



County of Fairfax, Virginia

2006

June 7, 2006

Planning Commission

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Executive Director

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Assistant Director

Mark Looney, Esquire
Cooley Godward LLP
One Freedom Square
11951 Freedom Square
Reston, Virginia 20190

**RE: CPA 86-C-121-8-3 –
Lerner Enterprises, LLC**

Dear Mr. Looney:

The purpose of this letter is to formally advise you, as the applicant on the above referenced case, that on Thursday, June 1, 2006, the Planning Commission voted unanimously (Commissioners Alcorn and Harsel not present for the vote; Commissioners Lusk and Wilson absent from the meeting) to approve CPA 86-C-121-8-3, subject to the notes on the Conceptual Plan, dated May 16, 2006, as attached.

Also enclosed for your records is a copy of the verbatim of the Commission's actions on these matters. If you need additional information, please let me know.

Sincerely,

Barbara J. Lippha
Executive Director

Attachments (a/s)

cc: Cathy Hudgins, Supervisor, Hunter Mill District
Frank de la Fe, Commissioner, Hunter Mill District
Cathy Lewis, Staff Coordinator, ZED, DPZ
June 1, 2006 Date File
O-8 (b) File

Fairfax County Planning Commission
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**RESTON TOWN CENTER CONCEPT PLAN AMENDMENT
ORACLE – SECTION 95, BLOCK 2, PHASE 4**

NOTES

May 16, 2006

The Applicant reaffirms the Notes dated February 14, 1997 accepted in conjunction with CP 86-C-121-8, the Notes dated August 27, 1999 accepted in conjunction with CPA 86-C-121-8, and the Notes dated February 15, 2001 accepted in conjunction with CPA 86-C-121-8-2, which are all included on Sheet 5 of this Town Center Concept Plan, with the following modifications:

GENERAL

1. The area subject to this Town Center Concept Plan (TCCP) Amendment is known as Section 95, Block 2, Reston. The Tax Map reference for the parcel is now 17-4 ((1)) parcel 7A (the "Property").
2. The Property that is the subject of this application shall be developed in accordance with this Town Center Concept Plan, dated May 16, 2006, and prepared by Urban Engineering & Associates, Inc. The portion of the Property within the dashed line on Sheet 2 of the TCCP, comprised of approximately 5.001 acres, shall be developed as illustrated on Sheets 2-3A of this TCCP. The balance of the subject Property shall be developed as illustrated on sheets 8-14 of this TCCP. Both are subject, however, to the notes dated February 14, 1997, August 27, 1999 and February 15, 2001 except as modified below, and provided that minor modifications may be permitted when necessitated by sound engineering and/or which may become necessary as part of final site engineering as determined by the Department of Public Works and Environmental Services ("DPWES").
3. The Property consists of approximately 22.24 acres, excluding previously-dedicated right-of-way for public street purposes. Oracle USA, Inc. is the owner of the property ("Owner"). Lerner Enterprises, LLC is the contract purchaser of the approximately 5.001 acres of the Property (Phase IV) shown within the dashed line on Sheet 2 ("Purchaser"). Collectively, the Owner and Purchaser shall hereinafter be referred to as the "Applicant."

PHASING

8. As depicted on Sheet 2, the Phase I and Phase II office buildings, the associated parking garage, a SWM/BMP dry pond and SWM/BMP wet pond have already been constructed on the Property. The Phase III office building and associated parking garage will be constructed as depicted on Sheets 8-14 of this TCCP. The Phase IV residential buildings will be constructed as depicted on Sheets 2-3B of this TCCP. The phasing will be as follows:

Phase	Square Feet / Units	Opening
Phase I (office building)	203,525 SF	August, 1998 (complete)
Phase II (office building)	208,800 SF	August, 2001 (complete)
Phase III (office building)	203,000 SF	2008 or thereafter
Phase IV (residential)	457 residential units	2008 or thereafter
Total Proposed	615,325 non-residential SF	

- 8A. The Development Plan approved for Part 11 of RZ 86-C-121 for Section 95, Block 2, Reston permits the establishment of 729,000 square feet of nonresidential floor space on the Property. To date, a total of approximately 615,325 square feet of nonresidential gross floor area has been allocated to Phases I, II and III under this and prior Concept Plans. The Applicant reserves the right to use the remaining 113,675 square feet of presently-unallocated nonresidential gross floor area in accordance with the underlying Development Plan with the approval of a Concept Plan Amendment; provided, however, that the future use and development of such unallocated gross floor area generally shall be limited to the construction or modification of buildings and structures located within the existing or approved building footprints of Phases I, II, III and IV and associated parking structures and entryways, and no buildings or structures shall be established in the SWM/BMP dry pond and SWM/BMP wet pond areas shown on the Concept Plan.

