

1 Minutes of the regular monthly meeting of the Planning Commission of the
2 County of Henrico held in the County Administration Building in the Government
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. Thursday,
4 September 10, 2009. Display Notice having been published in the Richmond
5 Times-Dispatch on August 20, 2009 and August 27, 2009.
6

Members Present: Mrs. Bonnie-Leigh Jones, Chairperson (Tuckahoe)
Mr. E. Ray Jernigan, C.P.C., (Varina)
Mr. Tommy Branin, (Three Chopt)
Mr. C. W. Archer, C.P.C. (Fairfield)
Mr. James B. Donati (Varina)
Board of Supervisors Representative
Mr. R. Joseph Emerson, Jr., Director of Planning, Secretary

Members Absent: Mr. Ernest B. Vanarsdall, C.P.C., Vice Chairman (Brookland)

Also Present: Ms. Jean Moore, AICP, Assistant Director of Planning
Mr. James P. Strauss, CLA, Principal Planner
Mr. Benjamin Sehl,, County Planner
Mr. Livingston Lewis, County Planner
Ms. Jamie Sherry, County Planner
Ms. Lisa Taylor, County Planner
Mr. Lee Pambid, County Planner
Mr. Michael Jennings, Traffic Engineer
Ms. Kim Vann, Police Division
Mr. Justin Doyle, Planning Technician
Ms. Sylvia Ray, Recording Secretary

7
8 **Mr. James B. Donati, the Board of Supervisors' representative, abstains on**
9 **all cases unless otherwise noted.**

10
11 Mrs. Jones - I'd like to call this meeting of the Planning
12 Commission to order, and ask that you stand and **Pledge Allegiance to the**
13 **Flag.**
14

15 Thank you very much. Welcome to the September 10th Rezoning meeting for
16 Henrico Planning Commission. Happy to have you here with us this evening.
17 This is a somewhat abbreviated agenda, but we'll get going on that. I do want to
18 welcome Mr. Jim Donati, who sits with us this year as a representative of the
19 Board of Supervisors I don't believe we have media representation with us. At
20 any rate, at that point, I'll ask you to do one more thing, and that is to mute or
21 turn off your cell phones, please, as a courtesy to others.
22

23 Now I'll turn the meeting over to our secretary, Mr. Emerson.
24

25 Mr. Emerson - Thank you, Madam Chair. The first item on your
26 agenda tonight are the requests for withdrawals and deferrals. Those will be
27 presented by Mr. Jim Strauss.

28
29 Mrs. Jones - Good evening, Mr. Strauss.

30
31 Mr. Strauss - Good evening, members of the Commission. The first
32 deferral we're aware of is in the Brookland District. This is on page 2 of the
33 agenda, C-20C-09, David R. Gibbs and Clyde S. Taylor. This is a request to
34 conditionally rezone from A-1 Agricultural District to R-3C One-Family Residence
35 District. The applicant is requesting a deferral to the October 15th meeting.

36
37 **C-20C-09 Tom Kinter for David R. Gibbs and Clyde S.**
38 **Taylor:** Request to conditionally rezone from A-1 Agricultural District to R-3C
39 One-Family Residence District (Conditional), Parcels 759-765-5522, 759-765-
40 7424, 759-765-8939 and 759-765-7456, containing 6.807 acres, located on the
41 east line of Francistown Road at its intersection with Nuckols Road. The
42 applicant proposes a single family detached residential subdivision with no more
43 than fourteen (14) units. The R-3 District allows a minimum lot size of 11,000
44 square feet and a maximum gross density of 3.96 units per acre. The use will be
45 controlled by zoning ordinance regulations and proffered conditions. The Land
46 Use Plan recommends Suburban Residential 2, density should not exceed 3.4
47 units per acre, and Environmental Protection Area.

48
49 Mrs. Jones - Is there anyone with us tonight in opposition to C-
50 20C-09, Tom Kinter for David R. Gibbs and Clyde S. Taylor? There is no
51 opposition.

52
53 Mr. Archer - Madam Chair, I will move for deferral of C-20C-09,
54 Tom Kinter for David R. Gibbs and Clyde S. Taylor, to the October 15, 2009
55 meeting, by request of the applicant.

56
57 Mr. Jernigan - Second.

58
59 Mrs. Jones - Motion by Mr. Archer, and a second by Mr. Jernigan.
60 All in favor say aye. All opposed say no. The ayes have it; the motion passes.

61
62 At the request of the applicant, the Planning Commission deferred C-20C-09,
63 Tom Kinter for David R. Gibbs and Clyde S. Taylor, to its meeting on October 15,
64 2009.

65
66 Mr. Strauss - The next request for deferral is also in the Brookland
67 District, page 3 of the agenda. It is C-23C-09, Nobility Investments, LLC. This is
68 a request to amend proffered conditions accepted with the Rezoning Case C-
69 11C-07. The applicant is requesting a deferral to the October 15th meeting.

70

71 **C-23C-09** **Mayur Patel for Nobility Investments LLC:** Request
72 to amend proffered conditions accepted with Rezoning Case C-11C-07, on
73 Parcel 767-747-9248, located on the north line of Glenside Drive approximately
74 355 feet west of Bethlehem Road. The applicant proposes to amend Proffer 15
75 to require landscaping instead of a screening wall adjacent to a proposed hotel.
76 The existing zoning is B-2C Business District (Conditional). The Land Use Plan
77 recommends Commercial Arterial and Office.

