DP2-

# FAIRFAX COUNTY

**OFFICE OF THE CLERK**
**BOARD OF SUPERVISORS**
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035-0072

V I R G I N I A

Telephone: 703-324-3151
FAX: 703-324-3926
TTY: 703-324-3903

August 4. 1999

Susan K. Yantis, Land-Use Coordinator
Walsh, Colucci, Stackhouse,
Emrich and Lubeley, P.C.
2200 Clarendon Boulevard
Arlington, Virginia 22201-3359

RE: Rezoning Application
Number RZ 1998-SU-040
(Concurrent with RZ 1998-SU-041 and SE 98-Y-038)

Dear Ms. Yantis:

Enclosed you will find a copy of an Ordinance adopted by the Board of Supervisors at a regular meeting held on July 12, 1999, granting Rezoning Application Number RZ 1998-SU-040 in the name of Jack W. Carney and Benjamin M. Smith, Jr., Trustees, to rezone certain property in the Sully District from the PDH-5 and C-3 Districts to the C-6 District subject to the proffers dated June 15, 1999, on subject parcel 56-2 ((1)) Pt. 69A, 70 and 71, consisting of approximately 20.48 acres.

**The Board also:**

- **Waived the requirement for the construction of a service drive along Route 29 in favor of an escrow of funds equal to the cost of construction.**

- **Modified the transitional screening requirements and waived the barrier requirements along the north, east, west, and south property lines in favor of that shown on the Generalized Development Plan/Special Exception Plat.**

Sincerely,

Nancy Vehrs

Nancy Vehrs
Clerk to the Board of Supervisors
NV/ns

cc: Chairman Katherine K. Hanley
Supervisor-Sully District
Janet Coldsmith, Director, Real Estate Div., Dept. of Tax Administration
Michael R. Congleton, Deputy Zoning Administrator
Barbara A. Byron, Director, Zoning Evaluation Div., DPZ
Fred R. Beales, Supervisor Base Property, Mapping/Overlay
Robert Moore, Trnsprt'n. Planning Div., Dept. of Transportation
Ellen Gallagher, Project Planning Section, Dept. of Transportation
Michelle Brickner, Deputy Director, DPW&ES
DPW&ES - Bonds & Agreements
Frank Edwards, Department of Highways - VDOT
Land Acqu. & Planning Div., Park Authority
District Planning Commissioner
Thomas Dorman, Director, Facilities Mgmt. Div., DPW&ES

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at Fairfax, Virginia, on the 12th day of July, 1999, the following ordinance was adopted:

AN ORDINANCE AMENDING THE ZONING ORDINANCE
PROPOSAL NUMBER RZ 1998-SU-040
(CONCURRENT WITH RZ 1998-SU-041 AND SE 98-Y-038)

WHEREAS, Jack W. Carney and Benjamin M. Smith, Jr., Trustees filed in the proper form an application requesting the zoning of a certain parcel of land herein after described, from the PDH-5 and C-3 Districts to the C-6 District; and

WHEREAS, at a duly called public hearing the Planning Commission considered the application and the propriety of amending the Zoning Ordinance in accordance therewith, and thereafter did submit to this Board its recommendation, and

WHEREAS, this Board has today held a duly called public hearing and after due consideration of the reports, recommendation, testimony and facts pertinent to the proposed amendment, the Board is of the opinion that the Ordinance should be amended,

NOW, THEREFORE, BE IT ORDAINED, that that certain parcel of land situated in the Sully District, and more particularly described as follows (see attached legal description):

Be, and hereby is, zoned to the C-6 District; and said property is subject to the use regulations of said C-6 District; and further restricted by the conditions proffered and accepted pursuant to Va. Code Ann., §15.2-2303(a), which conditions are in addition to the Zoning Ordinance regulations applicable to said parcel, and

BE IT FURTHER ENACTED, that the boundaries of the Zoning Map heretofore adopted as a part of the Zoning Ordinance be, and they hereby are, amended in accordance with this enactment, and that said zoning map shall annotate and incorporate by reference the additional conditions governing said parcel.

GIVEN under my hand this 12th day of July, 1999.

Nancy Vehrs

Nancy Vehrs
Clerk to the Board of Supervisors

**BC Consultants**
*Planners · Engineers · Surveyors · Landscape Architects*

December 22, 1998
BC Project No.: 98000.01

RECEIVED
DEPARTMENT OF PLANNING AND ZONI
JAN 4 1999
ZONING EVALUATION DIVISION

# DESCRIPTION OF PROPOSED C-6 ZONE CARNEY-SMITH PROPERTY SULLY DISTRICT FAIRFAX COUNTY, VIRGINIA

Being a portion of the property now in the names of Benjamin M. Smith, Jr. and Jack W. Carney, Trustees as recorded in Deed Book 1877 at Page 151 and all of the property now in the names of Neville R. McKay, et. al. as recorded in Deed Book 7726 at Page 1613 both among the Land Records of Fairfax County, Virginia and being more particularly described as follows:

Beginning for the same at a point lying on the Northerly Right-of-way line of Lee Highway Route 29 (variable width) said point also being the southwesterly corner of the land of Samuel P. and Irma B. Warren, as recorded in Deed Book 5632 at Page 1690, thence leaving said point binding and running with said right-of-way the following four (4) courses and distances.

1. South 81° 55′ 28″ West 250.20 feet (76.261 meters) to a point; thence,

2. South 73° 55′ 24″ West 150.75 feet (45.949 meters ) to the point; thence,

3. South 79° 34′ 02″ West 200.54 feet (61.125 meters) to the point; thence,

4. South 79° 37′ 56" West 102.10 feet (31.120 meters) to a point; thence leaving said right-of-way and running in, through, over and across the Smith and Carney Trustees property the following six (6) courses and distances

5. North 15° 57′ 23″ West 998.55 feet (304.358 meters) to a point, thence

6. North 74° 02′ 37″ East 577.17 feet (175.922 meters) to a point, thence

The BC Consultants, Inc.
12700 Fair Lakes Circle, Suite 100, Fairfax, VA 22033
(703) 449-8100 (703) 449-8108 (Fax)

7. 201.76 feet (61.496 meters) along the arc of a curve deflecting to the left and having a radius of 806.63 feet (245.861 meters) and a chord bearing and distance of North 66° 52′ 42″ East 201.23 feet (61.335 meters) to a point; thence,

8. North 59° 42′ 46″ East 275.17 feet (83.870 meters) to a point; thence,

9. 135.51 feet (41.303 meters) along the arc of a curve deflecting to the right and having a radius of 800.00 feet (243.840 meters) and a chord bearing and distance of North 64° 33′ 55″ East 135.35 feet (41.254 meters) to a point; thence,

10. South 14° 05′ 25″ West 618.63 feet (188.557 meters) to a point on a Westerly line of Samuel P. and Irma B. Warren as recorded in Deed Book 5632 at Page 1690, thence running with said Westerly line

11. South 35° 32′ 00″ West 147.19 feet (44.865 meters) to a point, thence binding and running with another Westerly Line of the aforementioned Warren.

12. South 10° 32′ 11″ East 552.61 feet (168.435 meters) to the point of beginning, containing 20.48925 acres (8.29170 hectares) of land.

This description was prepared without the benefit of a title report which may reveal or discover easements and/or rights-of-way not described herein.

