

MINUTES OF THE PLANNING COMMISSION MEETING

Wednesday, March 4, 2009

City Council Chambers

2400 Washington Avenue

Newport News, Virginia

PRESENT: J. Doug Coenen, Jr., Chairman; Sharyn Fox, Vice-Chairman; V. Albea; R. George Hubbard; Cleon Long; Lucille Lowery; Wesley Maxwell; H. Eugene Roberts; Clara Swanson; (Staff: Al Riutort, Director of Planning; Sheila W. McAllister, Assistant Director of Planning; Kathy James-Webb, Manager of Environmental Planning; Angela Hopkins, Senior District Planner; Saul Gleiser, Senior District Planner; Carl Jackson, District Planner; Johnnie Davis, Planner-Planning Services; Sandy Hitchens, Planning Technician; Lynn Sugg, Senior Assistant City Attorney; Christine Mignogna, Zoning Administrator; Captain Tim Minga, Fire Department; Marcel Ngobeh, Community Resource Officer for the North Precinct Police Department)

INVOCATION

Ms. Fox 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. Hubbard seconded the motion. The City Planning Commission voted to adopt the agenda by acclamation.

Mr. Roberts presented the invocation.

MINUTES

The minutes of February 18, 2009, were approved.

PUBLIC HEARING

CZ-09-267, Community Housing Partners Corporation. Requests a change of zoning from R7 Medium Density Multiple Family Dwelling with proffers (maximum density of 20 units per acre) to R7 Medium Density Multiple Family Dwelling with proffers (maximum density of 20 units per acre) by amending the proffers. The request will amend the proffers by deleting the requirement that the project will be developed utilizing the United States Department of Housing and Urban Development's Section 202 Supportive Housing for the Elderly Program guidelines. The request will permit the completion of the final phase of the Checed Creek Senior Housing complex on a 2.07 acre parcel located at 15319 Warwick Boulevard. The *Framework for the Future* comprehensive plan recommends medium density residential for the site. The Parcel No. is 078.00-02-19.

Mr. Carl Jackson, District Planner, presented the staff report (copy attached to record minutes).

Mr. Long asked the height of the integrated retaining walls. Mr. Jackson responded that both walls will be five feet. Mr. Long asked if the walls will be sound barriers between the Stoneybrook neighborhood and the proposed site. Mr. Jackson replied that one will be right at the property line of the Stoneybrook neighborhood and the other will be right next to the ravine. Ms. McAllister responded that the wall is not a sound barrier and will not rise above ground level of the homes behind the site.

Ms. Fox asked if the letter presented to the Planning Commission that was addressed to Mr. James Hatcher of the Timmons Group from Ms. James-Webb is indicating that the stream is not perennial. Mr. Jackson responded that it is not perennial on the property, but only west of the property. Ms. Fox asked if someone from the Fire Department was present. Mr. Jackson replied that Captain Minga was present.

Mr. Coenen asked if the applicant has been able to work out the Fire Department's concerns. Mr. Jackson responded that the applicant is in the process of working on something and that revised proffers have been distributed to the Commission, which includes finding a second access road and providing a sprinkler system. The applicant has been notified of the Fire Department's concerns.

The Chairman declared the public hearing open.

Mr. John Bolton, 100 W. Franklin Street, Suite 300, Richmond, stated that the main concern is the Housing and Urban Development (HUD) 202 zoning that occurred in 2000. He stated that the current owner did not own the property at that time and is not sure of the reason for the specific reference to HUD 202, but the request will essentially have the same restrictions as before. With an affordable housing development there are usually three or four layers of different funding. Their program still follows the 62 years of age limit and the income restriction. They are planning to relocate the building on the site.