78
79 Mrs. Jones - Is there anyone in the audience who is in opposition
80 to this case, C-23C-09, Mayur Patel for Nobility Investments, LLC? No
81 opposition to that.

82
83 Mr. Archer - Madam Chair, I move for deferral of C-23C-09, Mayur
84 Patel for Nobility Investments, LLC, to the October 15, 2009 meeting by request
85 of the applicant.

86
87 Mr. Branin - Second.

88
89 Mrs. Jones - Motion by Mr. Archer, seconded by Mr. Branin. All in
90 favor say aye. All opposed say no. The ayes have it; the motion passes.

91
92 At the request of the applicant, the Planning Commission deferred C-23C-09,
93 Mayur Patel for Nobility Investments, LLC, to its meeting on October 15, 2009.

94
95 Mr. Emerson - Madam Chair, I believe that concludes the
96 withdrawals and deferrals unless there are any to be presented by the
97 Commission.

98
99 Mrs. Jones - Any by the Commission? All right, that's it.

100
101 Mr. Emerson - That takes us to the next item on the agenda, which
102 are the requests for expedited items. Those will also be presented by Mr. Jim
103 Strauss.

104
105 Mr. Strauss - The first request for expedited approval is in the
106 Brookland District, page 1 of the agenda, POD-17-09, Virginia Lube Partners at
107 Broad Street, LLC. This is a request to redevelop an existing one-story, 6,400-
108 square-foot restaurant building, and construct a patio area addition. Staff is
109 recommending approval with Condition #9 amended, and additional conditions
110 29 through 33, as shown on the agenda.

111
112 **PLAN OF DEVELOPMENT** *(Deferred from the July 22, 2009 Meeting)*

113
POD-17-09 **Willmark Engineering, PLC for Virginia Lube**
Quaker Steak and Lube – Partners at Broad Street, LLC: Request for
Redevelopment of 8000 approval of a plan of development, as required by

West Broad Street
(POD-12-83 Rev.)

Chapter 24, Section 24-106 of the Henrico County Code, to redevelop an existing one story 6,400 square foot restaurant building and construct a patio area addition and pick-up window for drive-through facilities. The 1.56-acre site is located on the north line of W. Broad Street (U.S. Route 250) at the northeast corner of the intersection of Colyer Street and W. Broad Street (U.S. Route 250), on parcel 764-752-2945. The zoning is M-1, Light Industrial District. County water and sewer. **(Brookland)**

114

115 Mrs. Jones - Do we have anyone with us tonight in opposition to
116 POD-17-09, Willmark Engineering, PLC for Lube Partners at Broad Street, LLC?
117 No opposition.

118

119 Mr. Archer - Madam Chair, I will move for approval on the
120 expedited agenda, subject to the standard conditions for developments of this
121 type, #9 amended, and additional conditions 29 through 33.

122

123 Mr. Branin - Second.

124

125 Mrs. Jones - Motion by Mr. Archer, seconded by Mr. Branin. All in
126 favor say aye. All opposed say no. The ayes have it; the motion passes.

127

128 The Planning Commission approved POD-17-09, Quaker Steak and Lube,
129 subject to the annotations on the plans, the standard conditions attached to these
130 minutes for developments of this type, and the following additional conditions:

131

132 9. AMENDED - A detailed landscaping plan shall be submitted to the
133 Department of Planning for review and Planning Commission approval
134 prior to the issuance of any occupancy permits.

135 29. A concrete sidewalk meeting VDOT standards shall be provided along the
136 north side of W. Broad Street (U.S. Route 250).

137 30. Outside storage shall not be permitted.

138 31. The loading areas shall be subject to the requirements of Chapter 24,
139 Section 24-97(b) of the Henrico County Code.

140 32. In the event of any traffic backup which blocks the public right-of-way as a
141 result of congestion caused by the drive-up facilities, the owner/occupant
142 shall close the drive-up facilities until a solution can be designed to
143 prevent traffic backup.

144 33. The location of all existing and proposed utility and mechanical equipment
145 (including HVAC units, electric meters, junctions and accessory boxes,
146 transformers, and generators) shall be identified on the landscape plan.
147 All building mounted equipment shall be painted to match the building, and
148 all equipment shall be screened by such measures as determined

149 appropriate by the Director of Planning or the Planning Commission at the
150 time of plan approval.

151
152 Mr. Strauss - The last request for expedited approval is in the Three
153 Chopt District, page 3 of the agenda, C-24C-09, HHHunt Corporation. The
154 applicant proposes to amend Proffer 7 related to minimum square footage, and
155 delete Proffer 9 related to age restriction, and add Proffer 19 related to fences.
156 Staff is supporting this request and is recommending approval.

157
158
159 Mr. Strauss - The last request for expedited approval is in the Three
160 Chopt District, page 3 of the agenda, C-24C-09, HHHunt Corporation. The
161 applicant proposes to amend Proffer 7 related to minimum square footage, and
162 delete Proffer 9 related to age restriction, and add Proffer 19 related to fences.
163 Staff is supporting this request and is recommending approval.