(V:\PROJECT\98000\DOCUMENT\98000MB8.DOC)

PROFFERS

CARNEY-SMITH (COMMERCIAL)
RZ 1998-SU-040

June 15, 1999

Pursuant to Section 15.2-2303(A), Code of Virginia, 1950 as amended, the owners and Jack W. Carney, Trustee and Benjamin M. Smith, Jr. Trustee, (hereinafter referred to as the "Applicant") for the owners, themselves, successors and assigns, in RZ 1998-SU-040, filed for property identified as Tax Map 56-2 ((1)) 69A part and 70, 71; (hereinafter referred to as the "Application Property"), agree to the following proffers, provided that the Board of Supervisors approve a rezoning of the Application Property to the C-6 District. In the event this application is approved, any previous proffers for the Application Property are hereby deemed null and void and hereafter shall have no effect on the Application Property.

1. Development Plan. Development of the Application Property shall be in substantial conformance with the Generalized Development Plan/Special Exception Plat ("GDP/SE") prepared by The BC Consultants consisting of eleven (11) sheets dated June, 1998 and revised through April 16, 1999.

2. Land Use.

   A. Development of the Application Property shall not exceed a maximum floor area ratio (FAR) of 21.

   B. The following uses may be permitted:

      1. Accessory Uses.
      2. Business service and supply service establishments.
      3. Drive-in banks *.
      4. Eating establishments.
      5. Fast food restaurants *.
      6. Financial institutions.
      7. Health clubs.
      8. Offices.
      9. Personal service establishments.
      10. Private schools of general education, private schools of special education.
      11. Public uses.
      12. Quick service food stores.
      13. Repair service establishments.
      14. Retail sales establishments.
      15. Service Stations/Mini-marts.
      16. Veterinary Hospitals.

*Limited by the provisions of Sect. 4-605 of the Zoning Ordinance or with approval of a Special Exception.

The following uses will not be permitted:

1. Churches, chapels, temples, synagogues, and other places of worship.
2. Mobil and land-based telecommunication facilities.
3. Telecommunication facilities, except as referenced in Proffer 20 below.
4. Vehicle light service establishments.

This shall not preclude the Applicant from applying for Special Exception and/or Special Permit uses in the future which are not otherwise mentioned above. In addition, the Applicant reserves the right to provide a drive-thru pharmacy within the shopping center as shown on the GDP/SE if permitted with the adoption of an amendment to the Zoning Ordinance that permits such use in the C-6 District.

3. Minor Deviations. Pursuant to Paragraph 5 of Section 18-204 of the Zoning Ordinance, minor modifications from the GDP/SE may be permitted as determined by the Zoning Administrator. The Applicant shall have the flexibility to modify the layout shown on the GDP/SE without requiring approval of an amended GDP/SE provided such changes are in substantial conformance with the GDP/SE as determined by the Zoning Administrator, agents or assigns and neither increase the total amount of gross floor area nor decrease the following: amount of open space; the amount of required parking; or the location of common open space areas, limits of clearing and grading, access points or distances to peripheral lot lines. Such changes may include, but not be limited to, adjusting the size and location of building footprints, shifting square footage from one building to another provided such a shift does not exceed 10% of the total square footage of the building and providing structured parking below grade.

4. Storm Water Management. The Applicant shall provide storm water management (SWM) and Best Management Practices (BMPs) in accordance with the requirements of the Public Facilities Manual and Chesapeake Bay Preservation Ordinance, unless waived by Department of Public Works and Environmental Services ("DPWES"). Storm water management and BMP requirements for the Application property shall be satisfied offsite in a regional Storm water management facility to be located on the adjacent residential property subject to RZ 1998-SU-041. No non-residential use permits (non-RUPs) shall be issued until the regional SWM facility has been constructed, partially constructed or other temporary SWM/BMP facility(ies) are constructed as may be approved by DPWES.

5. Limits of Clearing and Grading. The Applicant shall conform to the limits of clearing and grading shown on the GDP/SE plat subject to the installation of trails and utility lines, if necessary, as approved by DPWES. The trails and utility lines located within the area protected by the limits of clearing and grading shall be located and installed in the least disruptive manner possible considering cost and engineering, as determined by DPWES. At time of site plan submission, a replanting plan shall be developed and implemented, as approved by the Urban Forestry Branch of DPWES, for any areas within the area protected

B. Monument Drive.

i. Dedication. Subject to VDOT and DPWES approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors those portions of the Monument Drive right-of-way, as shown on the GDP/SE, to accommodate construction for the four-lane divided roadway. The Applicant acknowledges the ultimate right-of-way width for Monument Drive shall be 114 feet. Dedication shall be made at time of the first site plan approval or upon demand from Fairfax County, whichever occurs first.

ii. Design and Construction.

1. The Applicant shall be responsible for the design of Monument Drive. Monument Drive shall be designed to a 70 Kph design standard and shall be designed to VDOT standards.

2. The Applicant shall manage the construction of 4 lanes of Monument Drive from the northern property line of the property associated with RZ 1998-SU-041 to and including at-grade improvements to Route 29, subject to the timely execution of a satisfactory cost-sharing agreement with the County prior to the Board of Supervisors approval of this rezoning.

3. The Applicant shall construct Monument Drive as described in Paragraph 2 above prior to the issuance of the first non-RUP.

iii. Interchange. In the event an interchange is constructed by others at the intersection of Monument Drive and Route 29, any remaining right-of-way from Monument Drive not utilized for the interchange shall be returned to the Applicant.

C. Government Center Parkway extension.

i. Dedication. Subject to VDOT and DPWES approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors that portion of right-of-way for the extension of Government Center Parkway as a four-lane divided roadway as shown on the GDP/SE. This dedication shall provide for that portion of Government Center Parkway east of its intersection with Monument Drive to the eastern property line of the shopping center. Dedication shall be made at time of the final site plan approval or upon demand from Fairfax County, whichever occurs first.

by the limits of clearing and grading that are disturbed due to trails and/or utility installation.

6. Transportation.

A. Route 29, Lee Highway.

i. Dedication. Subject to VDOT and DPWES approval, the Applicant shall dedicate and convey in fee simple to the Board of Supervisors right-of-way from the existing centerline of Route 29 along the Application Property frontage of Route 29, as shown on the GDP/SE together with all necessary ancillary and temporary construction and grading easements. Said easements shall not preclude the Applicant from developing the Application Property as shown on the GDP/SE. Dedication shall be made at time of final site plan approval for the shopping center or upon demand from Fairfax County, whichever occurs first.

ii. Construction. The Applicant shall construct a right turn lane and a third westbound lane along the Application Property frontage of Route 29 as shown on the GDP/SE prior to final site plan approval for seventy-five percent (75%) of the gross floor area of the shopping center if not already done pursuant to RZ 1998-SU-041 or upon request by Fairfax County based upon a funded roadway project for Route 29, whichever occurs first.

iii. Funding. In lieu of constructing , a service drive and a trail along Route 29, the Applicant shall, at the time of final site plan approval for seventy-five percent (75%) of the gross floor area of the shopping center if not already done pursuant to RZ 1998-SU-041 or upon request by Fairfax County based upon a funded roadway project for Route 29, whichever occurs first, escrow with DPWES funds in an amount equal to the total estimated cost of the following improvements to Route 29 as determined by DPWES:

a. A 26-foot wide service drive with curb, sidewalk and gutter on the north side of Route 29 along Application Property frontage.

b. A 8-foot wide asphalt trail along the Application Property frontage.

