

MINUTES OF THE PLANNING COMMISSION MEETING
Wednesday, September 7, 2011
City Council Chambers
2400 Washington Avenue
Newport News, Virginia

PRESENT: Sharyn Fox, Chairwoman; Victor Albea, Vice-Chairman; Robert B. Jones; Clara Swanson; H. Eugene Roberts; Wesley Maxwell; Cleon Long; Lorraine Austin; J. Doug Coenen, Jr.; (Staff: Sheila W. McAllister, Director of Planning; Kathy James-Webb, Manager of Current Planning; Michael King, Manager of Comprehensive Planning; Angela Hopkins, Senior Planner, Saul Gleiser, Senior Planner; David Watson, Planner; Johnnie Davis, Planner; Sandy Hitchens, Planning Technician; Lynn Sugg, Deputy City Attorney; Christine Mignogna, Zoning Administrator

ABSENT: None

CALL TO ORDER

The Chairwoman called the meeting to order at 2:00 P.M.

INVOCATION

Ms. Austin read the Planning Commission's purpose as stated in Section 15.2-2210 of the Code of Virginia. She made a motion to adopt the agenda before the Planning Commission. Mr. Albea seconded the motion. The City Planning Commission voted to adopt the agenda by acclamation.

Mr. Maxwell presented the invocation.

MINUTES

The minutes of the August 3, 2011 work session and August 3, 2011 public hearing were approved as presented.

PUBLIC HEARING

Ms. McAllister thanked Planning staff and the members of the District I Task Force, including Dr. Sandra Cherry, Madam Daniels, and Ethel Prior, as well as Commissioners Maxwell and Albea for their diligent work regarding the long process involved in developing the Southeast Community Plan.

FRAMEWORK FOR THE FUTURE 2030 PLAN AMENDMENT (PLAN-11-06)
SOUTHEAST COMMUNITY PLAN

The Southeast Community Plan establishes a vision and will serve as a guide for reinvestment within the plan area boundaries, which are 50th Street to the north, the CSX Railroad and Interstate 664 to the west, Hampton Roads Harbor to the south and the Newport News/Hampton City line to the east. The plan discusses key challenges and issues

facing the area and encourages reinvestment through recommendations to the land use map and implementation action steps for economic development, transportation, housing, historic preservation, parks, open space and community facilities. Copies of the draft Southeast Community Plan are available at all city libraries, the Department of Planning and on the department's website: www.nngov.com/planning.

Ms. Angela Hopkins, Senior Planner, presented the staff report (copy attached to record minutes).

There being no questions or comments, Ms. Fox opened and then closed the public hearing.

Mr. Albea made a motion to recommend adoption of plan amendment PLN-11-06 to City Council. The motion was seconded by Mr. Long.

Vote on Roll Call

For: Jones, Swanson, Roberts, Maxwell, Albea, Long, Austin, Coenen, Fox

Against: None

Abstention: None

The Planning Commission voted unanimously (9:0) to recommend adoption of plan amendment PLN-11-06 to City Council.

CHANGE OF ZONING

Z-11-313, Newport News Planning Commission. Requests a change of zoning from C1 Retail Commercial and R4 Single Family Dwelling to R4 Single Family Dwelling for properties located at 622 North Avenue and 623 Center Avenue to be consistent with the adopted comprehensive plan. The *Framework for the Future 2030* comprehensive plan recommends medium density residential for the properties. The Parcel Nos. are 267.00-02-62 & 267.00-02-71.

Mr. David Watson, Planner, presented the staff report (copy attached to record minutes).

Mr. Long asked why the rezoning application was not trying to capture the two single family houses to the east that also are commercial.

Ms. McAllister stated they were not captured in this particular rezoning because the *Framework for the Future 2030* comprehensive plan actually identifies those sites as commercial, which would require a plan amendment. Since we will be updating the comprehensive plan in another year or so, staff felt that those properties could be captured under the future comprehensive plan update.

There being no further questions or comments, Ms. Fox opened and then closed the public hearing.

Ms. Austin made a motion to recommend approval of change of zoning Z-11-313 to City Council. The motion was seconded by Mr. Roberts.

Vote on Roll Call

For: Swanson, Roberts, Maxwell, Albea, Long, Austin, Coenen, Jones, Fox

Against: None

Abstention: None

The Planning Commission voted unanimously (9:0) to recommend approval of change of zoning Z-11-312 to City Council.

CONDITIONAL USE PERMITS

CU-11-287, Min S. Im. Requests a conditional use permit to allow for the operation of a tattoo establishment located at 340 Oriana Road, Unit D on a 1.15 acre property zoned C2 General Commercial. The Parcel No. is 108.00-02-10.