164
165 **C-24C-09 George W. Moore, III for HHHunt Corporation:**
166 Request to amend proffered conditions accepted with Rezoning Case C-72C-05,
167 on Parcels 746-769-5893, 746-769-5289, 746-769-4786, 746-769-4184, 746-
168 769-2878, 746-769-2890, 746-769-4197, 746-770-2806, 746-770-2317, 746-
169 770-2222, 746-770-2128, 746-770-2034, 746-770-2139, 746-770-2048, 746-770-
170 1150, 745-770-9942, 745-770-9934, 746-770-0129, 746-770-4605, 746-770-
171 3446, 746-770-3436, 746-770-3430, 746-770-3425, and 746-770-3768, located
172 at the southeast intersection of Hickory Bend Drive and Hickory Park Drive. The
173 applicant proposes to amend Proffer 7 related to minimum square footage, delete
174 Proffer 9 related to age restriction, and add Proffer 19 related to fences. The
175 existing zoning is RTHC Residential Townhouse District (Conditional). The Land
176 Use Plan recommends Suburban Mixed-Use, density should not exceed 4 units
177 per acre.

178
179 Mrs. Jones - Do we have anyone this evening who is in opposition
180 to C-24C-09, George W. Moore, III for HHHunt Corporation? No opposition.

181
182 Mr. Branin - I'd like to move for approval of C-24C-09, George W.
183 Moore, III for HHHunt Corporation, on the expedited agenda.

184
185 Mr. Archer - Second.

186
187 Mrs. Jones - Motion by Mr. Branin, seconded by Mr. Archer. All in
188 favor say aye. All opposed say no. The ayes have it; the motion passes.

189
190 **REASON:** Acting on a motion by Mr. Branin seconded by Mr.
191 Archer, the Planning Commission voted 4-0 (one absent, one abstention) to
192 recommend the Board of Supervisors grant the request because the reduction in
193 minimum house size and required finish space would not greatly influence the
194 quality or value of residential development in the area and the proffers continue

195 to assure a quality form of development with maximum protection afforded the
196 adjacent properties.

197

198 Mr. Emerson - Madam Chair, that now takes us to your regular
199 agenda with two cases to be heard.

200

201 **C-22C-09 James W. Theobald for CA, L.L.C.:** Request to
202 amend proffered conditions accepted with Rezoning Cases C-67C-03 and C-
203 38C-06, on part of Parcel 762-773-4696, located at the southeast intersection of
204 Hunton Park Boulevard and Hunton Park Lane. The applicant proposes to
205 amend proffers related to architectural treatment, unit type, sound suppression,
206 and security systems. The existing zoning is RTHC Residential Townhouse
207 District (Conditional). The Land Use Plan recommends Urban Residential, with
208 density ranging from 3.4 to 6.8 units per acre.

209

210 Mrs. Jones - Before Mr. Lewis begins, is there anyone here in
211 opposition to C-22C-09, James W. Theobald for CA, LLC? All right. Good
212 evening, Mr. Lewis.

213

214 Mr. Lewis - Good evening, Madam Chair, members of the
215 Commission.

216

217 This is a request to amend proffers that govern the Villas at Hunton Park, a
218 residential community approved through cases C-38C-06 and C-67C-03.
219 Specifically, the request is to amend proffers 2, 3, 18 and 25 pertaining to the
220 RTHC zoned property, but only the portion that is still undeveloped.

221

222 The 2026 Comprehensive Plan's recommended future land use for the site is
223 Urban Residential, which is consistent with the applicant's request.

224

225 Proffers 2 and 3 accepted with case C-38C-06 specify two types of residential
226 buildings with specific elevations, minimum square footage requirements, and
227 unit widths for each. This request would amend these two proffers to allow a
228 third townhouse unit—the Lafayette—with a different elevation and width. The
229 proposed unit would still meet the existing 2,000-square-foot finished floor area
230 requirement, but the change would allow these units to be 24 feet wide versus 28
231 feet wide.

232

233 Proffer 18 requires sound suppression measures be installed in the rear exterior
234 walls of five buildings adjacent to Interstate 295. The applicant proposes
235 amending this proffer to allow enhanced sound suppression for 14 of the units to
236 be a buyer option, buildings M, N, and Q. This change could potentially leave
237 only 9 of the 23 units with this feature.

238

239 The proposed change to Proffer 25 would allow security systems to be installed
240 as an option for all units in the development rather than being a requirement.

241
242 In summary, the proposed changes related to building elevations, minimum unit
243 width, and security system installation would provide appropriate development
244 flexibility to complete the remainder of The Villas. The additional unit design and
245 its minimum square footage would remain compatible with the residences
246 already constructed; therefore, these changes would be in keeping with the
247 intentions of the original proffers. Overall, staff supports this request, but does
248 have concerns about having some units adjacent to the interstate with enhanced
249 sound suppression and others without. This would not be consistent with other
250 similarly-located homes in The Villas, or The Ridge at Hunton Park. Such
251 measures are typically proffered for development adjacent to interstates and
252 other potential noise generators, and this request may set a precedent for future
253 residential development along major roads.

254
255 This concludes my presentation. I will be happy to take any questions.

256
257 Mrs. Jones - Do we have questions for Mr. Lewis?

258
259 Mr. Jernigan - Mr. Lewis, do you go out to the site occasionally?

260
261 Mr. Lewis - I've been out a couple of times, yes sir.

262
263 Mr. Jernigan - Does it look like there's much moving out there at this
264 point right now?