Said sum shall be estimated by the Applicant's engineers, subject to said estimate being approved by the DPWES.

iv. This construction and funding for improvements to Lee Highway as described above shall be a credit against the Applicant's Fairfax Center Area Road Fund contribution.

ii. Construction. Prior to the issuance of the first non-RUP if not already done pursuant to the proffers for RZ 1998-SU-041, the Applicant shall construct Government Center Parkway extension as a four (4) lane divided roadway from Monument Drive to the proposed entrance to the shopping center as shown on the GDP/SE. Said roadway shall be constructed within a 110-foot right-of-way with additional right-of-way as needed for turn lanes.

7. Fairfax Center Area Road Fund Contribution. The Applicant shall contribute to the Fairfax Center Area Road Fund in accordance with the "Procedural Guidelines" adopted by the Board of Supervisors on November 22, 1982, as amended, subject to credits for all creditable expenses, as determined by DPWES and in accordance with Proffer 6 and the cost-sharing agreement between the County and the Applicant.

8. Turn Lanes. The Applicant shall construct right and left turn lanes on Monument Drive and Government Center Parkway extension as required by DPWES and VDOT along the Application Property's frontage. The Applicant shall construct a northbound left turn lane on Monument Drive at Government Center Parkway and shall provide median width for an additional left turn lane in order to provide dual left turn lanes, if necessary, at this intersection based on traffic queues. The Applicant shall construct the additional turn lane if required at time of site plan approval. If construction of the additional turn lane is not required, then the Applicant shall escrow the necessary funds for the construction of the additional left turn lane at time of site plan approval. The funds shall be estimated by the Applicant's engineers, subject to said estimate being approved by DPWES. The Applicant shall submit documentation of traffic queues to Fairfax County and VDOT with the submission of traffic signal plans for the intersection of Monument Drive and Government Center Parkway to determine if construction of the additional left turn lane is required.

9. Roads in Use. The Applicant shall construct Monument Drive and Government Center Parkway in conformance with VDOT standards. For purposes of these proffers, "construct" shall mean that the committed road improvement is open to public traffic, whether or not accepted into the State system. Acceptance of roads by VDOT into its roadway system shall be diligently pursued by the Applicant and shall occur prior to final bond release.

10. Design Detail. The design details shown on Sheets 4-7 submitted with the GDP/SE are provided to illustrate the design intent and overall organization of the proposed development. Landscaping and on-site amenities shall be generally consistent in terms of character and quantity with the illustrations and details presented on these sheets. Specific features such as exact locations of plantings, seating areas, etc., are subject to modification with final engineering and architectural design. Landscaping and on-site amenities shall include, but not be limited to, the following features:

a. Landscaped entry features shall be provided at the intersections of Monument Drive and Government Center Parkway and Monument Drive and Route 29 to include entrance monumentation and/or signage, ornamental trees and shrubs as shown on Sheets 5 and 6.

11. Environmental Quality Corridor (EQC). The Applicant shall convey in fee simple to the Fairfax County Park Authority for public park purposes, the EQC as depicted on the GDP/SE prior to final site plan approval. The EQC shall not be disturbed except for the construction of Government Center Parkway and the installation of trails and/or necessary utility lines as may be approved by DPWES. The Applicant shall design and construct the Government Center Parkway crossing of the EQC as shown on the GDP/SE to minimize clearing and grading within the EQC to the extent feasible. A conservation easement may be placed on some or all of the open space if necessary to meet the BMP requirements of the Public Facilities Manual. At time of site plan submission, a replanting plan shall be developed and implemented, as approved by the County Urban Forester for any areas located within the EQC that are disturbed due to the installation of utility lines and trails.

12. Trash Receptacles. All loading docks and on-site dumpsters for the office and shopping center uses shall be adequately screened from view at ground level from the adjacent residential uses proposed in conjunction with RZ 1998-SU-041 through the use of architectural walls, berms, fencing, landscaping or combinations thereof.

13. Bicycle Parking. A bicycle parking rack shall be provided at each of the office buildings and the retail center.

14. Indoor Facilities in Office. The Applicant shall provide a location for lockers and shower stalls within Building E so all employees of the office buildings shall have access to such facilities.

15. Density Credit. All density related to all eligible street and public park dedications is hereby reserved pursuant to Paragraph 4 of Section 2-308 of the Zoning Ordinance.

16. Signage. All signage for the shopping center shall be in conformance with Article 12 of the Zoning Ordinance. Signage for the shopping center shall be generally as represented on the sign details shown on the GDP. There shall be no pole-mounted signs. However, decorative seasonal banners shall be permitted.

17. Design Coordination. The individual buildings on the shopping center site shall be designed to create the appearance of a unified and coordinated development and shall be complementary in terms of architectural style and scale. This unified development shall be

accomplished through the use of coordinated building materials, landscaping or other similar design features and the following:

i. Building materials shall be limited to face brick or architectural concrete block, architectural metal panels, architectural pre-cast concrete, stone, exterior insulation and finish system (E.I.F.S.) and reflective and non-reflective glass.

ii. All commercial buildings visible to the public shall be designed with architectural treatments as specified in Par. i above.

18. Hours of Operation. The hours of operation for the service station and fast food restaurant uses shall be from 5:00 a.m. to midnight. These hours of operation will be included in applicable leases.

19. Fast Food Restaurant. No fast food restaurant with delivery service as the primary operation shall be permitted as tenants. This provision shall not exclude those fast food/eating establishments which offer limited delivery service.

20. Antennas. The construction of telecommunication towers or antennas shall be restricted to those facilities which serve the tenants of the Property.

21. Lighting. Any parking lot lighting and security lighting for the shopping center shall be fully shielded and directed downward to minimize off-site glare to adjacent existing and proposed residential uses. The Applicant shall submit a lighting plan to DPWES at time of site plan(s) to identify the specific locations and types of lighting to be provided.

22. Construction Measures.

A. The Applicant agrees to take reasonable measures to minimize construction traffic on the existing portion of Government Center Parkway to the west of the Carney-Smith property. The Applicant shall notify all contractors to utilize Route 29 to the shopping center entrance on Monument Drive for construction vehicles. Signage shall be posted along the existing portion of Government Center Parkway west of the Carney-Smith property prohibiting construction traffic.

B. The Applicant agrees that construction and delivery of construction materials on any portion of the Application Property, including road construction on Government Center Parkway and Monument Drive, shall be limited to the hours prescribed by the Fairfax County Noise Ordinance.

C. The Applicant agrees to take reasonable measures which are consistent with the standards of construction in Fairfax County to maintain Government Center Parkway and Carriage Park streets, sidewalks, buildings and storm water ponds free from dirt, gravel, construction materials and debris at all times and will clean these areas as often as necessary at its expense to assure compliance. Should dry weather cause excessive dirt and dust, the Applicant agrees to apply water consistently to the construction site.

D. The Applicant shall take reasonable measures to monitor and control pests resulting from construction and agrees to remove, trap or eradicate pests at its expense in accordance with County policies.

23. Mechanical Equipment. All rooftop mechanical equipment shall be screened from the ground level. All above-ground or in-ground mechanical structures shall be adequately screened by landscaping and/or a screen wall with a gate which shall be locked at all times, as may be approved by the appropriate utility company.