LANDSCAPING

- 11B. As part of the Phase IV development, the Applicant shall implement a landscaping plan generally consistent with the landscaping reflected on Sheets 3 and 3A of this Town Center Concept Plan. Said landscaping plan shall be coordinated with and subject to final review and approval by Urban Forest Management of DPWES. Planting will be provided in accordance with the Planting Legend on Sheet 3A.
- 11C. Residents of the Phase IV buildings shall be permitted to use the SWM/BMP dry pond and SWM/BMP wet pond areas shown on the Concept Plan for passive recreation purposes, such as for dog-walking, picnics or similar activities. The Applicant, however, shall have no obligation to provide or construct additional facilities or passive recreation features in the SWM/BMP dry pond and SWM/BMP wet pond areas. The Applicant reserves the right to require that the unit owners association or owner of the Phase IV residential buildings, as applicable, secure appropriate insurance and agree to indemnify the Applicant against claims or liabilities arising from the use of the SWM/BMP dry pond and SWM/BMP wet pond areas by residents of the Phase IV buildings for such purposes.
- 11D. The Applicant shall install lighting on the existing and proposed trail connection between the Property and the adjacent Plaza America development located in the southeastern corner of the property and as more particularly shown on Sheet 3B of this Concept Plan. Lighting fixtures shall be fully-shielded, cut-off fixtures directed inward and downward in order to reduce glare on adjacent properties. The lighting shall be installed prior to the issuance of the first Residential Use Permit for Phase IV of the Property

TRANSPORTATION

- 22A. The Applicant shall install a pedestrian countdown system on each leg/segment of the existing traffic/pedestrian signal located at the intersection of Oracle Way/Sunset Hills Road/Old Reston Avenue. The countdown signal shall be installed prior to the issuance of the first Residential Use Permit for Phase IV of the Property.
- 22B. The Applicant shall install a pedestrian countdown system on each leg/segment of the existing traffic/pedestrian signal located at the intersection of Reston Parkway and Sunset Hills Road. The countdown signal shall be installed prior to the issuance of the first Residential Use Permit for Phase IV of the Property.

TRANSPORTATION MANAGEMENT PROGRAM

30A. A Transportation System Management ("TSM") program for the Reston Town Center District has been established as LINK and is administered by the Reston Town Center Association in coordination with the Fairfax County Department of Transportation. Among other things, LINK distributes ridesharing information, bus and rail transit schedules and other resources to property owners, employers and employees and residents within the Town Center District. Prior to the issuance of the first Residential Use Permit for Phase IV of the Property, the Applicant, or such other entity as the Applicant may designate, shall meet with representatives of LINK and the Fairfax County Department of Transportation to implement mutually agreed upon TSM strategies and measures for the residential uses to include, but not limited to, the following:

- i. Promote the use of mass transit, ride-sharing and other transportation strategies to reduce vehicle trips during peak hours by distributing flyers and announcements on community bulletin boards;
- ii. Advise tenants/purchasers within the residential development of the existence of LINK and disseminate information available from LINK in residential lease and purchase packages;
- iii. Provide infrastructure permitting internet connections (such as broadband cable or DSL) in all dwellings to facilitate working at home;
- iv. Provide a business center, meeting room and/or similar facilities selected by the Applicant for use by residents as a means to encourage telecommuting; and
- v. Provide one (1) Metro SmartCard to each residential unit constructed in Phase IV with an initial balance of at least \$25.

30B. The Applicant shall install bicycle storage facilities within the parking garage or cellars serving each residential building to be constructed in Phase IV. The storage facilities shall be installed prior to the issuance of the first Residential Use Permit for the building served by such facilities.

LAND USE

31. Office and residential uses shall be the predominate uses on the Property. The Applicant, and on behalf of tenants of the office buildings, reserves the right to include within the office buildings any and all accessory uses and accessory service uses as defined in Article 10 of the Zoning Ordinance.

SITE DESIGN

33. The architecture for the office buildings in Phases I-III generally will be consistent in design and materials used with one another. The Phase IV residential buildings' architecture may be of a different design and material than the office buildings. Prior to the issuance of a building permit for the Phase IV residential buildings, the Applicant shall submit final architectural and landscape plans for the residential buildings to the Reston Town Center Design Review Board for review and approval. No later than thirty (30) days after the submission of building permit applications for the first residential building in Phase IV, the Applicant will submit final architectural plans to the Planning Commission for review and

comment, with such review to occur prior to the issuance of the requested building permits.