265
266 Mr. Lewis - I'd say probably a little more than half of the site has
267 developed pads, but nothing coming out of the ground.

268
269 Mr. Jernigan - Okay. So, on all of the proffers, you're okay. The only
270 problem that we have is the sound suppression.

271
272 Mr. Lewis - Correct.

273
274 Mr. Jernigan - I thank you.

275
276 Mr. Lewis - Thank you.

277
278 Mrs. Jones - Let me just ask. Do you know whether sound
279 suppression at this level has been part of any other townhouse or condominium-
280 type developments that have been changed?

281
282 Mr. Lewis - I am not personally aware of that change.

283
284 Mrs. Jones - In other words, have they been eliminated with some?
285 Have they been built with some? But you're not aware of any that have this
286 change to a buyer option.

287
288 Mr. Lewis - Not in the middle. This is a little bit of a unique case
289 because we're in the middle of the process. I haven't seen this particular timing
290 of the request.

291
292 Mr. Emerson - Madam Chair, there are many cases out there with
293 sound suppression in similar situations near roadways. I don't recall any proffer
294 that was a buyer-option proffer. It either was or it wasn't. That doesn't mean that
295 it's not provided as a buyer option to potential purchasers in those developments,
296 we just don't have it as a proffer.

297
298 Mrs. Jones - I know, for instance, in security systems, having
299 talked to folks familiar with this case, that many times it'll be provided, but folks
300 won't hook it up because they don't want to incur the monthly fees. I was just
301 wondering if this was presented as a buyer option, the sound suppression, with
302 the amount of money that it adds, whether that would be elected as an option
303 very often. I didn't know what our history was with that in the County. All right.

304
305 Mr. Archer - Madam Chair, I do have one question. Maybe Mr.
306 Lewis can answer it. How would the buyer know that this is an option? Is there
307 something the buyer would have to discover or be told as an option?

308
309 Mr. Lewis - My understanding from attending the neighborhood
310 meetings—and the applicants can speak to this in more detail—is that it would be
311 part of the discussion when they sit down to talk about adding all the various
312 options to the residence.

313
314 Mrs. Jones - Can the applicant come forward?

315
316 Mr. Jernigan - Yes. For the record, I'd like to state also, too, that I'm
317 handling this case for Mr. Vanarsdall. He was called out unexpectedly. I would
318 like to hear from the applicant.

319
320 Mrs. Jones - Thank you, Mr. Lewis.

321
322 Mr. Lewis - Thank you.

323
324 Mr. Theobald - Good evening, Madam Chair, gentlemen. I'm Jim
325 Theobald. I'm here on behalf of CA, LLC, which is the developer of the Villas at
326 Hunton.

327
328 This is a very modest request to amend certain zoning conditions applicable to
329 only a portion of the Villas at Hunton. This is a townhouse-style condominium
330 project off Staples Mill Road just north of Interstate 295. This request is
331 designed to accomplish basically three things. One is to continue to guarantee
332 the same number of the largest units as was committed in the most recent case,

333 while allowing for a third product, the Lafayette that you saw on the screen, to be
334 built that basically ranges between the 2,900 square feet of the larger unit that's
335 been proffered and the 2,000-square-foot unit that was proffered. We have
336 nothing, essentially, in between. This Lafayette unit has the ability, because of
337 the way it's designed, to range from between 2,150 square feet up to just under
338 2,900 square feet. The second request is to make the provision of sound
339 attenuation materials at the rear an option rather than mandatory. The third is to
340 make the provision of individual security systems optional.

341
342 As to the first, it gives us more flexibility. It's actually going to increase the
343 average square footage overall of the community by providing this middle range
344 product. We believe that it's going to be a winner with consumers. The second is
345 the sound attenuation, which seems to have provoked the most discussion. What
346 we find is people who understand that the sound attenuation factor exists as only
347 to those units that you see up against 295 have asked can we eliminate that and
348 use it for other options because it's about an \$8,000 to \$10,000 item. Of course,
349 we do not have the ability to do that the way the case is currently styled.

350
351 When we talk about proffers being typical of this nature up against interstates, I
352 have maybe a little longer view of what's typical, having appeared before this
353 body for some 30 years now. While it may be typical in the past few years, I,
354 myself, other than this particular project, can only think of two others where it was
355 done. I'm thinking that if you search the records, you might find half a dozen
356 County-wide in a County that has lots of frontage in residential communities up
357 against interstates. So, if somebody does it once, it becomes an issue that
358 people will request. This is the first time I think we've found that it's an
359 impediment to the sale of residential units rather than, perhaps, a benefit.

360
361 Lastly, the security systems, we find that people, once again, would rather roll
362 these kinds of expenses into different features, whether they're countertops,
363 flooring materials, or perhaps thinking ahead to furniture for rooms.

364
365 We do think that these will allow the homeowner to have more choices as to the
366 product to purchase at the Villas at Hunton. We think this then has the benefit to
367 the community at large in that we believe it will increase the pace of sales. That
368 will allow us to complete construction sooner. There are a lot of dirt piles out
369 there, and while we try to keep the site as neat as possible, when you drive out
370 there, you certainly have the appearance of a community still under construction,
371 or hopefully under construction. This would also allow the streets to receive their
372 final paving and completion of the landscaping. And not an insignificant point,
373 but right now, basically, if you want to resell your unit out there, you're competing
374 against Ryan who has a brand new unit with a nice warranty, new appliances,
375 etcetera. So, we think that the sooner that we can complete this community,
376 getting new residents paying homeowners' association dues, that all of this will
377 contribute to an increase in value over the long run, if not also the short run, to
378 the owners. In fact, the advisory committee of the homeowners' association has

379 evidenced their support of this case. Ms. Poole is here this evening to attest to
380 that when I finish. We've met on three occasions with the community at large,
381 and one additional occasion with the advisory board to discuss our plans.