24. Parking. The Applicant agrees to ensure that users of the Application Property are notified that parking at Carriage Park and/or the Ellipse are for the exclusive use of Carriage Park and/or the Ellipse residents and guests. In the event that automobiles from the Application Property park at Carriage Park or the Ellipse, the Applicant acknowledges that such automobiles will be subject to the enforcement of the parking regulations including towing at the automobile owner's expense.

25. Noise. The Applicant shall use building materials with characteristics pursuant to commonly accepted industry standards to achieve a maximum interior noise level of 50 dBA Ldn in all commercial buildings which are located within that area impacted by highway noise from Route 29 with projected noise levels above 70 dBA Ldn.

26. Heritage Resources. The Applicant shall contract for a Phase I archaeological survey for the eastern portion of the Application Property within the EQC area. If a Phase II archaeological study is found necessary by the County archaeologist, that study shall be performed by the Applicant, provided the performance of said survey does not interfere with or delay the Applicant's construction schedule. If a Phase III archaeological study is found necessary, then the Applicant shall contract for completion of such study provided that performance of said survey does not interfere with or delay the Applicant's construction schedule. The cost of both of the Phase II and Phase III archaeological studies shall not exceed the sum of $10,000.

27. Monument Drive Streetscape. Landscaping shall be provided along Monument Drive as generally shown on the GDP/SE and Sheet 6. This streetscape shall consist of a five-foot (5')

wide concrete sidewalk and street trees at a minimum of 3-inch caliper on the east side of Monument Drive.

28. Government Center Parkway Streetscape. The Applicant shall implement the design elements along Government Center Parkway in accordance with the Government Center Parkway Streetscape Plan shown on Sheet 5 of the GDP/SE.

29. Reforestation. At time of site plan submission, the Applicant shall submit a landscape plan which may include reforestation with seedlings for the existing unvegetated portion of the EQC along the southeastern property line in accordance with Section 12-0808, 7C of the Public Facilities Manual in coordination with the Urban Forestry Branch of DPWES.

30. Severability. Any of the office buildings, freestanding uses and shopping center may be subject to a Special Exception Amendment without joinder and/or consent of the other sections, if such SEA does not affect any other sections. Any of the special exception uses may be the subject of a special exception amendment without the necessity of a PCA. Any additional Special Permit and Special Exception uses shall be permitted for the Application Property without the necessity of a proffered condition amendment. This use flexibility shall not relieve the Applicant from the filing and processing of any Special Exception and/or Special Permit requests through the County's normal review process.

31. Successors and Assigns. These proffers will bind and inure to the benefit of the Applicant and his/her successors and assigns.

32. Counterparts. These proffers may be executed in one or more counterparts, each of which when so executed and delivered shall be deemed an original document and all of which taken together shall constitute but one in same instrument.

[SIGNATURE PAGES BEGIN ON FOLLOWING PAGE]

APPLICANT/TITLE OWNERS

Jack W Carney Trust

Jack W. Carney, Trustee

Trustee

Benjamin M. Smith, ~~Jr.~~ Trustee

(SIGNATURES CONTINUE ON THE NEXT PAGE)

TITLE OWNER
OF TAX MAP 56-2 ((1)) 70, 71

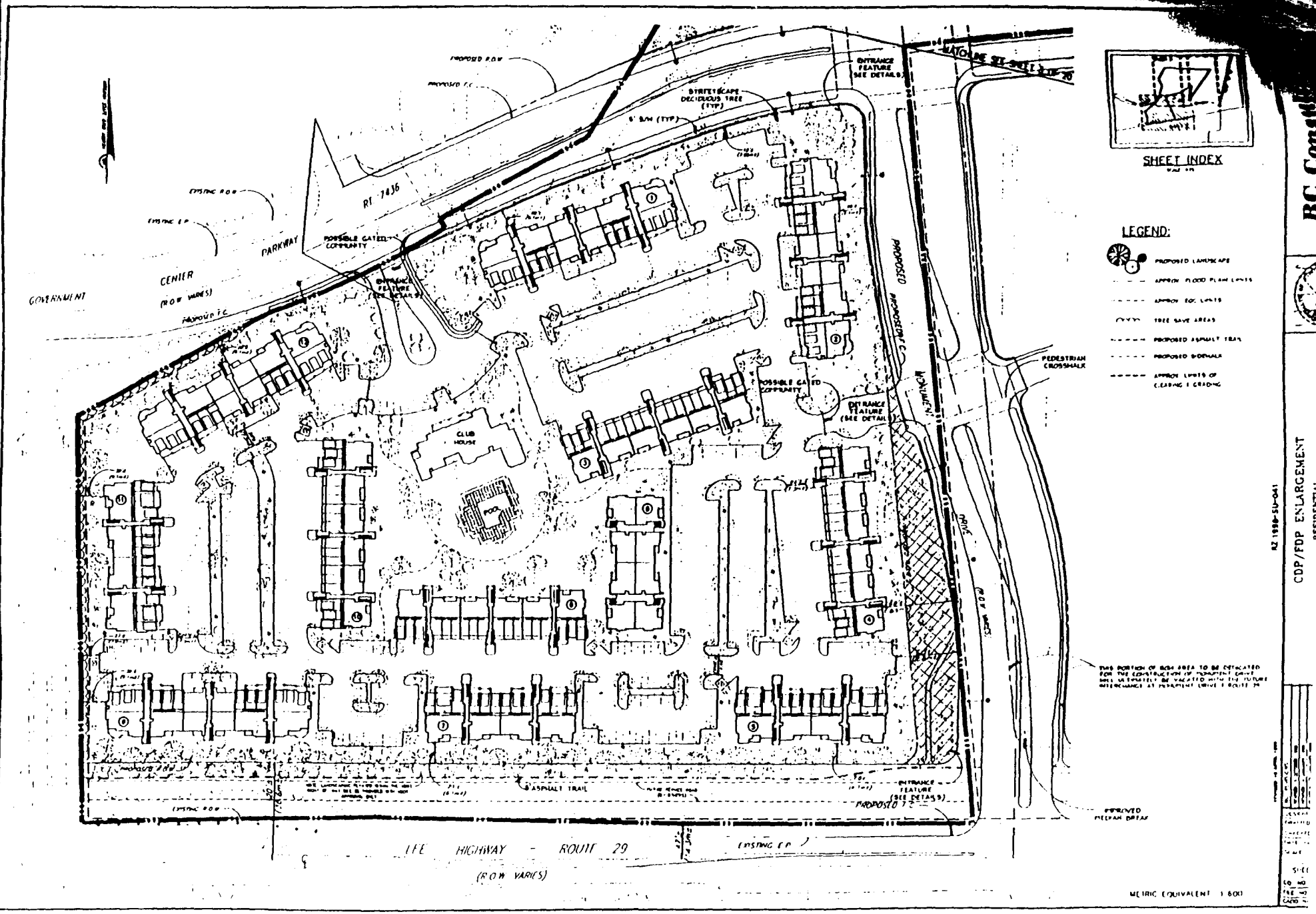
William J. McMenamin

(SIGNATURES CONTINUE ON THE NEXT PAGE)

CONTRACT PURCHASER OF
TAX MAP 56-2 ((1)) 69A
FAIRFAX CENTER, L.L.C.
BY: WEBB DEVELOPMENT, L.L.C.
ITS MEMBER-MANAGER
BY: J. WEBB, INC.
ITS MEMBER-MANAGER

By: _____
Michael M. Webb
Its President/Chairman

[END SIGNATURES]


