Planning Commission Meeting
June 25, 2008
Verbatim Excerpt

RZ 2006-PR-013 - WASHINGTON PROPERTY COMPANY, LLC
SE 2006-PR-005 - WASHINGTON PROPERTY COMPANY, LLC

Decision Only During Commission Matters
(Public Hearing held on June 12, 2008)

Commissioner Lawrence: Mr. Chairman, tonight we have the decision on RZ 2006-PR-013 and SE 2006-PR-005. The applications before us request a rezoning of 13.52 acres located at Tax Map Number 48-4((1)) parcel 12 from the C-3, C-6, C-8, and HC Districts to the C-6 and HC Districts and special exception approval to permit a drive-in financial institution, a drive-through pharmacy, an eating establishment, and retail uses subject to proffered conditions dated May 23, 2008, and proposed development conditions dated May 29, 2008. The applicant is also requesting waivers of the service drive requirement along Route 29/Lee Highway and a waiver of the transitional screening and barrier requirements along the western property line in favor of the existing vegetation. The public hearing was held June 12th. At the hearing, citizens from the Stonehurst community raised numerous concerns and a letter from Federal Realty also expressed concerns. The decision was deferred to tonight. The Commissioners are aware that this case has a history of activity related to the Resource Protection Area and the floodplain at the site. One of the concerns expressed by citizens was about the proposed provisions for stormwater management at the site. The applicant has addressed that aspect of the proposal in a letter to the president of the Stonehurst HOA, which is now a part of the record. I believe that letter adequately explains the stormwater management design for the proposed development. However, Zoning Ordinance Section 9-001 provides that a special exception may be approved only if it is concluded that the proposed uses comply with "all specified standards and will be compatible with existing and planned development in the area." Furthermore, Zoning Ordinance at 9-006(4) specifically provides that a special exception will not be approved unless "the proposed use shall be such that pedestrian and vehicular traffic associated with such use will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood." In light of these requirements, there are some transportation aspects of this application that raised serious concerns for the citizens who attended the public hearing and they trouble me as well. I have lived in this neighborhood since 1964 and I regularly visit the Pan Am Shopping Center, so I am very familiar with the adjacent streets, including Nutley Street and Route 29/Lee Highway. I need to describe what concerns me here as background for my motion on this case. I've asked staff to assist by showing a sketch of the segment of Nutley Street between Lee Highway and the proposed driveway for the development, which would be across the street from a present driveway for the Pan Am Shopping Center. During this background description, I ask that Commissioners keep in mind that the applicant proposes, in addition to a restaurant, two auto-intensive retail uses, specifically a drive-through pharmacy and a drive-through bank. The first point I want to make concerns movements at the intersection of the existing Pan Am driveway with Nutley Street, at the point where the applicant proposes to have their driveway on the opposite side. Under current conditions, it is a "T" intersection. Stonehurst residents and others, including me, who want to leave the Pan Am Shopping Center must do so by turning left at this "T." To the left, Nutley approaches the intersection on a curve and at the beginning of an uphill

grade toward Lee Highway. Many cars on this stretch are moving at a speed of 30 miles an hour, the limit or faster. By my observation and estimation, most cars are moving well above the speed limit as they come toward those cars that are turning left onto Nutley Street from the shopping center exit and whose line of sight is restricted by the roadway curvature. At the same time, cars are moving down Nutley from Lee Highway, also at or over the speed limit. Finally, there is often traffic waiting to turn left from Nutley into the Pan Am Shopping Center, thus blocking a sightline for traffic traveling through from the right on Nutley. All in all, the left turn from the Pan Am driveway onto Nutley at this driveway is today a very chancy maneuver, to put it mildly, and the introduction of three more auto-oriented uses at this point with this application will, in my opinion, make this intersection even more hazardous and create more conflicts with the current traffic patterns in the area. To illustrate, imagine the maneuver that I just described from the viewpoint of those drivers exiting the driveway of the proposed development, who might be turning either left or right onto Nutley or might be going straight across into the Pan Am Shopping Center. We see the same hazards as before. It can readily be seen that without some traffic control measure, this will be a very hazardous situation. The applicant has proffered to the design and installation of a signal at this intersection. I believe that signal to be absolutely essential. Yet the proffer, as it must, says that VDOT must approve a signal at this location. Significantly, there is no alternative design to address the contingency that VDOT may not approve a signal here. As we know, VDOT has sometimes given one indication when applications are before this body, but has taken a different course in the actual decision. In this case, the proposed signal is at a point on Nutley that is too close to the Lee Highway intersection to fit VDOT guidelines. Whether or not VDOT would waive that issue we do not know. If we vote to recommend approval of this application and the Board approves it, it can be built as presented whether or not a signal will be installed. I do not believe we can accept even the possibility of that outcome in light of the hazardous conditions I described that would likely result should no signal be required. There's also a second problematic aspect of the driveway access proposed on Nutley Road for this development. We must assume that neither Nutley Street nor Lee Highway will be widened anytime soon. The intersection at Nutley northbound and Lee Highway is now operating at an "F" level of service during both the a.m. and the p.m. peak hours. Thus, we begin with a bad traffic situation. I was able to observe that directly last week. As I observed the Nutley southbound/Lee Highway intersection during both the a.m. and p.m. peak hours, I saw that during the morning rush hour there was a fair amount of variability in the number of vehicles coming through. However, during the p.m. rush hour there was little variability because the queue of southbound vehicles waiting at the Lee Highway signal was nearly always greater in number than the number that could get through the intersection during the green-light period. I should note that because Nutley is a bus route both for Cue and Metrobus, the traffic mix in both directions includes a good share of these large vehicles. There's every reason to believe that the addition of traffic from the MetroWest development and from the new apartments just opening nearby will produce even more vehicles wanting to go southbound on Nutley. If more traffic is to be accommodated southbound on Nutley, the only way to do so during the p.m. rush hour would be to lengthen the green-light time at the Lee/Nutley signal, so that more vehicles could pass through the intersection per light cycle. Consider now how southbound traffic on Nutley will operate, if the proposed development is approved and a signal is installed at its driveway. First, we need to look at the SE plat presented