Ms. Lowery asked if there is an income restriction. Mr. Bolton responded there is. She asked if the applicant prefers not to follow the established guidelines. Mr. Bolton replied that it is a funding source they do not plan to utilize. Their plan currently has United States Department of Agriculture (USDA) money and State and local funds, in addition to the tax credits. At this time they do not need the HUD 202 money and with the current restriction in place it is easier to clear the issue from the proffer list not knowing whether or not it will cause a problem. Ms. Lowery asked if the income restriction is around 50 percent of the median income. Mr. Bolton responded that 90 percent are at 50 percent and 10 percent are at 60 percent of the median. He stated that a tenant is not allowed to have a guest stay more than two weeks. If a guest stays for more than two weeks, then they must be added to the lease and the income restrictions would still apply.

Mr. Bolton stated that they met with the Planning Department and they have worked on the site plan requirements. He stated that the City Code requires that a second access be installed for the Fire Department. They originally had the building closer to the single family residences less the 20 foot transitional buffer area; and, in order to accommodate the Fire Department they have moved the building towards the creek. A parking lot and a landscape buffer will be between the single family residences. The main concern was having the secondary access off of Warwick Boulevard. There is plenty of curb cut and the second curb cut will be utilized strictly for Fire Department access. They are still working on the specifics for the Fire Department access.

Ms. Fox stated that another concern of the Fire Department is the access to the rear of the building in addition to the second access. Mr. Bolton responded that the turnarounds are still being worked out to meet the Fire Department's requirements.

Mr. Robert and Louise Averill, 32 Warren Drive, stated that they object to rezoning the property. Mr. Averill stated that he feels rezoning the property will be a detriment to the community. The property is too small to accomplish what the applicant plans to do with the site and that it was originally purchased for a church. He presented photographs (See attachments) and explained each. After explaining he stated that he not only objects to the rezoning, but also to further construction on the site. He suggested that the property be regraded and landscaped to correct the prior reconstruction done.

Ms. Averill stated that the applicant recently purchased the property and questioned the applicant's reason for purchasing the property knowing there were issues with the site. She stated that she is also concerned that if the applicant decides to allow someone else to possess the property there might be further issues concerning what can be done with the property. She stated that she is also concerned the change may reduce the value of their property.

Ms. Lowery asked Mr. and Mrs. Averill if their property backs up to the subject site. Mrs. Averill responded that it does not and identified her site on the aerial photograph presented by staff.

Mr. Maxwell asked Mr. Averill if he stated that the property was originally purchased for a church. Mr. Averill stated that the property was originally bought by a church that had plans for an elderly housing development.

Mr. Coenen stated that the property has already been rezoned, so the purpose of today's public hearing is to address the issues with prior proffers. Mrs. Averill stated that the applicant should take the same route for the funding as they did with the first building.

Captain Tim Minga of the Newport News Fire Department was present to address concerns. He stated that the Fire Department does not support the request primarily because there is not enough space for a second means of egress for the Fire

Department to have access. He stated that because the property is narrow and long, any construction done along the front entrance of the property blocks the Fire Department from being able to enter the site. If the Department needs to add a five inch line, which is a water supply line to the facility to fight a fire, they would block anything else entering the site. He stated that they have entertained the idea of the second means of egress that was presented and explained that it goes in and comes back to the existing property where accessed is gained. The current drawing shows a dumpster truck turnaround that will exit the facility. That would have to be taken out and the egress planned for the Fire Department will have to come from the area he identified on the aerial. Captain Minga stated that somehow there is a 20 foot buffer area, but that he does not see how there will be a 20 foot access right next to the existing access. He stated that he does not know what is being accomplished.

Mr. Roberts stated that both of the access points that will be on the front of the property do not appear to address the initial concern for the access, which will not get the equipment deeper into the property. Captain Minga concurred and stated that if it could funnel in on the other side of where the parking area begins and if something did happen in the front of the site, the Fire Department could still get into the facility. He stated that he does not see how a second egress where proposed with the narrow piece of property will allow access. He identified the truck turnaround on the diagram and identified a location that would be more ideal and that with the transitional buffer area on the rear side of the property he does not see how that can happen. Captain Minga stated that there is another issue on the far end of the property that has been discussed with the applicant regarding the turnaround. The Fire Department needs 20 feet of diameter in the turnaround and it is currently 15 feet. He stated that the applicant has assured the Fire Department that they can make it work. Although nothing has been presented, the Fire Department will be willing to accept the applicant's proposal as long as the need is met. The applicant has sent several documents flip flopping the building and then flipping it back, but it does not address the second access.