SHEET INDEX
LEGEND:
PROPOSED LANDSCAPE
APPROX. FLOOD PLAIN LIMITS
APPROX. EQL. LIMITS
TREE SAVE AREAS
PROPOSED ASPHALT TRAIL
PROPOSED SIDEWALK
APPROX. LIMITS OF CLEARING & GRADING
ENTRANCE FEATURE (SEE DETAIL)
STREETSCAPE DECIDUOUS TREE (TYP.)
5' S/W (TYP.)
POSSIBLE GATED COMMUNITY
CLUB HOUSE
PEDESTRIAN CROSSWALK
ASPHALT TRAIL
PROPOSED R/W
EXISTING R/W
PARKWAY
CENTER
(R.O.W. VARIES)
GOVERNMENT
RT. 7836
LEE HIGHWAY - ROUTE 29
(R.O.W. VARIES)
EXISTING C/L
APPROVED MEDIAN BREAK
METRIC EQUIVALENT 1:600
RZ 1998-SU-041
CDP/FDP ENLARGEMENT

MATCHLINE SEE SHEET 3 OF 20
AREA TO BE DEDICATED TO FAIRFAX COUNTY PARK AUTHORITY
6' ASPHALT TRAIL
TREE SAVE AREA
LIMITS OF CLEARING
TREE SAVE AREA
6' ASPHALT TRAIL
TENNIS COURT
UNDEVELOPED RECREATIONAL OPEN SPACE
MULTI-PURPOSE COURT
PLAY AREA
GAZEBO
PEDESTRIAN CROSSWALK
ENTRANCE FEATURE (SEE DETAILS)
PROPOSED INTER PARCEL ACCESS
LEGEND:
PROPOSED LANDSCAPE
APPROX. FLOOD PLAIN LIMITS
APPROX. BOC LIMITS
TREE SAVE AREAS
PROPOSED ASPHALT TRAIL
PROPOSED SIDEWALK
APPROX. LIMITS OF CLEARING & GRADING
SHEET INDEX
3C Consultants
RZ 1998-SU-041
GDP/FDP ENLARGEMENT
RESIDENTIAL
SMITH PROPERTY

F A I R F A X  C O U N T Y

BOARD OF SUPERVISORS ACTION
ZONING MAP AMENDMENT
DATE OF ACTION 07/12/99

APPLICATION NUMBER: RZ 98-Y-040 SULLY DISTRICT

APPLICANT: JACK W. CARNEY AND BENJAMIN M. SMITH

STAFF: JOHNSON

APPLICATION DATA

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EXISTING ZONING AND ACREAGE

| ZONING: | C- 3 | PDH- 5 |
|---|---|---|
| ACRES: | 3.79 | 16.69 |

| PROPOSED: | ACTION: |
|---|---|
| C- 6 | C- 6 |
| 20.48 | 20.48 |

| TOTAL ACRES | TOTAL ACRES |
|---|---|
| 20.48 | 20.48 |

MAP NUMBERS

056-2- /01/ /0069-A P,0070- ,0071-

REMARKS:

CONCURRENT WITH RZ 1998-SU-041 AND SE 98-Y-038 ASSOCIATED WITH RZ 19
98-SU-025 AND RZ 1998-SU-057 TO THE EAST

ZONING MAP AMENDMENT

RZ 98-Y-040

ZONING DISTRICT DATA

ZONING DISTRICT: C- 6

PROFFERED/CONDITIONED DWELLING UNIT DATA

| TYPES | UNITS | ACRES | DENSITY | RANGE | LOMOD INCL | LOMOD ADD |
|---|---|---|---|---|---|---|

PROFFERED/CONDITIONED NON-RESIDENTIAL GROSS FLOOR AREAS

| USE | GFA | FAR | USE | GFA | FAR |
|---|---|---|---|---|---|
| COMMERICAL-GEN | | | PUBLIC/QUASI PUB | | |
| HOTEL/MOTEL | | | OFFICE | | |
| INDUSTRIAL-GEN | | | TRAN-UTIL-COMM | | |
| CULT/EDU/RELG/ENT | | | RETAIL-EATING EST | 183,700 | .21 |
| INDUST-WAREHOUSE | | | *****TOTAL***** | 183,700 | .21 |

REMARKS:

ZONING MAP AMENDMENT

RZ 98-Y-040

CONDITION/CONTRIBUTION DATA

| COND CODE | DESCRIPTION | COND CODE | DESCRIPTION |
|---|---|---|---|
| 7A | OTHER MISCELLANEOUS - SEE FILE | 7A | OTHER MISCELLANEOUS - SEE FILE |
| 7A | OTHER MISCELLANEOUS - SEE FILE | 1Z | OTHER - GENERAL |
| 1A | GENERALIZED DEVEL PLAN | 1Z | OTHER - GENERAL |
| 1Z | OTHER - GENERAL | 4E | NOISE ATTENUATION |
| 3Z | OTHER - TRANSPORTATION | 3I | PARKING/LOADING |
| 3B | RIGHT-OF-WAY: DEDICATION/RESERV | 3Z | OTHER - TRANSPORTATION |
| 3F | PEDESTRIAN FACILITY/TRAIL | 3Z | OTHER - TRANSPORTATION |
| 3Z | OTHER - TRANSPORTATION | 3Z | OTHER - TRANSPORTATION |
| 4Z | OTHER - ENVIRONMENT | 4Z | OTHER - ENVIRONMENT |
| 4Z | OTHER - ENVIRONMENT | 4P | LIGHTING |

| CONTRIB DATA: CND CODE | AMOUNT | CONDITIONED | EXPIRES | CONTRIB CODE |
|---|---|---|---|---|
| | $0 | | 00/00/00 | |
| | $0 | | 00/00/00 | |
| | $0 | | 00/00/00 | |
| | $0 | | 00/00/00 | |

REMARKS:

## APPROVED DEVELOPMENT CONDITIONS

## SE 98-Y-038

## May 20, 1999

If it is the intent of the Planning Commission to approve SE 98-Y-038 located at Tax Map 56-2 ((1)) 69 pt., 70 and 71 for a drive-in bank, service station/mini-mart and fast food restaurant with a drive-through window pursuant to Sect. 4-604 and an increase in building height pursuant to Sect. 9-607 of the Fairfax County Zoning Ordinance, the staff recommends that the Board condition the approval by requiring conformance with the following development conditions:

1. This Special Exception is granted for and runs with the land indicated in this application and is not transferable to other land.

2. This Special Exception is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions. Other by-right special permit and/or special exception uses may be permitted on the Application Property without the approval of a Special Exception Amendment if such uses do not affect this Special Exception.

3. This Special Exception is subject to the provisions of Article 17, Site Plans, as may be determined by the Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception shall be in substantial conformance with the approved Special Exception Plat entitled "Carney Smith Property Special Exception Plat/Generalized Development Plan Amendment" and prepared by BC Consultants which is dated June 1998, as revised through April 16, 1999, and these conditions. Minor modifications to the approved special exception may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

4. At time of planting, all large evergreen trees planted on-site shall be a minimum of 7 feet in height; deciduous trees shall have a minimum 2.5 - 3 inch caliper. Landscaping shall be consistent with the quality, quantity and locations depicted on Sheets 4-8 of the GDP/SE plat, as determined by the Urban Forestry Branch of DPWES.

5. All dumpsters which are visible from residential areas or major roadways shall be fully screened from view through the use of solid, opaque enclosures.