at the public hearing. Some of the vehicles southbound on Nutley will want to turn right into the new development. A turnout lane is proffered for them. Many will want to go straight through toward Route 50. Past the new development's driveway, there is one lane of through traffic for them. Through vehicles using the rightmost lane on Nutley will have to squeeze into the left lane before they reach the signal. Finally, many will want to turn left at the Pan Am Shopping Center entrance. Because any left turn movement into Pan Am before that point will be physically prevented, which I believe incidentally would be a very good thing to do in any case, those vehicles will need to use the left turnout lane and stacking area provided for them on Nutley. The stacking space will hold at most six vehicles waiting to turn left into the Pan Am Shopping Center. This cannot easily be made longer as the same road space is needed for stacking would-be left turners northbound on Nutley and that leg of the Lee/Nutley intersection is already at an "F" level of service. This stacking limitation can result in potential hazard on Nutley. This can happen when the number of vehicles waiting to turn left into the Pan Am Shopping Center driveway exceeds the available stacking space and the leftmost through lane on Nutley gets blocked. What makes that scenario a real possibility under even today's traffic conditions is the need to have a Nutley southbound red-light time at the new signal that can cover one, left turns for the traffic exiting both the Pan Am Shopping Center and the proposed development; two, crossing traffic between the two retail centers; and of course, three, a pedestrian phase so that Stonehurst residents and others can walk to the Pan Am Shopping Center. With the leftmost through lane blocked, vehicles wanting to go past the blockage would have to weave into and back out of the proposed right turn lane, just at the point where it becomes necessary to merge left in preparation for the single through lane past the signal. Note here that on Saturday, there's extra activity at the Pan Am Shopping Center entrance. Southbound Nutley resembles a weekday rush hour and there are not only right turners from Lee Highway onto Nutley southbound, but also left-turning vehicles from Lee, that's a movement I did not see in weekday rush traffic. People are going to the Pan Am Shopping Center for gas, groceries, and other retail items and services. There'll be many who want to turn left at the new signal, especially with the trip chaining that is now on the increase. Under both present and anticipated conditions, I believe this situation on Nutley to be a potential source of extreme conflict and hazard. Furthermore, consider the rightmost lane on Nutley, where it will turn into the proposed auto-intensive development. As represented on the SE plat, the pattern for those entering the site will be either to turn right into a drive lane toward the pharmacy and the bank or go straight ahead toward the rear of the site. Note that two lanes of the driveway and the internal drive path are taken up by space for those wanting to turn left to go across to Pan Am or to turn right on leaving the site. Note also that all four drive-through lanes from the bank and pharmacy exit to the east. It is very likely that the area in the drive lane next to the site entrance will have cars wanting to get across the entrance path into the site exit lanes and therefore, it's very likely that the path toward the rear of the site will be blocked, forcing drivers entering the site to make the right turn as soon as they clear the entrance driveway. To add to the confusion, there's another proposed building on the site, located to a driver's left on entering the site. If the through path toward the rear of the site or toward the parking for that building is blocked, drivers going to that building must stop and wait for someone to let them through. Any stoppage at that point will very quickly result in a backup onto Nutley Street itself, since there's very little stacking space at the site entrance. Again, we have a potential for conflicts and for hazardous conditions. If the third