Mr. Long asked if the developer's conceptual plan and the proffers established back in 2000, addressed the Fire Department's regulation. Ms. McAllister responded that the applicant would still have to meet the code requirement and that in 2000 the building on the conceptual plan was shorter than the current building proposed. Mr. Long asked if there is a better site plan. Ms. McAllister replied that the site plan had to work out even on that plan and that may be why construction with the first phase originally started on Warwick Boulevard and the reason why this phase never occurred, due to issues with the site plan before.

Captain Minga clarified that the code is not a City code as indicated by Mr. Bolton, but a State code.

The Chairman declared the public hearing closed.

Ms. Fox stated that she is not comfortable going forward with the request because of the concerns of the Fire Department. She recommended deferring the action until the meeting of April 1, 2009, to allow the applicant and staff time to work out the issues. Mr. Long seconded the motion.

Mr. Hubbard asked if that is enough time to try and resolve the Fire Department's concerns.

Ms. Swanson asked if the only change occurring in the proffers is the removal of the HUD Section 202 reference. Mr. Coenen stated that the issue is to change that one proffer and he stated that the site plan presented by the applicant is part of the document the Planning Commission is considering.

Vote on Roll Call

For: Swanson, Roberts, Lowery, Maxwell, Fox, Albea, Long, Hubbard, Coenen

Against: None

Abstention: None

The Planning Commission voted unanimously (9:0) to defer action of the change of zoning until the Planning Commission meeting of April 1, 2009.

CU-09-260, Martell L. Overman. Requests a conditional use permit to allow for the operation of a small motor vehicle repair and service center on a 0.92 acre parcel located at 4806 Mercantile Drive and zoned M1 Light Industrial. The Parcel No. is 288.00-04-10.

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

Ms. Fox asked if the main reason for the request is because the applicant had not applied for a Certificate of Use and Occupancy back in 1997. Ms. Hopkins responded that the prior automotive use in the building ceased its operation so the grandfathered status for the automotive use has been lost. Any new automotive use such as the small motor vehicle repair and service center would require a conditional use permit as well as a Certificate of Use and Occupancy.

The Chairman declared the public hearing open.

Mr. Josh Henderson, 712 74th Street, stated that he is the applicant of Henderson Auto Repair and present to answer questions.

Mr. Martell Overman, 5800 Jefferson Avenue, stated that he is present to answer questions.

The Chairman declared the public hearing closed.

Ms. Lowery made a motion to recommend approval of the conditional use permit with conditions as recommended by staff to the City Council. Ms. Fox seconded the motion.

Vote on Roll Call

For: Roberts, Lowery, Maxwell, Fox, Albea, Long, Hubbard, Swanson, Coenen

Against: None

Abstention: None

The Planning Commission voted unanimously (9:0) to recommend approval of the conditional use permit with conditions as recommended by staff to the City Council.

CU-09-261, Larisa Properties, LLC. Requests a conditional use permit to allow for the construction of a two-bay car wash in conjunction with a permitted laundromat on two parcels totaling .82 acres located at 13182 & 13186 Jefferson Avenue and zoned C1 Retail Commercial. The Parcel No's are 053.00-01-25 & 26.

Mr. Carl Jackson, District Planner, presented the staff report (copy attached to record minutes).