6. All on-site lighting, including wall-pack style security lights, shall feature full-cutoff shielding so that all glare is minimized, and shall be directed

downward and inward, to prevent light spilling onto adjacent properties. Exposed neon tubing and the use of ground mounted spot lights to illuminate signs or buildings shall be prohibited on site. The maximum height of all light poles on site shall not exceed 20 feet. To further unify and integrate the overall development, the residential and commercial developments shall feature a single lighting fixture style, excluding security lights, as determined by DPWES.

7. In order to maximize tree preservation on site, a tree preservation plan shall be submitted to and approved by the Urban Forestry Branch of DPWES prior to site plan approval. Trees designated for preservation shall be coordinated with the Urban Forestry Branch of DPWES. However, additional tree preservation shall not preclude the development as shown on the GDP/SE Plat or require extraordinary construction measures such as, but not limited to, the installation of retaining walls greater than two feet in height. The tree preservation plan shall include a tree survey which identifies trees that have potential to be saved within 25 feet of either side of the EQC line. The tree preservation plan shall be prepared by an arborist certified by the International Society of Arboriculture, and show the location, size, species and actual dripline of all existing trees 10 inches in diameter and larger and all landscape trees and shrubs in good condition which are located generally within 25 feet of each side of the future clearing limits. As part of the tree preservation plan preparation, the certified arborist shall conduct a condition analysis, using the method described in the "Guide for Plant Appraisal," eighth edition, published by the International Society of Arboriculture.

8. There shall be no outdoor storage or display of goods offered for sale except for the outdoor storage or display of goods permitted at a service station/mini-mart, and occasional promotional events for the entire shopping center.

**Fast Food Restaurant with a Drive-through Window**

9. Hours of operation of the fast food restaurant shall be limited to 5:00 am to midnight, daily.

10. Maximum number of seats in the fast food restaurant shall be 100.

11. Maximum square footage of the fast food restaurant shall not exceed 2,500 square feet.

12. No roof illumination strips shall be permitted with the fast food restaurant use.

13. If the eating establishment option, depicted as Building D1 on Sheet 2 of the GDP/SE plat, is constructed, instead of the fast food restaurant, the overall square footage of the retail uses shall not exceed 94,400 square feet.

**Drive-In Bank**

14. The drive-in bank shall be located within Office Building C and shall have a maximum square footage of 3,000 square feet.

15. Hours of operation for the drive-in bank shall be limited to 7:30 a.m. to 7:00 p.m, Monday through Friday, and 9:00 a.m. to 2:00 p.m. on Saturday.

**Service Station/Mini-mart**

16. Hours of operation of the service station/mini-mart shall be limited to 5:00 am to midnight, daily.

17. Maximum square footage of the service station/mini-mart shall not exceed 2,200 square feet. No service bays shall be permitted for the use; a maximum of six (6) fueling islands with two (2) back to back, fueling stations each, for a total of 12 fueling stations, shall be permitted on site.

18. The sale of alcoholic beverages shall not be permitted from the service station/mini-mart.

19. Signage for the service station/mini-mart shall be limited to the pump islands. ~~no~~ Signage shall be permitted on the service station canopy consisting of non-illuminated company identification and logo signs not to exceed 20 square feet per sign for the sign area. No back lighting of the service station canopy shall be permitted.

20. The service station/mini-mart shall be located of a minimum of 40 feet from the property line, adjacent to Monument Drive, as determined by DPWES.

21. The performance of major repairs and the outdoor storage of more than two abandoned, wrecked or inoperable vehicles shall be prohibited at the service station/mini-mart.

**Increase in Building Height**

22. The maximum height of Office Building E shall not exceed 60 feet.

The above proposed conditions are staff recommendations and do not reflect the position of the Board of Supervisors unless and until adopted by that Board.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless the use has been established or construction has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

5/24/99

5:00 p.m. Items - RZ-1998-SU-040 - JACK CARNEY AND BENJAMIN SMITH, TRUSTEES
RZ-1998-SU-041 - JACK CARNEY AND BENJAMIN SMITH, TRUSTEES
SE-98-Y-038 - JACK CARNEY AND BENJAMIN SMITH, TRUSTEES
Sully District

On Wednesday, May 19, 1999, the Planning Commission voted 10-0-1 (Commissioner Wilson abstaining; Commissioner Palatiello absent from the meeting), except as otherwise noted, to recommend to the Board of Supervisors the following actions pertinent to the subject applications:

1) approval of RZ-1998-SU-040, subject to the execution of proffers consistent with those dated April 29, 1999;

2) approval of SE-98-Y-038, subject to the proposed development conditions dated May 19, 1999, amended as follows:

-- delete the last sentence in Condition #4;
-- delete Condition #5;
-- change Condition #20 to read: "Signage for the service mini-mart shall be limited to a pump island. Signage shall be permitted on the service station canopy consisting of non-illuminated company identification and logo signs not to exceed 20 square feet per sign for the sign area. No back lighting of the service station canopy shall be permitted." (Vote was 9-0-2, with Commissioners Byers and Wilson abstaining);

3) waiver of the requirement for construction of a service drive along Route 29 in favor of an escrow of funds equal to the cost of construction;

4) modification of the transitional screening requirements and waiver of the barrier requirements along the north, east, west and south property lines in favor of that shown on the GDP/SE plat;

5) approval of RZ-1998-SU-041, subject to the execution of proffers consistent with those dated May 18, 1999, and the addition to Proffer 23D of the word "pests" after "..agrees to remove, trap or eradicate...";

6) waiver of the 600 foot maximum length of private streets (Vote was 9-0-2, with Commissioners Coan and Wilson abstaining);

7) waiver of the requirement for the construction of a service drive along Route 29 in favor of an escrow of funds equal to the cost of construction;

8) modification of the transitional screening requirement and waiver of the barrier requirements along the southern property line in favor of that shown on the CDP/FDP;

9) approval of RZ-1998-SU-057, subject to the execution of proffers consistent with those dated May 18, 1999;

10) waiver of the 200 square foot privacy yard for the ADUs and waiver of the 600 foot maximum length of private streets (Vote was 8-1-2, with Commissioner Byers opposed; Commissioners Coan and Wilson abstaining);

11) approval of RZ-1998-SU-025, subject to the execution of proffers consistent with those dated May 16, 1999;

12) waiver of the 200 square foot privacy yard for the Mews Townhouse units (Vote was 8-0-1, with Commissioners Byers and Coan opposed; Commissioner Wilson abstaining);

13) waiver of the service drive requirement along Route 29 in favor of the escrow of funds equal to the cost of construction;

14) waiver of the 600 foot maximum length of private streets (Vote was 9-0-2, with Commissioners Coan and Wilson abstaining);

15) modification of the transitional screening requirement and waiver of the barrier requirements along the southern property line in favor of that shown on the CDP/FDP.

The Planning Commission also voted 10-0-1 (Commissioner Wilson abstaining; Commissioner Palatiello absent from the meeting) to approve:

1) FDP-1999-SU-041, subject to the proposed development conditions dated May 19, 1999, and subject to the Board's approval of RZ-1998-SU-041;

2) FDP-1998-SU-057, subject to the proposed development conditions dated April 29, 1999, and subject to the Board's approval of RZ-1998-SU-057; and,

3) FDP-1998-SU-025, subject to the proposed development conditions dated may 18, 1999, and subject to the Board's approval of RZ-1998-SU-025.