382

383 With that, I'd be happy to answer any questions that you might have.

384

385 Mrs. Jones - Do we have questions for Mr. Theobald?

386

387 Mr. Donati - I have one. Could you tell me some of the items that
388 are involved in this \$8,000 to \$10,000 for sound suppression? Is that per unit?

389

390 Mr. Theobald - Yes, it is per unit. The prior proffer in this case had a
391 rather detailed explanation of the various channel systems in the walls. Addition
392 of an RC-1 sound attenuation channel creating a half-inch dead airspace, and
393 any windows installed in these walls had to have a minimum sound transmission
394 coefficient rating of 32. So there is special construction and a special window
395 across the entire rear of these homes. It basically creates an additional air baffle.

396

397 Mr. Donati - Is that like a gas-filled dual pane?

398

399 Mr. Theobald - Is that space filled or is it dead space? It's a gas.

400

401 Mr. Donati - So a buyer would have the option at the time of
402 construction, or is it going to be constructed and then the buyer has the option?

403

404 Mr. Theobald - The way Ryan works is their corporate policy is
405 basically not to start a house until it's been sold. So, one of the reasons Ryan is
406 still standing and financially viable is that they don't build spec houses. They will,
407 in a row of four or six townhomes, they have started some, provided they've sold
408 at least 75% of those in advance. So you will have an option to include this—it
409 will be one of the listed options—before you sign up to have a home built. If they
410 start a four-unit building, and only three of them pre-sold, and you're the fourth
411 guy in there, and this is the feature that you want and that wall's already up, then
412 you would not be able to purchase it in that unit. You would be happily sold one
413 in the next group to be built. That's the way it works.

414

415 Mr. Donati - They could have the option of the windows.

416

417 Mr. Theobald - Yes, exactly.

418

419 Mr. Donati - So the windows that are not going to be sound
420 suppression, are they just going to be a regular run-of-the-mill window, like a
421 single-hung window that you can't wash from upstairs, you can't flip it out?

422

423 Mr. Theobald - I don't know, Rick do you know, whether they're
424 double-hung windows that you can flip out to wash? Yes. I'm repeating for the

425 benefit of the record. What we've found is on the rear of these homes is that
426 notwithstanding putting that level of windows and that level of sound attenuation,
427 basically, if you had any opening, whether it's a window, a door, or anything on
428 these rears, it significantly reduces what you've set out to do with sound
429 attenuation. Nobody wants a windowless back wall. It's been interesting in
430 theory; hasn't always delivered. It's just something that I think maybe a
431 consumer ought to decide if they want, and that's what we're asking.

432

433 Mrs. Jones - Other questions?

434

435 Mr. Archer - I have just one more question. In looking at the
436 coefficient ratings, a good one is at 55. It says the minimum rating is 32. I'm
437 thinking that's a big gap, but I'm not an expert on these numbers.

438

439 Mr. Theobald - That's a good question. We spent a lot of time trying
440 to become educated on sound attenuation. What you're used to seeing, Mr.
441 Archer, and undoubtedly is clicking with you, is that the 55 is a rating that we do
442 between walls in units. It's never been used for an exterior until the first time this
443 case was put together. The proffer as drafted included a requirement for 55 on
444 an exterior wall, which couldn't be met, and required certification by an engineer.
445 It wasn't possible to meet. That is what caused us to amend these proffers the
446 last time.

447

448 Mr. Jernigan - Mr. Theobald, under normal certification, it's 51 to 54,
449 correct?

450

451 Mr. Theobald - In between units?

452

453 Mr. Jernigan - Yes.

454

455 Mr. Theobald - In between walls. Right. And that's only if that's
456 proffered. I don't know what a normal merchant builder, I don't know what the
457 sound coefficient would be. But when you get a multi-family unit with a common
458 wall, typically we'll see something between 51, 55, 54 in between the walls.

459

460 Mr. Jernigan - I think most of the cases that come through are 51 to
461 54.

462

463 Mr. Theobald - Yes, for interior. The rear of these units is about 180
464 feet from the edge of the pavement of 295. There are significant buffers that were
465 included not only in the last proffer amendment that we did along 295, but
466 additional plantings were agreed upon in this landscape plan when it came back
467 before the Commission for these condominiums. There are significant plantings
468 in the back as well. There is a potential for 14 units for which there will be that
469 option.

470

471 Mr. Jernigan - As we had discussed earlier, they don't put the units
472 up until they've pre-sold 75%.

473

474 Mr. Theobald - At a minimum. Frankly, their corporate philosophy is
475 not to start until they've sold them all. But they will start a building if it looks like
476 it's been a while and they have 75% of them sold.

477

478 Mr. Jernigan - You do have it as an option, and you said it is
479 between \$8,000 and \$10,000. I don't think you'll sell a whole lot of these
480 because most people don't buy options that you can't see, and this is one that
481 you can't see.