Mr. David Watson, Planner, presented the staff report (copy attached to record minutes).

Ms. Fox asked how the city differentiates between cosmetic tattooing and regular tattooing as far as zoning enforcement.

Mr. Watson deferred to the Zoning Administrator.

Ms. Christine Mignogna, Zoning Administrator for the City of Newport News, stated that is the question that she has asked. For zoning enforcement purposes, she asked not to condition the limit of one tattooing booth and limiting only to cosmetic tattooing. She stated that cosmetic tattooing is the same as body art tattooing per the definition.

Mr. Roberts asked Mr. Watson to address whether the Commission was restricting the application to their current leased area or in the future could it be anywhere in that shopping center.

Mr. Watson stated the permit is restricted to that particular unit. If this business were to go out of business, that conditional use permit carries with the property, not the applicant or owner. If Ms. Im leaves, another establishment can come in and carry out the tattoo service under the same conditions approved.

Ms. McAllister added that, in order to lock it into Unit D, the Commissioners would also need to include the unit under the conditions because it is not specific to that unit, only the address, as opposed to the address and the unit.

Ms. Fox asked if there were other cosmetic tattoo facilities currently in the city.

Mr. Watson stated that the Zoning Ordinance allows cosmetic tattooing in a medical facility by-right only.

Ms. Austin stated there are two kinds of tattoo licenses: one that would allow only cosmetic tattooing, and the other only body art tattooing.

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Mr. Watson stated there is a license to operate the facility, and another to actually do the tattooing.

Ms. Austin asked if all of the licenses apply to either kind of tattooing.

Mr. Watson stated that, in this case, Ms. Im would have a license to allow the cosmetic tattooing in her facility. She may hire someone else, and that person must have a license to perform the tattooing.

Ms. Austin asked if that is limited to body decoration or cosmetic tattooing, and how broad is that license.

Mr. Watson stated he believed that the licensing covers all tattooing services.

Ms. McAllister stated that Ms. Shen has a cosmetologist license that also allows a tattooer to be in her establishment. The building itself will also, through the Health Department, require a license and the tattooer would have a license.

Ms. Austin asked if there is a distinction between cosmetic tattooing and body art tattooing.

Ms. James-Webb stated there are two separate tattoo licenses: one is for permanent makeup and one is for body art tattoos. Her assumption is that if you have a body art tattooer's license, then you can also do the other. There is a degree of complexity between the two, but there are two separate tattooer licenses.

Ms. Fox clarified that if one has a license for only cosmetic tattooing, then that is all you can do. That in itself restricts this to cosmetic tattooing.

Ms. James-Webb stated that is correct, unless they hire a body art tattooist to do permanent makeup.

Ms. Fox asked that someone may have a license to do both. Ms. James-Webb stated that is correct.

Ms. Swanson noted that the Zoning Ordinance does not distinguish between the types of tattooing. She stated she felt that was what Ms. Mignogna was talking about regarding the tattooing restrictions. She asked how the Commissioners were to restrict it.

Ms. McAllister stated that it would be difficult for the Zoning Administrator to enforce a limitation of tattoo services because we are approving a conditional use permit for a tattoo establishment. It would be difficult for them to ensure that they are only doing permanent makeup.

Ms. Fox stated we have approved conditional use permits for tattoo establishments that did not have restrictions as far as what type of tattooing they could do because that is very difficult to enforce.

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Ms. Fox recognized an email that was sent to the Commission back in July that objected to this conditional use permit from Mayer and Susan Levy.

There being no questions or comments, Ms. Fox opened and then closed the public hearing.

Mr. Long made a motion to recommend approval of conditional use permit CU-11-287 to City Council and amend the conditions to include the unit number of the building to Condition No. 2. The motion failed.

Ms. Austin made a motion to recommend approval of conditional use permit CU-11-287 to City Council with two amendments: one being to add "Unit D" to Condition No. 2, and second, to strike Condition No. 1, which limited the type of tattooing. The motion was seconded by Mr. Coenen.

Mr. Albea asked if the conditional use permit still allowed one booth.

Ms. Fox stated yes. We have a motion to recommend approval of CU-11-287, eliminating Condition No. 1 and changing Condition No. 2 to indicate the unit number as "Unit D".

Vote on Roll Call

For: Roberts, Maxwell, Long, Austin, Coenen, Swanson, Fox

Against: Albea, Jones

Abstention: None

The Planning Commission voted 7:2 to recommend approval of conditional use permit CU-11-287 to City Council.