Planning Commission Meeting
May 19, 1999
Verbatim Excerpts

RZ-1998-SU-041 - JACK W. CARNEY, TRUSTEE AND BENJAMIN M. SMITH, JR., TRUSTEE
FDP-1998-SU-041 - JACK W. CARNEY, TRUSTEE AND BENJAMIN M. SMITH, JR., TRUSTEE
RZ-1998-SU-040 - JACK W. CARNEY, TRUSTEE AND BENJAMIN M. SMITH, JR., TRUSTEE
SE-98-Y-038 - JACK W. CARNEY, TRUSTEE AND BENJAMIN M. SMITH, JR., TRUSTEE
RZ-1998-SU-025 - CENTEX HOMES
FDP-1998-SU-025 - CENTEX HOMES
RZ-1998-SU-057 - COSCAN WASHINGTON, INC.
FDP-1998-SU-057 - COSCAN WASHINGTON, INC.

Decision Only During Commission Matters
(Public Hearing held on May 5, 1999)

Commissioner Koch: The public hearing for the rezoning application for the Smith Carney property which is subject to RZ-1998-SU-040 and RZ-1998-SU-041, and SE-98-Y-038 in the Warren property on behalf of the Centex Homes, which is subject to RZ-1998-SU-025, and the Coscan Washington, Inc. Timber Ridge property, which is subject to RZ-1998-SU-057, were the subject of a public hearing held on May 5, 1999. At that time I deferred the decision on these applications in order to resolve some minor outstanding issues. Over the past two weeks, the applicants have continued to work with staff and it is my understanding that the applicants delivered revised proffers to the members of the Planning Commission yesterday. However, staff went ahead and incorporated some of those changes into the ones that we received tonight with the exception of three which I'll explain and I'll read into my motion tonight. The applications are the results of many months of working with the applicants, staff, myself and Supervisor Frey's office as well as other adjacent property owners, and it is my pleasure to move forward with these cases tonight. All three of these applications are in conformance with the Comprehensive Plan and provide significant and valuable public benefits. Specifically, the Carney Smith property has agreed to provide a regional stormwater management pond which will provide stormwater retention and BMPs for approximately 225 acres within the Fairfax Center area. In addition, this property will provide for the completion of the final portion of Monument Drive and Route 29. The three applicants have worked together in order to provide for the extension of Government Center Parkway to Ridge Top Road. The Timber Ridge property and Warren property will provide for the extension of Ridge Top Road to Route 29. The completion of Monument Drive, Government Center Parkway and Ridge Top Road are vital links in the transportation system within the Fairfax Center area. In addition, funding for future improvements to Route 29 will also be provided. The applicant further coordinated on the construction of a neighborhood public park which will include a playground, tennis, multi-purpose courts, picnic area, play area and an extensive trail system. There will be approximately 19 acres dedicated to the Fairfax County Park Authority which will provide for the continuation of the County's environmental quality corridor system. In addition, the applicants have worked together to coordinate the design of the proposed developments which will enhance the overall quality of the Fairfax Center area. Finally, the applicants have agreed to fund, and the Carney Smith property will manage, the construction of three

athletic fields on property owned by the County in order to provide a community park which is of significant public benefit for the western portion of Fairfax County. Mr. Chairman, before I go into my 19 (sic) motions on these cases, I would like to thank staff, specifically Susan Johnson and the applicant, and specifically Susan Yantis, and Bill McMenamin, whose "can do" attitude has, I think, brought us to this point today. I didn't think we were going to get here, but we did. Mr. Chairman, first, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF APPLICATION RZ-1998-SU-040, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED APRIL 29, 1999.

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Is there a discussion of the motion?

Commissioner Coan: Mr. Chairman, which one was this?

Chairman Murphy: 040.

Commissioner Coan: 040.

Chairman Murphy: All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ-1998-SU-040, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries

Commissioner Wilson: Abstain. I wasn't here at that public hearing, Mr. Chairman.

Chairman Murphy: Okay. Can we say that you are going to abstain throughout?

Commissioner Wilson: Yes.

Chairman Murphy: All right.

Commissioner Koch: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF APPLICATION SE-98-Y-038, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED MAY 19, 1999 AMENDED AS FOLLOWS:

> ON NO. 4, I'M GOING TO DELETE THE LAST SENTENCE STARTING WITH "PLANTINGS" AND ENDING WITH "URBAN FORESTER." The reason for this, Mr. Chairman, is that staff would prefer that the streetscape be continued down past the shopping area, and I think I've seen, especially along Route 50,

when we over plant along shopping centers, they have no visibility and they have a problem. Sully Place is, I think a good example of that. So they are going to plant and they are going to be very nice plantings, except it is not going to be as thick as possibly other places. So I'm going to take that sentence out.

I'M GOING TO REMOVE NO. 5 WHICH IS THE HOURS OF OPERATION FOR THE RETAIL AND OFFICE USES NOT LISTED IN ANOTHER PLACE IN THE CONDITIONS because I think it is unreasonable to restrict the hours of the offices and I'm not quite sure how we would enforce such a restriction.

And finally, Mr. Chairman, No. 20 deals with the signage for the service station, and staff did not want any kind of a logo on the canopy and I think that's pretty standard practice for service stations and the applicant has agreed not to luminate such a logo. He's just going to put on the canopy the name of the station. So, 20 WILL READ: "SIGNAGE FOR THE SERVICE MINI-MART SHALL BE LIMITED TO A PUMP ISLAND. SIGNAGE SHALL BE PERMITTED ON THE SERVICE STATION CANOPY CONSISTING OF NON-ILLUMINATED COMPANY IDENTIFICATION AND LOGO SIGNS NOT TO EXCEED 20 SQUARE FEET PER SIGN FOR THE SIGN AREA. NO BACK LIGHTING OF THE SERVICE STATION CANOPY SHALL BE PERMITTED." That's the last change.

Chairman Murphy: Is there a second to the motion?

Commissioner Hall: Second.

Chairman Murphy: Seconded by Ms. Hall. Is there a discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE-98-Y-038, with the development conditions as amended by Mr. Koch, say aye.

Commissioners: Aye.

Commissioner Byers: Abstain.

Chairman Murphy: Opposed? Motion carries. Ms. Wilson abstains. Mr. Byers abstains.

Commissioner Koch: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF THE REQUIREMENT FOR CONSTRUCTION OF A SERVICE DRIVE ALONG ROUTE 29 IN FAVOR OF AN ESCROW OF FUNDS EQUAL TO THE COST OF CONSTRUCTION.

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Wilson abstains.

Commissioner Koch: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF MODIFICATION OF THE TRANSITIONAL SCREENING REQUIREMENTS AND WAIVER OF THE BARRIER REQUIREMENTS ALONG THE NORTH, EAST, WEST AND SOUTH PROPERTY LINES IN FAVOR OF THAT SHOWN ON THE GDP/SE PLAT.

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Wilson abstains.

Commissioner Koch: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF APPLICATION RZ-1998-SU-049 (sic), SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED MAY 18, 1999.

Chairman Murphy: I think it should be 41.

Commissioner Koch: What did I say?

Chairman Murphy: 49. Seconded by Mr. Byers. Is there a discussion of that motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ-1998-SU-041, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Wilson abstains.

