

MINUTES OF THE PLANNING COMMISSION MEETING
Wednesday, March 2, 2016
City Council Chambers
2400 Washington Avenue
Newport News, Virginia

PRESENT: Michael F. Carpenter, Chairman; Mark Mulvaney, Vice-Chairman; Willard G. Maxwell, Jr.; Sharyn L. Fox; Robert B. Jones; Elizabeth W. Willis; N. Steve Groce; (Staff: Sheila W. McAllister, Director of Planning; Claudia Cotton, Manager of Current Planning; Saul Gleiser, Senior Planner; Flora Chioros, Planning Coordinator; David Watson, Planner; Johnnie Davis, Planner; Sandra Hitchens, Planner; Lynn Spratley, Deputy City Attorney; Sherry Graham, Inspector III)

ABSENT: Lorraine P. Austin and Daniel L. Simmons, Jr.

CALL TO ORDER

Ms. Willis 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. Mulvaney seconded the motion. The City Planning Commission voted to adopt the agenda by acclamation.

INVOCATION

Mr. Maxwell presented the invocation.

MINUTES

Ms. Fox stated she was misquoted in the minutes of the February 3, 2016 public hearing. She stated she had reviewed the domestic animal ordinances of neighboring localities online, but she had not contacted them directly. The minutes of the February 3, 2016 public hearing were approved as amended.

The minutes of the February 17, 2016 work session were approved as presented.

PUBLIC HEARING

CONDITIONAL USE PERMITS

CU-16-361, DED LLC Requests a conditional use permit to allow for a small motor vehicle repair and service facility and an automobile leasing facility on a 1.64 acre parcel located at 11606 Jefferson Avenue and zoned C2 General Commercial. The Parcel No. is 213.00-06-09.

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

Ms. Fox asked if the application is identical to the previous use of the property, with repair and storage of automobiles. Mr. Gleiser stated that, previously, repairs were only for the cars that were sold at the property.

Ms. Fox asked for the definition of storage of cars in a state of disrepair. Mr. Gleiser stated it means visibly damaged cars that are brought in must be stored somewhere other than the front of the property while they await repair. Ms. Fox asked if that is for short-term use only. Mr. Gleiser stated yes.

Mr. Carpenter opened the public hearing.

Mr. Tim Trant, 11815 Fountain Way, Attorney for the applicant, spoke in favor of the application. Mr. Trant thanked Planning staff for their assistance. He gave a brief description of the project.

Mr. Mulvaney stated the applicant services large machinery. He asked if there would be any type of repairs for large trucks or machinery on the subject property. Mr. Trant stated no. He stated all of that business, to include towing and large motor vehicle repair, will remain where it is permitted on the 16 Robinson Drive location and a storage lot at the rear of the subject site, which has been in existence since 1982. Mr. Trant stated the large motor vehicle repair business will remain in the rear of the existing site, where it is now, and 16 Robinson Drive, and will not move to the frontage of the parcel on Jefferson Avenue.

Mr. Carpenter stated there is a picture of a decorative opaque metal fence that looks like it is a faux wrought iron fence with something that blocks the view through the fence. Mr. Trant stated that there is an existing fence on the site behind the existing building which will be converted into the automotive repair and automobile leasing facility. He stated it is a chain link fence that runs the length of the property and screens the rear large motor vehicle operations with vinyl slats from the proposed use. Mr. Trant stated Planning staff worked with the applicant and came on site and gave him a number of options for screening the proposed small motor vehicle repair use. Mr. Trant stated the option selected by the applicant is a black aluminum fence with a mesh screen of industrial grade fabric that goes behind the fence and provides the opaque screening Planning staff was looking to achieve. Mr. Carpenter asked if the fence would be on wheels and rolled back and forth. Mr. Trant stated the fence would be permanent and placed in concrete footers extending from the rear of the building to the Tire City location. He stated there will be a segment of the fence with a gate that is motorized and capable of rolling back and forth.

Mr. Carpenter asked if the operation on Robinson Drive is also using some of the land that fronts on Jefferson Avenue for the same operation. Mr. Trant stated yes, there is a

portion of the large motor vehicle repair and towing business that presently occurs on the rear of the subject site. Mr. Carpenter asked if the subject property is zoned appropriately and the business on 16 Robinson Drive has the right to use that land. Mr. Gleiser stated that, in talking with the Zoning Administrator, that portion of the property has been used since the business started and is grandfathered. He stated that because they are not proposing any changes to that portion of the parcel, it is okay to continue its present use.

Mr. Carpenter closed the public hearing.

Ms. Fox made a motion to recommend approval of conditional use permit CU-16-361 to City Council, as recommended by staff. The motion was seconded by Mr. Jones.

Vote on Roll Call

For: Maxwell, Fox, Jones, Mulvaney, Willis, Groce, Carpenter

Against: None

Abstention: None

The Planning Commission voted unanimously (7:0) to recommend approval of conditional use permit CU-16-361 to City Council.