482

483 Mr. Theobald - I disagree. But that owner, then, has made the
484 choice.

485

486 Mr. Jernigan - Exactly. Yes. That's the reason I wanted to make
487 sure when we talked earlier that everybody had the chance. So, usually, you only
488 have one occupant that didn't have the chance to get it.

489

490 Mr. Theobald - Right.

491

492 Mr. Jernigan - And they can move him to another unit. Okay.

493

494 Mrs. Jones - I just want to say one thing, and it's something that's
495 kind of been bothering me. I think it bears saying on the record. When zoning
496 cases come through here, obviously we and the applicant, everybody, staff, does
497 the very best they can to pinpoint exactly what will be the best case going
498 forward. Sometimes that becomes very strictly defined. Sometimes that's a great
499 guess, and sometimes it's slightly off the mark. I would hope that we don't revisit
500 proffers anymore than we have to because that's a bond of trust between all
501 parties of the agreement. On the other hand, between the time the case comes
502 through and the time the building gets started can be a significant time. So, while
503 I'm not happy that we're here considering proffer changes, I think we live and
504 learn a little bit, and sometimes it is in the best interest of the project to do some
505 things. Tonight we've considered several. I just wanted to let you know that I
506 hope we're not here talking about this every single month, but there may be
507 times when it's appropriate.

508

509 Mr. Theobald - I think as you may know, I think we've approached all
510 of you with requests on behalf of others that have never made it this far because
511 they were either deemed to be inappropriate, or significantly less in quality. There
512 is a system that does filter out these things.

513

514 Mrs. Jones - Hopefully.

515

516 Mr. Jernigan - Okay, I'm okay.

517

518 Mrs. Jones - Thank you.

519

520 Mr. Jernigan - All right, Madam Chair, like I said, Mr. Vanarsdall
521 asked me to handle this case, and I'd been reading over the proffers. I guess,
522 along with everybody else, I was fine. The sound suppression had me a little bit
523 on edge, but after Mr. Theobald explained that the way that they put the units up,
524 that at least 75% has to be sold, those people have the option of getting it if they
525 want to. It is \$8,000 to \$10,000. I actually didn't realize it was that much money.
526 And it does give them a third unit design. There were only two units available
527 before, and this does give you a third unit. So, after watching the President last
528 night, he was also saying that in government now, everybody has to give and
529 take a little bit, so I guess that funnels down to us, too.

530

531 Mrs. Jones - Mr. Jernigan, please don't go there.

532

533 Mr. Branin - I would yell out, "That's a lie," but I—

534

535 Mr. Jernigan - No, I'm not telling you a lie; I'm telling you the truth.
536 But anyway, at this point, I'm okay with it, so I'm going to make a motion to
537 approve case C-22C-09, James W. Theobald for CA, LLC, to send to the Board
538 for their approval.

539

540 Mr. Branin - Second.

541

542 Mrs. Jones - Motion by Mr. Jernigan, seconded by Mr. Branin. All
543 in favor say aye. All opposed say no. The ayes have it; the motion passes.

544

545

546 **REASON:** Acting on a motion by Mr. Jernigan seconded by Mr.
547 Branin, the Planning Commission voted 4-0 (one absent, one abstention) to
548 recommend the Board of Supervisors grant the request because the changes do
549 not greatly reduce the original intended purpose of the proffers.

550

551 **P-11-09** **Bruce D. Perretz:** Request for a Provisional Use
552 Permit under Sections 24-58.2(d), 24-120 and 24-122.1 of Chapter 24 of the
553 County Code to permit outside dining for a restaurant on part of Parcel 737-761-
554 2086, located on the east line of Lauderdale Drive approximately 480 feet north
555 of Three Chopt Road (Shoppes at Westgate). The existing zoning is B-2C
556 Business District (Conditional). The Land Use Plan recommends Commercial
557 Arterial. The site is in the West Broad Street Overlay District.

558

559 Mrs. Jones - Is there anyone with us this evening in opposition to
560 P-11-09, Bruce D. Perretz? Okay, thank you. Good evening, Ms. Taylor.

561

562 Ms. Taylor - Good evening. Thank you, Madam Chair.

563

564 This request would allow Anokha, a restaurant at the Shoppes at Westgate, to
565 operate an outdoor dining area which would be located on an existing concrete
566 pad in front of the restaurant. It would extend across the sidewalk in front of an
567 existing stairway, and partially along the northern exterior wall of the restaurant.

568

569 The site is zoned B-2C, is located in the West Broad Street Overlay District, and
570 is governed by proffers accepted with rezoning case C-75C-02. Proffer 6
571 accepted with this case requires that pedestrian access ways between major
572 project areas within the development be provided. The proposed outdoor dining
573 would not meet this proffer.

574

575 Exhibit A illustrates the floor plan of the proposed outdoor dining area. This
576 design blocks the sidewalk and provides no alternative for pedestrian flow. Staff
577 believes the proposed outdoor dining area poses several design concerns. When
578 reviewing outdoor dining areas for provisional use permits, staff makes
579 recommendations to encourage the coexistence of outdoor dining with
580 surrounding pedestrian activity. These include, providing a clear, continuous,
581 and unobstructed pedestrian path not less than five feet in width for pedestrian
582 circulation between the outdoor dining area and the sidewalk curb; physically
583 separating outdoor dining patrons and pedestrians, especially when the sale and
584 service of alcohol is provided; and providing access to the outdoor dining area
585 only through the interior of the restaurant.

