

**MINUTES OF THE PLANNING COMMISSION MEETING**  
**Wednesday, September 2, 2009**  
**City Council Chambers**  
**2400 Washing 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; Clara Swanson; H. Eugene Roberts; (Staff: Al Riutort, Director of Planning; Sheila W. McAllister, Assistant Director of Planning; Michael King, Manager of Community Planning; Kathy James-Webb, Manager of Environmental Planning; Saul Gleiser, Senior District Planner; Angela Hopkins, Senior District Planner; Sandy Hitchens, Planning Technician; Johnnie Davis, Planner-Planning Services; Lynn Sugg, Deputy City Attorney; Harold Roach, Director of Codes Compliance; Michael Nall, Assistant Director of Codes Compliance; Christine Mignogna, Zoning Administrator; Michael Redifer, Codes Compliance Building Official)

**CALL TO ORDER**

The Chairman called the meeting to order at 2:00 PM.

**INVOCATION**

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

Mr. Roberts presented the invocation.

**MINUTES**

The minutes of August 5, 2009, were approved as presented.

**PUBLIC HEARING**

**CZ-09-278, Jeff Bland Associates, LLC.** Requests a change of zoning from C1 Retail Commercial with proffers to R9 Mixed Use with proffers to allow for the construction of a mixed-use complex which will include 250 apartments and commercial uses on two parcels totaling 13.73 acres located at 12515 Jefferson Avenue and 400 Chatham Drive. The *Framework for the Future* comprehensive plan recommends regional commercial for the site. The Parcel No's. are 120.00-02-02 & 120.00-02-03. (***Deferral***)

Mr. Hubbard made a motion to defer action of the change of zoning to their public hearing of October 7, 2009. Mr. Long seconded the motion.

**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 to their public hearing of October 7, 2009.

**CU-09-265, Z-Mark, LLC.** Requests a conditional use permit to expand the hours of operation from 5:00 A.M. to 12 midnight to 24 hours a day for a proposed 7-Eleven convenience store that will replace the Zooms convenience store located at 12460 Warwick Boulevard on a 0.86 acre site zoned C1 Retail Commercial. The Parcel No. is 212.00-01-53. (*Deferral*)

Ms. Fox made a motion to defer action of the conditional use permit to their public hearing of October 7, 2009. Mr. Albea 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 defer action of the conditional use permit to their public hearing of October 7, 2009.

***FRAMEWORK FOR THE FUTURE COMPREHENSIVE PLAN AMENDMENT (PLN-09-01)*** The Marshall Avenue Land Use Study recommends future land uses for the area bounded by Achievable Dream High school, Russell Court, Roanoke Avenue, Copeland Industrial Park, and Marshall Avenue and the properties located at 5100, 5560, and 5570 Marshall Avenue, which includes the former Newport News General Hospital site. The *Framework for the Future 2030* comprehensive plan currently recommends community facilities and low density residential uses for the properties.

Mr. King, Manager of Community Planning presented the staff report (copy attached to record minutes).

The Chairman declared the public hearing open.

Mr. R. J. Nutter, 222 Central Park Avenue, Virginia Beach, stated that he is an attorney representing S. L. Nusbaum Reality Company. He stated that he supports the Marshall Avenue Land Use Study and believes that residential development of this property will help generate income taxes, jobs and affordable housing for the City. Mr. Nutter commended staff for their professionalism on thoroughly studying the area. He stated that his client S. L. Nusbaum is looking forward to proceeding as a private developer in the community.

Mr. Willie Brown, 550 49th Street, stated his concerns of the development of apartment buildings and that he feels the property should be used for a medical facility.

Mr. David Harris, 631 46th Street, stated his concerns for the development of apartment buildings and the problems that can arise. He stated that single family homes would be suitable for the community.

Ms. Karen Wilds, 227 27th Street, Director of the Newport News Redevelopment and Housing Authority, (NNRHA), stated that in the last several years the NNRHA has developed 110 single family homes and 140 new public housing units in the Southeast Community, to address the need for quality affordable housing and to change the face of public housing. She stated that the City owns five acres of property in the study area and has had discussion with City administration about the opportunity to develop single family homes for first time homebuyers. Ms. Wilds also stated that she supports the Marshall Avenue Land Use Study and asked the Planning Commission to recommend adoption of the Study to City Council.