CU-16-363, Adath Jeshurun Synagogue Requests a conditional use permit to allow for the construction of an automobile gasoline supply station in conjunction with a convenience store (7-Eleven) on a 1.61 acre parcel located at 12646 Nettles Drive and zoned C1 Retail Commercial. The Parcel No. is 193.00-04-09.

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

Ms. Willis asked if there is a second driveway adjacent to the entrance on Nettles Drive. Mr. Watson stated yes. Ms. Willis asked if there are any regulations on how close driveways can be between the 7-Eleven and the adjacent apartment complex. Ms. McAllister stated they need to be 30 feet from the property line.

Mr. Carpenter opened the public hearing.

Mr. Stephen Romine, 999 Waterside Drive, Norfolk, Attorney for the applicant, spoke in favor of the application. Mr. Romine thanked Planning staff for their assistance. He gave a brief description of the project. Mr. Romine stated they had planned a six (6) foot privacy fence along the southern and eastern property lines; however, prior to the meeting they met with Barry Nachman, owner of the adjacent apartment complex, and have changed it to an eight (8) foot wood on wood privacy fence.

Ms. Fox asked why a wood privacy fence was selected. Mr. Romine stated the plan is to provide as much privacy to the adjoining apartment complex. He stated we had originally planned to construct a six (6) foot fence, but Mr. Nachman has indicated that

there is a lot of foot traffic that runs across his property and adjacent properties with pedestrian cut-throughs and he was concerned about a travel-way between the 7-Eleven and the apartments. Mr. Romine stated we want to make the fence sufficiently high enough so it would impede that movement, in addition to heavy landscaping on each side of the fence so that over time it will become an attractive hedge. Ms. Fox stated previous applications have asked for a decorative opaque fence. Ms. McAllister stated the Ordinance dictates the fence requirements. She stated that within 100 feet of a right-of-way, a decorative opaque fence would be required.

Mr. Barry Nachman, 720 Thimble Shoals Boulevard, stated he is neutral to the application. He stated he is the property owner of the apartment complex adjacent to the subject property. Mr. Nachman stated that in working with 7-Eleven, they have done everything he has asked of them. He stated he is pleased with the proposed eight (8) foot privacy fence because they have had a lot of pass-through pedestrian traffic through the apartments. Mr. Nachman stated that, with the vacancy of the existing synagogue structure, people are hanging out, which has become problematic. He stated he thinks 7-Eleven is being a good corporate citizen and will build an attractive facility.

Mr. Orlando Alvarez, 2629 Spring Road, spoke in opposition of the application. Mr. Alvarez stated he has lived in the neighborhood adjacent to the proposed 7-Eleven for over 20 years and he is concerned about the foot traffic trespassing through his and his neighbor properties and throwing trash on the ground. He stated that if the city had built the sound barrier on City Center Boulevard all the way down the road, nobody could go around it and that would solve his foot traffic problem. Mr. Alvarez stated that if the 7-Eleven is robbed, or if there was an altercation in their parking lot, a wood fence would not stop a bullet but a brick wall or sound barrier would. He stated his grandchildren and his neighbor's children play outside and he is concerned a would-be robber would run through his neighborhood. Mr. Alvarez stated there is a 7-Eleven on the corner of Nettles Drive and Oyster Point Road and another 7-Eleven 1.6 miles down on Warwick Boulevard. He stated he is concerned about the lighting from the parking lot as well.

Mr. Carpenter asked how far down the sound attenuation wall extends. Mr. Alvarez stated it goes to the back of the properties at the end of the cul-de-sac of Bryan Court. Mr. Carpenter stated the eight (8) foot privacy fence should help with the foot-traffic problem. Mr. Watson stated there is a BMP located between the proposed 7-Eleven and the sound barrier wall.

Mr. Jones asked to what kind of foot traffic is Mr. Alvarez referring. Mr. Alvarez stated there are a lot of kids in the area who take a short cut through his street and his neighbors' back yards to get across City Center Boulevard to the basketball courts outside of the Jewish Community Center.

Mr. Carpenter asked Mr. Alvarez what he would propose to correct the situation. Mr. Alvarez stated he would like the 7-Eleven to have a brick and mortar fence in lieu of an eight (8) foot wood privacy fence.

Mr. Maxwell asked if Mr. Alvarez's main concern is a stray bullet coming through his neighborhood. Mr. Alvarez stated yes. Mr. Watson stated that right now, there is a vacant building; however, with the lighting, security cameras, and wood privacy fence, they have done their due diligence for the security of the area. Mr. Alvarez disagreed. Mr. Groce asked if the city is responsible for the sound barrier wall. Ms. McAllister stated it was constructed by VDOT.