586

587 This request is inconsistent with Proffer 6 of C-75C-02 and the typical conditions
588 for outdoor dining. Because of the hindrance of pedestrian flow that would be
589 created by the applicant's proposal, staff does not support outdoor dining in this
590 location. However, if the Planning Commission deems this request appropriate,
591 staff recommends the outdoor dining area be subject to the revised conditions
592 handed out to you tonight. An additional condition, Condition 14, has been added
593 to eliminate the stairs and crosswalk that would be blocked by the proposed
594 outdoor dining area. Condition 14 states:

595

596 14. Prior to the construction of the outdoor dining area, the stairs and the
597 adjacent crosswalk north of the outdoor dining area shall be removed.
598 Plantings consistent with the existing landscaping on either side of the
599 stairs shall be planted in place of the stairway.

600

601 This concludes my presentation. I will be happy to answer any questions.

602

603 Mrs. Jones - Are there questions for Ms. Taylor?

604

605 Mr. Branin - I have none for Ms. Taylor, but I would like to speak to
606 the applicant.

607

608 Mrs. Jones - Before you leave, Ms. Taylor, do you have a
609 rendering of the revised plan here with #14 in place? If you could just point that
610 out. Simply that the stairs would be removed.
611
612 Ms. Taylor - Yes ma'am.
613
614 Mrs. Jones - And that would be a solid barrier of plantings.
615
616 Ms. Taylor - Yes ma'am.
617
618 Mrs. Jones - Is there a crosswalk?
619
620 Ms. Taylor - Yes ma'am. I have photos.
621
622 Mrs. Jones - Okay, that crosshatching on the road. Okay.
623
624 Ms. Taylor - Yes.
625
626 Mrs. Jones - All right. Thank you.
627
628 Ms. Taylor - You're welcome.
629
630 Mrs. Jones - Would the applicant come forward? State your name
631 for the record, please; we're recording these.
632
633 Mr. Slusher - Sure. My name is Mark Slusher. I'm the managing
634 partner for the shopping center. I'm here on behalf of the applicant.
635
636 Mrs. Jones - Are there questions for the applicant?
637
638 Mr. Branin - Mr. Slusher, you've discussed with the adjacent
639 tenants about reducing the amount of connectivity with this, correct?
640
641 Mr. Slusher - Yes I have. I've not received any objections from the
642 tenants.
643
644 Mr. Branin - I know we discussed, prior to this meeting this
645 evening, Condition 14. You understand Condition 14?
646
647 Mr. Slusher - Yes. Condition 14 would be the elimination of the
648 stairs and replacing it with landscaping so that there's no confusion whatsoever
649 that that's an access point.
650
651 Mr. Branin - Those are the only questions I have.
652

653 Mrs. Jones - Just so I'm clear on this, Mr. Slusher. Looking at the
654 upper dining area across the street.
655
656 Mr. Slusher - Across the street. Oh, yes.
657
658 Mrs. Jones - On the picture there? How do folks get from there to
659 this location currently? They go to what is now our left? Is that correct?
660
661 Mr. Slusher - Yes. They would walk along the entrance to the
662 parking long and into the lower shopping center, if you will.
663
664 Mrs. Jones - Is that marked with any kind of pedestrian pathway?
665
666 Mr. Slusher - We could look into seeing what would make sense
667 there.
668
669 Mrs. Jones - Telling people where to go is often a very—
670
671 Mr. Slusher - Mmm-hmm.
672
673 Mr. Branin - With that in mind, would you be willing to change to
674 put additional cross markings on pavement at the front sidewalk?
675
676 Mr. Slusher - I'm willing to do and investigate whatever makes
677 sense. When you go across, there's no connection there.
678
679 Mr. Branin - Right.
680
681 Mr. Slusher - So, I'm not sure what it would connect to.
682
683 Mr. Branin - I want to look into that, and I'll be happy to meet with
684 [blank; inaudible] prior to the Board meeting.
685
686 Mr. Slusher - Okay.
687
688 Mr. Branin - And Mr. Kaechele, I'm sure, when I review this with
689 him this evening because it's up-to-date on this as of this point. But that is an
690 excellent suggestion. So I'll bring that up to him and we'll come out and look at it
691 as well.
692
693 Mr. Slusher - Okay. Do you want me to give you a call to set up a
694 time to meet?
695
696 Mr. Branin - Absolutely. I have no further questions.
697
698 Mrs. Jones - Anyone else? Thank you very much.

699

700 Mr. Branin - Madam Chair, I'd like to move that P-11-09, Bruce D.
701 Perretz, be approved with conditions 1 through 13, and additional condition #14.

702

703 Mr. Jernigan - Second.

704

705 Mrs. Jones - Motion by Mr. Branin, seconded by Mr. Jernigan. All
706 in favor say aye. All opposed say no. The ayes have it; the motion passes.

707

708 **REASON:** Acting on a motion by Mr. Branin seconded by Mr.
709 Jernigan, the Planning Commission voted 4-0 (one absent, one abstention) to
710 recommend the Board of Supervisors grant the request because the conditions
711 should minimize the potential impacts on surrounding land uses and when
712 properly developed and regulated by the recommended special conditions, it
713 would not be detrimental to the public health, safety, welfare and values in the
714 area.