Ms. Diane Mabry, 905 West Russell Court, stated that the area has enough apartments and that the community would like to see single family homes. She also stated that families that own their own homes take better care of the community than those that live in apartments.

The Chairman declared the public hearing closed.

Mr. Albea stated that he understands the concerns of the citizens and that he feels low density residential would be a better fit than the urban residential recommended by staff.

Mr. Maxwell stated that as a resident of the community, he feels low density residential is more suitable for the community than urban residential.

Ms. Fox stated that any time the comprehensive plan is changed it requires a great deal of consideration and an in depth study. She stated that with the rise of vacancies in apartment buildings, she feels that low density residential would be a better fit for the community.

Mr. Roberts asked Mr. Riutort if he has had discussions with the Department of Parks, Recreation and Tourism about using the site for a recreational center. Mr. Riutort replied he has. He stated that it would be several years before the Department of Parks, Recreation and Tourism would consider building a recreational center on the site and that there was no available funding for such a project.

Mr. Roberts stated that he is not in favor of changing the designation of *Framework for the Future* from community use, but would favor low density residential instead of the mixed use or multiple uses as recommended by staff.

Mr. Albea made a motion to adopt the Marshall Avenue Land Use Study excluding the recommendation of urban residential and including low density residential. Mr. Long seconded the motion.

Mr. King asked that Gethsemane Baptist Church and Macedonia Baptist Church remain designated as community facilities. Mr. Albea replied that the only change he is recommending is removing urban residential and replacing it with low density residential.

Ms. Lowery asked if staff could explain the difference between urban residential and low density residential. Mr. Riutort replied that urban residential allows 7-10.9 units per acre, allowing flexibility for apartments, townhouses, duplexes, and single family homes on small lots; whereas, low density residential allows larger lots for single family homes at 2- 6.9 units per acre.

Mr. Riutort asked Mr. Albea about the open space designation. Mr. Albea replied that his motion was to change urban residential to low density residential, so the churches and open spaces would not be affected.

**Vote on Roll Call**

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

**Against:** Swanson

**Abstention:** None

The Planning Commission voted (8:1) to recommend adoption of the Marshall Avenue Land Use Study as amended to City Council.

**ZT-09-274, City of Newport News.** Requests an amendment to the Zoning Ordinance text by adding Sec. 45-528 that will regulate the use and storage of freight containers within the City's zoning districts.

Mr. Roach, Director of Codes Compliance presented the staff report (copy attached to record minutes).

The Chairman declared the public hearing open.

Mr. Long asked if there was a waiting period between each freight container's six month stay and stated that if not, it could give the appearance of being a permanent structure. Mr. Roach replied that is not the intention. Mr. Long asked if the container or the concrete pad had to be screened from public view. Mr. Roach replied that the container has to be screened from the public right-of-way. Ms. McAllister stated that the container would have to be on a concrete pad or paved area behind the building; and would have to be screened if there was a public right-of-way.

Ms. Fox asked if the containers were leased or purchased and asked if they have to be removed, how will the containers be disposed. Mr. Roach replied he did not know. Ms. Fox asked if the containers shown in the presentation with the green check marks had been there less than six months. Mr. Roach replied under the new ordinance, those containers would be allowed to remain for six months.

The Chairman declared the public hearing open.

Mr. Keith Webb, Executive Director of Plan Services Newport News Public Schools, 12465 Warwick Boulevard presented a PowerPoint presentation (copy attached to record minutes) explaining how the schools used freight containers and why they should be allowed to remain on school sites.

Mr. Albea asked if the units housed bicycles only. Mr. Webb stated they are for bicycles only. Mr. Albea asked if the bicycles were purchased. Mr. Webb replied they were. Mr. Albea asked how the schools handled vandalism. Mr. Webb replied that if the graffiti is obscene or gang-related it is addressed within hours; and, any other graffiti is addressed within a workday.

The Chairman declared the public hearing closed.