Mr. Romine shared the 7-Eleven site plan depicting the proposed eight (8) foot wood privacy fence along the eastern and southern boundary lines. He stated the city ordinance requires a step down when you are close to a right-of-way. Mr. Romine stated the parcel between the proposed 7-Eleven and the neighborhood is owned by the city. He stated it is a wet BMP. Mr. Romine stated he thinks the reason why the sound barrier wall ends is so the city can have access to its BMP for maintenance. He stated that once the fence is built along the southern and eastern boundaries, we have done all we can do to secure our site. Mr. Romine stated he is sympathetic to Mr. Alvarez's concerns, but he does not feel that we can fully address his concerns. Mr. Romine stated that extending the sound barrier to the intersection does nothing to address Mr. Alvarez's concerns. He stated even if the sound barrier wall came across the city's BMP property to the subject property line, it does not resolve that problem unless you are trying to connect those fences; however, the fence would still need to step down adjacent to the right-of-way so it would not be an eight (8) foot fence all the way to the right-of-way. Mr. Romine stated there is not a solution where it is completely secure and he feels it would be unreasonable to require that.

Mr. Mulvaney stated the applicant is constructing a barrier fence and it is not appropriate for the Planning Commission to make the determination that a bullet-proof fence be installed. He stated the intention of the fence is to block the site from the adjacent apartments, and it is not appropriate for the Planning Commission to determine the fence be made of a different material based on a potential threat of a bullet. Mr. Carpenter stated it is the Planning Commission's purview to suggest negotiating with a property owner the material of a fence. He stated he has been involved in projects where the city insisted that an attractive masonry wall be built, which is very expensive. Ms. Fox stated the material of the fence should be at the discretion of the Director of Planning. Mr. Mulvaney stated his comments were based on the actual use, which is not a shooting range or a rifle facility. He stated that for Planning Commission to force the applicant to build a masonry wall because of potential bullet impacts is not in our purview.

Mr. Maxwell stated he feels that Mr. Alvarez is concerned that 7-Eleven will bring more crime to his neighborhood, and it would actually deter the crime. He stated a vacant building will attract more crime than a 7-Eleven store. Mr. Romine agreed. He stated

that, as a corporate citizen, 7-Eleven is concerned about the security of their personnel and their customers. Mr. Romine stated 7-Eleven is the leader in the industry for crime prevention and safe and secure sites.

Ms. McAllister asked the Planning Commission to consider that this is an exposed corner. She stated the privacy fence is not adjacent to the backyards of residences. Ms. McAllister stated there will be a retention pond behind that particular fence or wall which will be exposed to City Center Boulevard.
Mr. Carpenter closed the public hearing.

Mr. Mulvaney made a motion to recommend approval of conditional use permit CU-16-363 to City Council, amending Condition No. 4 that the fence be an eight (8) foot high privacy fence. The motion was seconded by Ms. Fox.

Ms. Willis stated that, while she is cognizant of Mr. Alvarez's concerns of having something he considers dangerous being built near his neighborhood, she feels it would be unreasonable to expect 7-Eleven to build a thicker, bigger, more expensive wall. She stated that the proposed fence is suitable.

Vote on Roll Call

For: Fox, Jones, Mulvaney, Willis, Groce, Maxwell, Carpenter

Against: None

Abstention: None

The Planning Commission voted unanimously (7:0) to recommend approval of conditional use permit CU-16-363 to City Council, as amended.

LEE HALL CORRIDOR OVERLAY DISTRICT REVIEW COMMITTEE APPOINTMENT

Ms. McAllister asked that the Planning Commission appoint Mr. Woodrow W. Sanders, Jr., of 23 Ripley Street, to the Lee Hall Corridor Overlay District Review Committee as a citizen member.

Ms. Fox made a motion to recommend Mr. Woodrow W. Sanders, Jr., be appointed to the Lee Hall Corridor Overlay District Review Committee as a citizen member. The motion was seconded by Ms. Willis.

Vote on Roll Call

For: Jones, Mulvaney, Willis, Groce, Maxwell, Fox, Carpenter

Against: None

Abstention: None

The Planning Commission voted unanimously (7:0) that Mr. Woodrow W. Sanders, Jr. be appointed to the Lee Hall Corridor Overlay District Review Committee as a citizen member.

EXECUTIVE SECRETARY REPORT

Ms. McAllister stated on February 16, 2016, the Board of Zoning Appeals approved the special exception for the transitional buffer reduction at 2000-2010 27th Street. She stated on February 23, 2016, City Council approved the zoning text amendments for the Police K9 Training Facility.

Ms. McAllister stated we would like to request a work session on March 16, 2016 to review an amendment to the Comprehensive Plan land use map. She stated this amendment accompanies a rezoning that will be heard on April 6, 2016 for property located at Brick Kiln Boulevard and Jefferson Avenue. Ms. McAllister stated the plan amendment is for 33.37 acres and the change of zoning is from M1 Light Industrial to C1 Retail Commercial with proffers. The Planning Commission will also hear a conditional use permit for a mini warehouse-single entrance interior storage facility at 12445 & 12447 Warwick Boulevard.

There being no further business, the meeting adjourned at 5:03 P.M.

Recording Secretary

Executive Secretary