Ms. Fox asked if a customer can remain in their vehicle and drive through the car wash to clean the vehicle without an attendant. Mr. Jackson replied that the car wash will be an automatic car wash, so there will not be an attendant on site to clean the vehicles and the customer will not have to exit their vehicle. She asked if there are any other similar car washes within a mile and a half of the proposed site. Mr. Jackson responded that there is a self service car wash across the street beside the Sunoco gasoline station, which allows customers to get out of their cars and wash their vehicles is totally different from the car wash proposed. He stated that there is another car wash, which is automated, near the Exxon at Woodcreek Drive and Jefferson Avenue. There is also a car wash on Richneck Drive which is automated. Ms. Fox asked if there has been any crime activity reported in the areas of the car washes. Mr. Jackson responded that Community Officer Marcel Ngobeh of the North Precinct is present to answer questions once the public hearing has been opened.

Mr. Roberts stated that he did not see a location for vacuum cleaners and wanted to clarify that there will be no vacuum cleaners on site. Mr. Jackson replied that the applicant does not intend to have vacuum cleaners on site.

The Chairman declared the public hearing open.

Mr. B. M. Millner, Jones, Blechman, Woltz & Kelly, 701 Town Center Drive, Suite 800, stated that he is present on behalf of the applicants. He stated that the applicants currently have a total of 25 car wash and laundromat facilities and two are located in the City as the one proposed. Mr. Millner stated that the applicant and staff have met on several occasions. He stated that the applicant has complied with everything staff has

recommended. The request will greatly improve the site. The difference between the proposed car wash and the car wash across the street is that the proposed car wash will be automated and has two bays. The car wash across the street has four bays and he believes there have been reports of criminal activity on that particular site. Mr. Millner explained the plans for the car wash and stated that there will be no vacuum cleaners on site. There will be no loitering. The proposed car wash will have surveillance cameras which will be very helpful to the Police Department. Mr. Millner stated that he was not aware of anyone in opposition of the request until right before today's meeting. He stated that the applicants are present to answer questions.

Mr. Long asked if there will be an attendant on site at the laundromat.

Mr. George Polyzos, 1105 Patrick Lane, stated that there will be a store manager, a laundromat attendant and an attendant at the car wash on a daily basis. Mr. Long asked if there will be an attendant on site watching over the property. Mr. Polyzos responded there will be and that they do have two other similar sites in the City at 11201 Jefferson Avenue, which is at the corner of Jefferson Avenue and Harpersville Road and their second location is at 700 J. Clyde Morris Boulevard. He stated that they also have locations in Virginia Beach and Norfolk. Mr. Polyzos stated that they use a lot less water than a typical consumer and the water is recycled. The products used are very good for vehicles.

Mr. Maxwell asked if a customer will only have to drive through the car wash and not have to exit their vehicle to wipe it down. Mr. Polyzos responded that it is a touch-free car wash that washes the vehicles automatically. After the customer exits the bay they then are able to drive off. He stated that 85 percent of his customers pay by credit card.

Mr. William A. Matheny, 617 Shields Road, stated that it is his opinion that another car wash is not needed in the area, because there are three car washes within a mile and a half including the car wash across the street. He stated that there is no need for another laundromat, because the apartment complexes in the area have laundry facilities and each house has a washer/dryer hook up. Mr. Matheny stated that he has a petition (see attachment) signed by residents opposing the request. He stated that there has been criminal activity at the car wash that is currently across the street from the proposed site and that the residents believe that activity will migrate across the street to the proposed facility.

Mr. Long asked Mr. Matheny if he has had a chance to talk with the owners about his concerns. Mr. Matheny responded that he has not. He was not aware of the request until Friday evening and called to try and find out more information. He received a return telephone call explaining the proposal and talked with some of the neighbors about the request. Mr. Matheny stated that there have been several break-ins in the neighborhood and hopes it will cease. He stated that it is the residents' opinion that by not allowing the laundromat and car wash will help prevent more break-ins. Mr. Maxwell asked if the incidents have been reported to the Police Department. Mr.