715

716 Mr. Emerson - Madam Chair, the next item on your agenda is also
717 on page 3, and it is a discussion item. It is a request that you set a public hearing
718 to take public input on the Subdivision and Zoning Ordinance amendments that
719 we discussed with you and the Board of Supervisors on Tuesday evening of this
720 week. Ordinance changes in general are mandated by the General Assembly,
721 but they dealt with water impoundments, time limits on POD's, site plans and
722 subdivisions, definitions of "immediate family" for family subdivisions, and other
723 changes to the ordinances regarding the criteria for BZA administration. We
724 would request that the Commission set a public hearing on those changes for
725 October 15, 2009.

726

727 Mrs. Jones - Mr. Emerson, do we advertise that as a 7:00 public
728 hearing?

729

730 Mr. Emerson - We advertise all our public hearings for 7:00. We can
731 place that on the agenda at 7:00 or after 7:00, depending upon the agenda and
732 the wishes of the Commission.

733

734 Mrs. Jones - We discussed earlier, and we weren't quite clear what
735 the normal process was.

736

737 Mr. Jernigan - Normally we have them up front.

738

739 Mrs. Jones - In deference to the public.

740

741 Mr. Emerson - Right. You can place them on the agenda wherever
742 you wish. All your public hearings are advertised for 7. On occasion, we will
743 advertise them early, for 6:00. Say the CIP, for instance, we normally do at 6:00.

744 On occasion, we'll do ordinance amendments earlier. It's at your pleasure. I
745 would suggest 7:00 based on the current caseload.

746
747 Mrs. Jones - And put it first on the agenda.

748
749 Mr. Emerson - Yes ma'am, we can do that.

750
751 Mrs. Jones - Okay. Do we move that we do this?

752
753 Mr. Emerson - Yes ma'am.

754
755 Mrs. Jones - Okay. A motion?

756
757 Mr. Jernigan - Madam Chair, I'll make a motion that we set a public
758 hearing for October 15, 2009, for the new Subdivision and Zoning Ordinance
759 amendments.

760
761 Mr. Archer - Second.

762
763 Mrs. Jones - Motion by Mr. Jernigan, seconded by Mr. Archer. All
764 in favor say aye. All opposed say no. The ayes have it; the motion passes.

765
766 That is set for October 15th.

767
768 Mr. Emerson - Madam Chairman, the next item on your agenda
769 would be the consideration for approval of the minutes of the August 13, 2009
770 Planning Commission meeting.

771
772 Mrs. Jones - Do we have any additions or corrections to the
773 minutes? My goodness. All right. I will entertain a motion for their approval.

774
775 Mr. Branin - So moved.

776
777 Mr. Archer - Second.

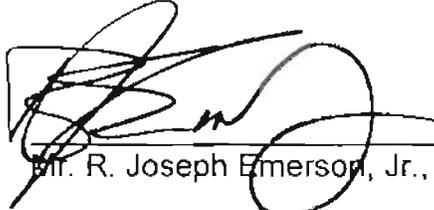
778
779 Mrs. Jones - Motion by Mr. Branin, seconded by Mr. Archer. All in
780 favor say aye. All opposed say no. The ayes have it; the motion passes.

781
782 Mr. Emerson - Madam Chair, I have one other item, if I may bring up
783 with the Commission, and that's the introduction of a new staff member. And
784 then I will be quiet, I promise, Mr. Branin.

785
786 Mr. Branin - Another one?

787
788 Mr. Emerson - Another one. They just keep turning up everywhere.

789

790 Mr. Branin - Every month we have new people; I get so confused.
791
792 Mr. Emerson - We had a recent retirement of Mr. Ralph Cook. I don't
793 know how many of you had interaction with Mr. Cook. He'd been with our office
794 30 years. He did retire and we needed to replace him because he performed very
795 valuable work in the office in relation to house numbering and property
796 numbering. Obviously, that's very integral to the E-9-1-1 system. So, I'm pleased
797 to introduce to you Mr. Justin Doyle. Justin, if you'll stand up. He is now our
798 Senior Planning Technician in the Comprehensive Planning Division. He began
799 with the office on August 31st. He had been with the County since March 2008.
800 He was a part-time employee of Community Revitalization. So, we stole him from
801 Revitalization. He does have a Bachelor of Art's degree in Geography from the
802 University of Mary Washington, and he's currently pursuing a master's in Urban
803 and Regional Planning at VCU. I thought I'd introduce him to you, and welcome
804 him to the staff.
805
806 Mrs. Jones - Welcome. Nice to have you.
807
808 Mr. Emerson - Actually, we didn't steal him, we saved him.
809
810 Mr. Branin - You saved him.
811
812 Mr. Archer - It's customary for me to tell you to really soak up that
813 applause, because the next applause you hear will be when you retire.
814
815 Mrs. Jones - On that note, is there anything else to come before
816 the Commission tonight? Then I'll entertain a motion for adjournment.
817
818 Mr. Archer - So moved, Madam Chair.
819
820 Mr. Branin - Second.
821
822 Mrs. Jones - Motion for adjournment, meeting's adjourned.
823
824 The meeting adjourned at 7:40 p.m.
825
826
827
828
829
830 
831 Mr. R. Joseph Emerson, Jr., Secretary
832
833
834
835

836
837


Mrs. Bonnie-Leigh Jones, Chairperson