CU-11-289, G-U Hardware, Inc. Requests a conditional use permit to allow for the operation of a gymnasium located at 12650 Patrick Henry Drive on a 4.90 acre property zoned M1 Light Industrial. The Parcel No. is 090.00-02-52.

Mr. David Watson, Planner, presented the staff report (copy attached to record minutes).

Ms. Austin asked what mechanism would be in place to make sure that special events extending beyond regular operating hours would be approved by the Fire Marshall and what would happen.

Mr. Watson stated that the conditional use permit requires a 10:00 P.M. closing. Should the applicant desire to stay open, they would contact the Fire Marshall. In the event they did not contact the Fire Marshall, their conditional use permit could be revoked.

Mr. Roberts asked if the language is intended to restrict teenage parties.
Mr. Watson stated that is correct.

Ms. Fox asked if this satisfies the Police requirements.

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Mr. Watson stated that the Police did not have any objections with the conditional use permit.

Mr. Long asked about the reduction of the on-site parking.

Mr. Watson stated the Commission would be hearing that application in October 2011. While staff was doing the report for this conditional use permit, staff worked with the Zoning Administrator to figure out the parking requirement and what part of the floor space to use to determine the required parking. The Zoning Ordinance requires one space per fifty square feet of floor space and there is no way to make that formula work with this use because it is a 38,000 square foot building. We finally decided that the cleanest and most correct way to address the parking requirement would be to file a special exception, which the applicant has done. It is scheduled for the October 19, 2011 Planning Commission meeting.

Ms. McAllister stated that the high amount of parking spaces are required by the Zoning Ordinance because it falls in a category similar to a stadium where you would have a large crowd. This particular use is similar to laser tag, recreational uses for children, and, therefore, the amount of parking provided is sufficient.

Mr. Coenen asked if they are using the entire building for this gymnasium, or just a portion of it.

Mr. Watson stated they are leasing the entire building at this time. They are physically not going to be able to use 38,000 square feet, as they are developing in stages, but they have the whole building.

Ms. Fox opened the public hearing.

Mr. Todd Foster, General Manager, 12650 Patrick Henry Drive, stated the policies regarding after-hour teen parties are very strict and they would lose their franchise if they were held. With so much money invested in this project, it is not something they want to do. He has spoken with law enforcement and he is aware of what the teen parties are like. Their trampolines are fitted structures that cannot be deflated. Their largest trampoline is 10,000 square feet and mounted to the floor. There is no area where something can be deflated to let someone throw a big party. Mr. Foster also addressed the parking issue by stating that the amount of parking would be limited to how many people could fit on the trampoline, which reduces the need for parking greatly.

There being no further questions or comments, Ms. Fox closed the public hearing.

Mr. Roberts made a motion to recommend approval of conditional use permit CU-11-289 to City Council. The motion was seconded by Mr. Albea.

Vote on Roll Call

For: Maxwell, Albea, Long, Austin, Coenen, Jones, Swanson, Roberts, Fox

Against: None

Abstention: None

The Planning Commission voted unanimously (9:0) to recommend approval of conditional use permit CU-11-289 to City Council.

CU-11-290, PECA Associates LP / Casey Auto Group. Requests a conditional use permit to allow for the operation of an automobile body and paint shop located at 11 and 13 Forrest Drive on a combined 1.4 acres of property zoned C2 General Commercial. The Parcel Nos. are 204.00-02-23 & 204.00-02-24.

Mr. Saul Gleiser, Senior Planner, presented the staff report (copy attached to record minutes).

Ms. Fox opened the public hearing.

Former Mayor, Joe S. Frank, attorney for the applicant, 739 Thimble Shoals Boulevard, thanked the Commission and Planning staff for their work on the application. He stated he was present for any questions the Commission may have.

Ms. Austin asked if new jobs would be created in this project, or if it was a relocation of an existing establishment.

Mr. Frank stated it would be a combination. They have under lease an existing body shop on Route 17 near the Greek Orthodox Church. That lease will expire in December of 2012 and they want to start construction as soon as City Council approves the project. Some of the jobs will be jobs that are already there, and then there will be additional jobs because it is an expanded plan and it will be a much more modern and environmentally friendly project.

There being no further questions or comments, Ms. Fox opened and then closed the public hearing.

Mr. Jones made a motion to recommend approval of conditional use permit CU-11-290 to City Council. The motion was seconded by Mr. Roberts.

Vote on Roll Call

For: Albea, Long, Austin, Coenen, Jones, Swanson, Roberts, Maxwell, Fox

Against: None

Abstention: None

The Planning Commission voted unanimously (9:0) to recommend approval of conditional use permit CU-11-290 to City Council.