Matheny responded that they have. Mr. Maxwell asked where the activity has taken place. Mr. Matheny replied that the criminal activity that has taken place includes children being attacked, gunfire, and loud noises such as loud stereo playing from vehicles. He stated that the car wash across the street is open 24 hours a day, seven days a week.

Ms. Fox informed Mr. Matheny that the site permits a laundromat by right and that the only thing they will be considering is the car wash itself. She asked Mr. Matheny to identify his house on the aerial presented by staff and Mr. Matheny did. Ms. Fox asked what is behind the car wash site. Mr. Matheny responded that it is a contractor for Virginia Natural Gas.

Officer Marcel Ngobeh stated that he is the Community Resource Office for the North Precinct. He stated that he is present on behalf of Captain Barber, who had to attend another meeting. Officer Ngobeh stated that he is not present to go against the citizens and that the Police Department understands their concerns. Some of the issues discussed by Mr. Matheny have valid points, especially regarding the loud music on the property across the street which has the four bays. The Police Department has aggressively attacked those concerns; and, they receive telephone calls about those loitering or trespassing on the site of the car wash across the street. The proposed car wash will be a great addition to that area. It will not have a negative impact on that immediate area, especially if they have the man power to man the property during hours of operation; and, the camera system being installed will be a great addition and helpful to the Police in trying to capture the imagery of negative activity in that area.

Ms. Fox asked if most of the complaints at the car wash across the street related to noise issues. Officer Ngobeh responded that there are some noise issues. According to the statistical print out of the criminal activity that takes place at the site across the street, there has been one drug arrest. The noise concerns will not be on the statistical report. It will only reflect if a noise call went out and what the disposition was at the time the officer arrives, because many times the person has already left the scene or if they see a police unit in the area they quickly turn their music down. He stated that they did have an incident that was a weapons offense where an individual was robbing some stores in that area. An officer did make contact with the suspect, who was apprehended along with the weapon used and an arrest was made, which helped out a great deal. That happened about a year or so ago.

Ms. Lowery asked if there are problems at the nearby automated car wash. Officer Ngobeh responded that there are no problems at the gasoline station at Woodcreek Road and Jefferson Avenue. With the proposed system loitering most likely will not occur, because there will be no vacuuming, the space is not wide open with four bays, and the cameras will be a major plus.

Mr. Albea asked Officer Ngobeh if he has statistics of the break-ins that Mr. Matheny reported has occurred in the neighborhood. He stated that there were serious break-ins

in that community, and the perpetrators have come from the apartment complex that backs into the community, and stated that he has chased two of the perpetrators.

Mr. Roberts asked Officer Ngobeh if he has any record of children being assaulted as stated by Mr. Matheny. Officer Ngobeh responded that he does not have any record of kids being assaulted at the car wash. Mr. Roberts asked Officer Ngobeh if he knows whether or not the children that were assaulted were assaulted by children from the nearby apartment complex. Officer Ngobeh replied that he has no facts of any occurrences.

The Chairman declared the public hearing closed.

Mr. Roberts made a motion to recommend approval of the conditional use permit with conditions as recommended by staff. Ms. Fox seconded the motion.

Mr. Riutort suggested that the Planning Commission consider conditioning that the car wash not install vacuum cleaners and that the condition state whether or not the car wash will be manned during hours of operation as indicated by the applicant.

Mr. Anthony Polyzos, 77 Bayfront Drive, Hampton, stated that the car wash will be an in-bay automatic and that someone will be present to make sure the car wash stays clean. The car wash will not be manned, but the laundromat will be open from 7:00 A.M. to 11:00 P.M. If there is a problem at the car wash during those hours, then the person available at the laundromat will be available to offer assistance. He stated that there will be no vacuums. Mr. Coenen asked if the applicant can assure that no vacuum cleaners be installed in the future. Mr. Polyzos stated that there will be no vacuum systems.

Mr. Riutort stated that the hours of operation and having no vacuum cleaners are important conditions and that the Planning Commission should consider them.