Commissioner Koch: I MOVE THAT THE PLANNING COMMISSION APPROVE FDP-1998-SU-41 (sic), SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED MAY 19, 1999 AND SUBJECT TO THE BOARD'S APPROVAL OF RZ-1998-SU-041.

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Is there a discussion of that motion? All those in favor of the motion to approve FDP-1998-SU-041, subject to the Board's approval of the rezoning, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Wilson abstains.

Commissioner Koch: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF THE 600 FOOT MAXIMUM LENGTH OF PRIVATE STREETS.

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Is there a discussion of the motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Coan: Abstain.

Chairman Murphy: Motion carries. Mr. Coan abstains. Ms. Wilson abstains.

Commissioner Koch: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF THE REQUIREMENT FOR THE CONSTRUCTION OF A SERVICE DRIVE ALONG ROUTE 29 IN FAVOR OF AN ESCROW OF FUNDS EQUAL TO THE COST OF CONSTRUCTION.

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Wilson abstains.

Commissioner Koch: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A MODIFICATION OF THE TRANSITIONAL

SCREENING REQUIREMENT AND WAIVER OF THE BARRIER REQUIREMENTS ALONG THE SOUTHERN PROPERTY LINE IN FAVOR OF THAT SHOWN ON THE CDP/FDP.

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Wilson abstains.

Commissioner Koch: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF APPLICATION RZ-1998-SU-057, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED MAY 18, 1999.

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors to approve RZ-1998-SU-057, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Koch: I MOVE THAT THE PLANNING COMMISSION APPROVE FDP-1998-SU-057, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED APRIL 29, 1999, AND SUBJECT TO THE BOARD'S APPROVAL OF RZ-1998-SU-057.

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Is there a discussion of that motion? All those in favor of the motion to approve FDP-1998-SU-057, subject to the Board's approval of the rezonings, say aye.

Chairman Murphy: Opposed? Motion carries. Ms. Wilson abstains.

Commissioner Koch: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF THE 200 SQUARE FOOT PRIVACY YARD FOR THE ADUs AND APPROVAL OF THE WAIVER OF THE 600 FOOT MINIMUM(sic) LENGTH OF PRIVATE STREETS.

Commissioner Hall: Second.

Chairman Murphy: Seconded by Ms. Hall. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Byers: No.

Commissioner Coan: Abstain.

Chairman Murphy: Motion carries. Mr. Byers votes no. Ms. Wilson and Mr. Coan abstain.

Commissioner Koch: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF APPLICATION RZ-1998-SU-025, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED MAY 16, 1999.

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Is there a discussion of that motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ-1998-SU-025, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Wilson abstains.

Commissioner Koch: I MOVE THAT THE PLANNING COMMISSION APPROVE FDP-1998-SU-025, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED MAY 18, 1999, AND SUBJECT TO THE BOARD'S APPROVAL OF RZ-1998-SU-025.

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Is there a discussion of the motion? All those in favor of the motion to approve FDP-1998-SU-025, subject to the Board's approval of the rezoning, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Wilson abstains.

Commissioner Koch: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF THE 200 SQUARE FOOT PRIVACY YARD FOR THE MEWS TOWNHOUSE UNITS.

Commissioner Hall: Second.

Chairman Murphy: Seconded by Ms. Hall. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners Byers and Coan: No.

Chairman Murphy: Motion carries. Mr. Coan votes no. Mr. Byers votes no. Ms. Wilson abstains.

Commissioner Koch: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE 600 FOOT MAXIMUM LENGTH OF PRIVATE -- no, I already did that one. I'm sorry -- WAIVER OF THE REQUIREMENT FOR THE CONSTRUCTION OF THE SERVICE DRIVE ALONG ROUTE 29 IN FAVOR OF THE ESCROW OF FUNDS EQUAL TO THE COST OF CONSTRUCTION.

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Wilson abstains.

Commissioner Koch: I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE 600 FOOT MAXIMUM LENGTH OF PRIVATE STREETS.

Commissioner Byers: The waiver.

Chairman Murphy: Approval of the waiver.

Commissioner Koch: WAIVER. Right.

Chairman Murphy: Seconded by --

Commissioner Coan: Which one was this on?

Commissioner Koch: This is on 025.

Commissioner Coan: All right. Thank you.

Chairman Murphy: Is there a second to the motion?

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Discussion of the motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Commissioners Coan and Wilson: Abstain.

Chairman Murphy: Opposed? Motion carries. Mr. Coan and Ms. Wilson abstain.

Commissioner Koch: And Mr. Chairman, finally, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF MODIFICATION OF THE TRANSITIONAL SCREENING REQUIREMENT AND WAIVER OF THE BARRIER REQUIREMENTS ALONG THE SOUTHERN PROPERTY LINE IN FAVOR OF THAT SHOWN ON THE CDP/FDP.

Commissioner Byers: Second.

Chairman Murphy: Seconded by Mr. Byers. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Wilson: Abstain.

Chairman Murphy: Motion carries. Ms. Wilson abstains.

Commissioner Koch: Did I do them all?

Chairman Murphy: Easy for you to say. Okay. I know it's a very complex application, but I think that's the way --

Commissioner Coan: 41?

Chairman Murphy: Yes, that was the first one or second one.

Commissioner Coan: That's the one I asked about and I was told it was 040 we were working on.

Chairman Murphy: Well, 040 was the first one and then we did 041 which Mr. Koch erroneously called 049.

Commissioner Coan: Mr. Chairman, I'd like to make a statement about 041. I'm not sure it's in the other or not, but there is in there in Proffer 18 that the number of ADUs to be provided may be reduced based on the adoption of a future amendment to the provisions of the ADU Ordinance. I know I'm a voice in the wilderness on this, but I just want to make my point again that I've never seen any applicant say that he will take anything tougher if it changes, so I don't think they should be allowed to take anything lesser. And I know staff disagrees with me on this, but I'll continue to make that point. And further, I would like to point out that the proffer has a change that was added -- and this is why I asked the question. I thought we had not done 41. It talks about -- in Proffer 23D -- it says: "The applicant shall take reasonable measures to monitor and control pests resulting from construction and agrees to remove, trap or eradicate at its expense in accordance with County policies." Agrees to remove, trap or eradicate what?

Commissioner Koch: Pests.

Commissioner Coan: Doesn't say pests. I'd just point out that maybe they mean Planning Commissioners or staff or something. It's a language problem and perhaps the applicant will clear that up before it goes to the Board.

Chairman Murphy: Without objection, let's add "PESTS" to that.

//

(All motions carried by a vote of 10-0-1 with Commissioner Wilson abstaining; Commissioner Palatiello absent from the meeting, with the following exceptions:

The second motion carried by a vote of 9-0-2 with Commissioners Byers and Wilson abstaining; Commissioner Palatiello absent from the meeting.

The seventh motion carried by a vote of 9-0-2 with Commissioners Coan and Wilson abstaining; Commissioner Palatiello absent from the meeting.

The twelfth motion carried by a vote of 8-1-2 with Commissioner Byers opposed; Commissioners Coan and Wilson abstaining; Commissioner Palatiello absent from the meeting.

The fifteenth motion carried by a vote of 8-2-1 with Commissioners Byers and Coan opposed; Commissioner Wilson abstaining; Commissioner Palatiello absent from the meeting.

The seventeenth motion carried by a vote of 9-0-2 with Commissioners Coan and Wilson abstaining; Commissioner Palatiello absent from the meeting.)

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LBG