building were not there, this might be resolvable, but we are presented with what is shown on the SE plat and we must approve or not on that basis. In a meeting with County staff yesterday, I was shown a different configuration for Nutley Street. Since this came after the applicant had done a queuing study for the signal, I assume it's meant to deal with the possible backup at the left turn from Nutley into the Pan Am Shopping Center. In this new configuration for Nutley, the entire left lane from Lee Highway to the proposed intersection would be a dedicated lane for those intending to turn left. Signage for this lane would thus read "Left lane for left turns only," or the like. This would almost surely resolve the issue I have described with backups from left turns off of Nutley. However, I am afraid that this only trades one problem for another, as follows: it would do nothing to resolve backups on Nutley beginning at the new development driveway because in this new configuration there would be only a single through-lane on Nutley southbound. Drivers attempting to avoid such blockages would have to weave over into the dedicated left turn lane in a mirror image of the former problem I described. This, as before, produces the additional hazard of collisions and intensified congestion at this point. Also, since there would now be only one through lane on Nutley going southbound, a blockage in that lane at the proposed signal could result in vehicles backing up toward the Lee Highway intersection. At present during the p.m. rush hour, about 20 or so vehicles platoon through the intersection on a southbound green light. And during the p.m. rush, there are also vehicles turning right from Lee Highway onto southbound Nutley. I counted at one point a string of nine making this movement. They will add to the length of any backup from the new intersection and its signal. Were the backup to get to Lee Highway, which is very likely, there is a pedestrian crossing which would be blocked and there could be vehicles stranded in the intersection as the light changes. There is also a driver behavior that will very likely be more frequent as traffic growth produces longer queues on the northern side of the light. What happens is that southbound Nutley drivers approaching or even waiting at the Nutley/Lee Highway intersection go into one of the lanes intended for right turns onto Lee Highway westbound, then jump or squeeze over into the Nutley southbound through lane as they cross the intersection. Even under existing conditions, I observed that this creates an extremely hazardous situation at the intersection and south of the intersection. A final piece of background is the condition for vehicles exiting the proposed development by a left turn onto northbound Nutley. The applicant's letter in response to my questions on Nutley traffic acknowledges that northbound Nutley traffic backs up regularly in rush hours and I observed that myself last week. The queues can extend even past the proposed development's driveway. Even with the suggested new configuration on Nutley, which allows for more queuing space for left turns at Lee Highway, there could still be little or no space for drivers to turn onto Nutley from the new development's driveway. The only stacking space for vehicles in that case would be on the development's internal drive lane. As I explained earlier, this increases the chance of a blockage at the site entry, with the attendant repercussions on Nutley southbound. Mr. Chairman, it is only on rare occasions that I respectfully differ from staff's view of an application. Nevertheless, in this particular case I cannot support this proposal. The Comprehensive Plan in its "Guidelines for Drive-through Windows and Other Drive-through Facilities" recognizes that drive-through facilities have the potential to cause serious on-site and off-site traffic circulation problems and states that such proposed facilities must not negatively impact adjacent properties. These problems are readily apparent with this application. The proposed development is still too intense, given the

constraints, limitations, and location of the subject property. We are presented with two horns of a dilemma. It will make a bad situation worse to the point of danger if a signal is not installed. Although a signal is proffered, if we recommend approval of this application as it is presented here, the development could be built without a signal. Even with a signal, there is reason to believe, especially with the current and anticipated traffic on Nutley as major new residential and mixed-use projects are built out, that conflicts and hazards can occur in the neighborhood. The Zoning Ordinance is very clear on this point at Section 9-006(4) and I do not believe that the application meets the intent or the requirements of the Ordinance. In summary, the subject property may reasonably be developed under its existing zoning. On the other hand, I do not believe that the applicant has adequately demonstrated that the proposed development on the subject property conforms to the Comprehensive Plan and the Zoning Ordinance standards for approval. For these reasons, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS DENIAL OF APPLICATION RZ 2006-PR-013.

Commissioners Alcorn and Flanagan: Second.

Chairman Murphy: Seconded by Mr. Alcorn and Mr. Flanagan. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it deny RZ 2006-PR-013, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner de la Fe: Abstain.

Chairman Murphy: Motion carries.

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Mr. de la Fe abstains, the Chair abstains, not present for the public hearing.

Commissioner Sargeant: I am abstaining too. I was not present for the public hearing.

Chairmen Murphy: And Mr. Sargeant abstains, not present for the public hearing.
Mr. Lawrence.

Commissioner Lawrence: Mr. Chairman, I - - I - - thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION RECOMMENDS TO THE BOARD DENIAL OF APPLICATION SE 2006-PR-005.

Commissioners Alcorn and Flanagan: Second.

Chairman Murphy: Seconded by Mr. Alcorn and Mr. Flanagan. Is there a discussion of that motion? All those in favor of the motion to recommend to the Board of Supervisors that it deny SE 2006-PR-005, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner de la Fe: Abstain.

Chairman Murphy: Motion carries.

Commissioner Sargeant: Abstain.

Chairman Murphy: Same division.

Commissioner Lawrence: Mr. Chairman, first of all, I thank all of my colleagues for their patience. That was a long and I'm afraid, somewhat labored explanation, but I had to do it to show what the problems were. Also, I'd like very much to thank staff. Mr. Williams, you did a yeoman's job and thank you very much. Mr. Almquist, the same for you. Thank you very much for your assistance in this matter. Thank you, Mr. Chairman.

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(The motions carried by votes of 8-0-3 with Commissioners de la Fe, Murphy, and Sargeant abstaining; Commissioner Hall absent from the meeting.)

KAD