that regard.

Chairman de la Fe: Ok. All those in favor of the motion, as expressed by Commissioner Flanagan, please signify by saying aye.

Commissioners: Aye.

Chairman de la Fe: Opposed?

Commissioner Hart: Abstained.

Chairman de la Fe: Abstained. Ok. The motion carries with Mr. Hart abstaining. Thank you very much.

(The motion carried by a vote of 7-0-1. Commissioner Hart abstained from the vote. Commissioners Hurley, Lawrence, Murphy and Strandlie were absent from the meeting.)

*(End Verbatim Transcript)*


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The meeting was adjourned at 9:04 p.m.  
Frank A. de la Fe, Vice 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: Inna Kangarloo

Approved on: January 12, 2017



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