Mr. Long asked staff if the requirements of screening behind the school building and location on a concrete pad are being met. He asked the reason why schools are not included in item C. Ms. McAllister replied that if the schools were in item C, they would have to meet the temporary six month standard; and, the schools are using freight containers as permanent storage, not temporary storage.

Ms. Lowery asked if the schools could be grandfathered and if the units can stay as a permanent exception. Mr. Riutort replied the schools cannot be grandfathered because the use of the containers is not legal. He stated that if the Planning Commission feels that freight containers should be allowed on school sites, then the ordinance should be remanded to the Regulations Committee for further review.

Mr. Roach stated that the City could not set standards for commercial properties and not follow the standards for public facilities. Ms. McAllister stated that she understands Mr. Roach's concerns. The ordinance allows the containers as a temporary use and should be applied the same way on commercial sites and for public facilities. If the Planning Commission is looking to address the concerns of the schools, there are several changes that would have to be made and recommends remanding the ordinance to the Regulations Committee.

Mr. Hubbard asked if all the schools need to use these containers. Mr. Webb replied that Huntington Middle School is the only school that has the space to store the bicycles in the building. All other schools do not have sufficient indoor space. Mr. Hubbard suggested the ordinance be remanded to the Regulations Committee.

Mr. Riutort stated that because school properties are larger, the containers could be hidden, but commercial properties are much smaller. Mr. Hubbard stated that the non-permanent side of the ordinance creates a conflict between the schools and the City. Mr. Coenen stated he could see how commercial properties would see this as a double

standard, but if the schools could screen the containers, the schools would not be faced with a large needless expense. He concurs with remanding the ordinance to the Regulations Committee.

Mr. Roberts asked Mr. Webb if the City decided against the containers on school properties, how the schools would address their concerns and the Standards of Learning, (S.O.L.) requirements. Mr. Webb replied that without the containers the schools would be looking at the expense of a permanent storage unit or selling the bicycles and losing a substantial investment. He stated that the S.O.L. requirements could be met without the bicycles; however bicycles are the school system's choice of recreation to address the S.O.L. requirements.

Mr. Conrad, 12465 Warwick Boulevard, stated that he was an administrator with the Newport News Public Schools in charge of physical education. He stated that the schools were looking to teach students a lifelong way to exercise and stay fit, and, that bicycles were the best choice.

Ms. Fox asked if the schools lose the containers, would the schools also lose the bicycles. Mr. Webb replied they would. He replied that if the schools were able to keep the containers, they would make sure they are screened. Mr. Coenen asked if the containers located in the fire zones would be moved. Mr. Webb replied they would. Ms. McAllister stated that if the schools were able to keep the containers permanently, they would have to meet building code requirements. Mr. Roach stated that anything larger than 256 square feet must go on a foundation or slab; if the container is less than 256 square feet it would need to be anchored; and fire separation would be required.

Ms. Lowery made a motion to remand the zoning text amendment to the Regulations Committee. Mr. Long seconded the motion.

**Vote on Roll Call**

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

**Against:** None

**Abstention:** None

The Planning Commission voted unanimously (9:0) to remand the zoning text amendment to the Regulations Committee.

Ms. McAllister asked that zoning text amendment ZT-09-279 which includes the change to the freight container definition also be remanded to the Regulations Committee.

Ms. Fox made a motion to remand zoning text amendment ZT-09-279 to the Regulations Committee. Mr. Albea seconded the motion.

**Vote on Roll Call**

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

**Against:** None  
**Abstention:** None

The Planning Commission voted unanimously (9:0) to remand zoning text amendment ZT-09-279 to the Regulations Committee.

### **EXECUTIVE SECRETARY REPORT**

Mr. Riutort thanked Mr. King for his work on the Marshall Avenue Land Use Study. He informed the Planning Commission of the Langley Air Force Base Joint Land Use Study, and the online survey for inputs from the general public, whose feedback is important.

Mr. Hubbard asked if Fort Eustis was going to be added to this survey. Ms. James Webb replied that there is a possibility that Fort Eustis will be folded in as an addendum, but we are currently waiting to receive the official letter from Langley Air Force Base to City management.

There being no further business, the meeting adjourned at 4:04 P.M.

---

Recording Secretary

---

Executive Secretary