EXECUTIVE SECRETARY REPORT

Ms. McAllister informed the Planning Commission that at the August 9, 2011 City Council meeting, the Council approved PLN-11-05, which was the plan amendment for 5857 and 5875 Jefferson Avenue from community commercial uses to industrial uses and with an accompanying change of zoning CZ-11-311 for Master Land Holdings, LLC, which changed the zoning from C2 General Commercial to M1 Light Industrial to allow for the expansion of

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the machine shop. Council also approved the change of zoning for Z-11-312 from O1 Office to C1 Retail Commercial for property located on Main Street and Tyler Avenue. The Redistricting Plan was also approved for the voting districts for City Council and School Board elections. This plan takes a portion of the Deer Park Precinct and moves it into the South District.

There are two upcoming cases for Planning Commission on October 5, 2011. They are a change of zoning and a conditional use permit for CNU property. For the Commission's October 19, 2011 meeting, one special exception for G-U Hardware, Inc. will be coming forward.

There are no applications for the September 21, 2011 public hearing and Planning staff has nothing to discuss for a work session. Ms. McAllister recommended cancelling the meeting unless the Planning Commission has something they want to discuss at a work session.

Mr. Long made a motion to cancel the September 21, 2011 Planning Commission meeting. The motion was seconded by Mr. Coenen.

Vote on Roll Call

For: Albea, Long, Austin, Coenen, Jones, Swanson, Roberts, Maxwell, Fox

Against: None

Abstention: None

The Planning Commission voted unanimously (9:0) to cancel the September 21, 2011 Planning Commission meeting.

Mr. Roberts stated that the Regulations Committee met on August 17, 2011 and reviewed a state requirement to amend regulations for requirements for public facilities so our ordinance is in conformance to the state regulations. The terms, conditions and specifications contained in a land development agreement shall be limited to those items depicted and provided for in the approved plan permit application or similar documents. The state restricts us from requiring a development to tag other areas within the city to put up dollar value amounts, cash proffers, unless it is specifically related to the development of that site and it is shown on the development plan itself. This item was discussed and approved by the Regulations Committee and should be coming before the Planning Commission for review, discussion and action.

The following item, which was discussed but not acted on, is the definition and general regulations to address recovery homes. There is a requirement that the recovery homes would be allowed in all residential districts by-right.

Ms. Fox asked what is a recovery home.

Mr. Roberts stated they still needed a definition for recovery homes, but it pertains to people recovering from drugs or alcohol addiction and the Committee saw a lot of complications with allowing them in all residential districts by-right, so the committee is still discussing it.

Mr. Long asked if a recovery home is similar to a rehabilitation center.

Mr. Roberts stated that he believed that is the intent of a recovery home, but there is no requirement that the participants in that particular home be under any direct supervision, which is also a problem that the Regulations Committee had. There was a lot of discussion, but the committee made no formal recommendation and is still looking into how to write regulations.

Ms. Fox asked what was driving that.

Mr. Roberts stated it is a federal rule.

Ms. Sugg stated that the Fair Housing Act contains provisions that require localities to make reasonable accommodations for certain classes of people, specifically ones that are considered handicapped. There is federal case law that determines that persons recovering from drugs or alcohol addictions are handicapped persons. They do not have to be specifically allowed as a matter of right, but the question is how the locality can reasonably accommodate these homes. At this time, our office is going to be presenting the issue to City Council in a closed session to try to apprise them of this issue and the law to get some direction as to what type of ordinance they may wish to see. It will definitely be coming back to the Regulations Committee, but perhaps with a little more direction after City Council is advised about the law on the matter. It is a very complex issue.

Ms. Fox thanked the Regulations Committee for their hard work.

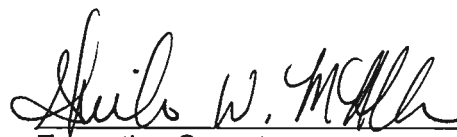
Mr. Albea asked if City Planning Commissioners were expected to attend the City Council work session on September 27, 2011 to discuss plan amendment PLN-11-06.

Ms. McAllister stated attendance is up to the Commissioners if they wish to attend, but they are not required to be there.

Ms. Fox asked the Commission to take a minute to recognize that Mr. Wilbert Ashe had passed away. He was a very important instrumental member of the District 1 Task Force and the Southeast Community. We wish to extend our sympathy to his family as he will be greatly missed by all of us.

There being no further business, the meeting adjourned at 3:10 P.M.


Recording Secretary


Executive Secretary