Mr. Long suggested that the laundromat and the car wash have the same hours of operation since there will be someone available at the laundromat during the hours of operation and available to assist at the car wash if assistance is needed.

Mr. Roberts asked Mr. Millner if the hours of operation for the car wash will be 24 hours a day seven days a week. Mr. Millner responded the car wash will remain open at all times. Mr. Roberts asked if the laundromat will open from 7:00 A.M. to 11:00 P.M. Mr. Millner replied it will. He stated that the car wash has no doors and the chances of an incident occurring is less likely because there are no doors at the car wash. To impose limited hours of operation will cause a hardship on the applicant. Mr. Millner stated that having the surveillance cameras is a great thing, allowing unlimited hours of operation should be allowed, and he is not aware of any other similar car wash having limitations on the hours of operation. He stated that the car wash close to Colony Road on Warwick Boulevard has not had any trouble. Mr. Millner stated that he does not believe

anyone will hang out at the car wash and a person can just as easily hang out at the car wash if they so desired. The car wash is an open building.

Ms. Fox stated that most of the car washes similar to the one proposed are opened 24 hours a day and asked Mr. Riutort if he is asking the Planning Commission to impose limited hours for the car wash. Mr. Riutort stated that the applicant stated that there will be an attendant at the laundromat that will also be available to keep an eye on the car wash and there will be a token machine and it is perfectly safe to because the car wash will be open during the hours of operation of the laundromat. Because the car wash is near a residential area, it would be ideal to have the car wash open during the laundromat's hours of operation for the safety of the nearby residents; and, that it will help with the concerns of the neighbors. If the applicant sells the operation, the same condition would apply to the new owner. Mr. Millner stated that the applicant favors the no vacuum recommendation, but they are against imposing restricted hours of operation and do not believe it is necessary.

Mr. Roberts stated that he is willing to add a condition that states, "No vacuum cleaners will be permitted on site," and with security cameras there is no need to limit the hours of operation to coincide with the laundromat. Ms. Fox stated that she seconds the motion with the conditions as amended.

Mr. Long questioned whether or not it will be safe for the neighbors to allow the car wash to open 24 hours a day. Mr. Coenen stated that it is to his knowledge that there have been no problems with similar operations that remain open 24 hours a day.

Vote on Roll Call

For: Lowery, Maxwell, Fox, Hubbard, Swanson, Roberts, Coenen

Against: Albea, Long

Abstention: None

The Planning Commission voted 7:2 to recommend approval of the conditional use permit with conditions as amended to the City Council.

PRESENTATION

Mr. Riutort introduced Mr. Ron Hodges, Executive Director of TRAFFIX. Mr. Ron Hodges presented a presentation on TRAFFIX (see attachment).

EXECUTIVE SECRETARY REPORT

Mr. Riutort stated that on February 24, 2009, the City Council approved the following cases:

1. Conditional use permit CU-09-259, Hussey Associates & Hiden Associates for the operation of a restaurant (Chick-fil-A) with drive through service at 12423

Warwick Boulevard which is a part of the 11 acre Hidenwood Shopping Center site at 2 Hiden Boulevard and zoned C1 Retail Commercial.

2. Zoning text amendment ZT-09-268, City of Newport News, amendment of the Zoning Ordinance to clarify the definition of a two-family dwelling. (Sec. 45-201).

Mr. Riutort stated that there will be a Planning Commission Work Session on Wednesday, March 18, 2009, at 2:00 P.M. in the City Council conference room on the 10th floor of the City Hall building to discuss the Planning Commission By-laws.

Mr. Riutort asked the Planning Commissioners who want to attend the Virginia American Planning Association's annual conference in Williamsburg from March 25 – 27, 2009, to contact Ms. Dedra Richardson or Ms. Cathy Koch by the end of the week so that the proper arrangements can be made and so that no additional registration cost is incurred.

There being no further business, the meeting adjourned at 3:53 P.M.

Recording Secretary

Executive Secretary