38. Subject to the execution of all necessary offsite easements and associated agreements with adjacent property owners to the east (Tax Map 17-4 ((27)), Parcels 2, 3 & 4), the Applicant shall provide interparcel vehicular access from the Phase IV residential buildings to the Plaza America office and retail development located immediately east of the Property in the location generally shown on Sheet 2 of this TCCP. The interparcel vehicular access shall only be accessible to and used by residents of the Phase IV residential buildings constructed on a portion of the Property, and the Applicant shall be permitted to install electronic gate controls or similar measures to restrict use of the interparcel vehicular access to residents of the Phase IV buildings. The interparcel vehicular access shall not be designed or used as a secondary ingress/egress point for the owners of the adjacent Plaza America development, or their tenants, guests or invitees. The Applicant shall provide to DPWES copies of all correspondence and related materials, if any, concerning the Applicant's efforts to secure the interparcel vehicular access to the adjacent properties.
- 40A. The maximum building height of the Phase IV residential buildings shall not exceed 180 feet, as permitted under the Development Plan for Part 11 of the Reston Town Center approved in conjunction with RZ 86-C-121.
- 40B. Prior to the submission of the first building permit application for the first residential building in Phase IV, the Applicant shall submit to the Department of Planning and Zoning for review and approval a revised acoustical analysis, performed in accordance with the Department's approved noise study submission guidelines, to determine expected internal noise levels from the Dulles Toll Road, Reston Parkway and Sunset Hills Road on the proposed residential units. Such analysis shall consider the projected increase in traffic on the Dulles Toll Road, Reston Parkway and Sunset Hills Road and, where necessary, shall propose mitigation techniques to limit internal noise levels on affected units to below L_{dn} 45 dB(A). The Applicant shall implement such noise mitigation measures as may be required in order to limit internal noise levels in the affected residential units to at or below L_{dn} 45 dB(A) or the noise levels set forth in the Fairfax County Comprehensive Plan at the time of building permit issuance, whichever is more strict.
- 40C. Prior to the submission of the first building permit application for the first residential building in Phase IV, the Applicant shall submit to the Department of Planning and Zoning for review and approval a revised acoustical analysis, performed in accordance with the Department's approved noise study submission guidelines, to determine expected external noise levels from the Dulles Toll Road, Reston Parkway and Sunset Hills Road on external recreation areas of the proposed Phase IV development. Such analysis shall consider the projected increase in traffic on the Dulles Toll Road, Reston Parkway and Sunset Hills Road and, where necessary, shall propose mitigation techniques to limit external noise levels within outdoor recreation areas of the Phase IV development to at or below L_{dn} 65 dB(A) or the noise levels set forth in the Fairfax County Comprehensive Plan at the time of building permit issuance, whichever is more strict.
- 40D. The Property presently is served by existing stormwater management (SWM) and BMP facilities designed and constructed in accordance with PFM standards to address both water quantity and water quality issues resulting from development of the Property, including the Applicant's proposed Phase IV development. Consequently, no additional SWM/BMP facilities are required or proposed as part of the Applicant's proposed Phase IV development. Nevertheless, concurrent with the submission and approval of the first site

plan for the residential buildings, the Applicant shall submit to and obtain approval from DPWES confirmation that the existing SWM/BMP facilities are sufficient to provide for the adequate disposition of natural and stormwater on the Property. This submission will also confirm details of the existing BMP wet pond and BMP dry pond.

40E. As part of the Phase IV residential buildings, the Applicant shall provide recreational amenities within the interior of the building(s), on building rooftop space or at another location(s) in the Phase IV development. Such amenities shall include, at a minimum, the following:

- i. Swimming pool, including required changing facilities;
- ii. A fitness and aerobic center that shall include weights, exercise equipment and may include sauna/steam room; and
- iii. Passive recreation area(s) to be utilized for recreational activities, such as seating areas, formal gardens/patios and other facilities as selected by the Applicant.

RESTON COMMUNITY

43. The Applicant shall contribute \$1,000 per unit to the Board of Supervisors to be used in support of access to affordable housing opportunities, particularly in the Reston community. The Applicant shall contribute such funds to the Board of Supervisors concurrent with the issuance of each Residential Use Permit for each residential unit constructed as part of the Phase IV development.

Planning Commission Meeting
June 1, 2006
Verbatim Excerpt

CPA 86-C-121-8-3 - LERNER ENTERPRISES, LLC (Hunter Mill District)

Decision Only During Commission Matters
(Public Hearing held on April 19, 2006)

Commissioner de la Fe: Mr. Chairman, tonight I have two decisions and the first one is CPA 86-C-121-8-3. And if the Commission will remember, the public hearing on this was held on April 19th and we deferred decision and we kept deferring decision from week to week to week to week. It was almost like a Zoning Ordinance Amendment and this was supposed to be a zoning case, but the reason was because there are two parties that are applicant - - and involved in the application and since this is a CPA, it ends here. It doesn't go to the Board of Supervisors and I wanted to make sure that all, you know, everything had been agreed to. So, before I move to my statement, could I ask the applicant's representative to come up to the podium?

Mark Looney, Esquire: Thank you.

Commissioner de la Fe: Could you identify yourself?

Mr. Looney: Thank you, Mr. de la Fe. I'm Mark Looney, with Cooley Godward, on behalf of the applicant, Lerner Enterprises. I appreciate your patience over the last several weeks as the applicant and the owner of the underlying property, the Oracle Corporation, worked through the notes and the plans that had been provided to the Planning Commission. I will pass out to you, this evening, a reactivated amendment to the purchase agreement between the applicant and the underlying owner, page 5 of which indicates that by signing the amendment, the parties are agreeing to the Town Center Concept Plan and the Plan Notes as they sit before the Planning Commission this evening, dated May 16th. The notes were, I believe, distributed to the Commission last evening and the plans as well. And so, the amendment has been signed by both parties. Both parties do consent to the notes and to the plans and appreciate your patience and flexibility and apologize for the continuous delays over the last several weeks as we worked through those issues.

Commissioner de la Fe: So, the parties have signed?

Mr. Looney: The parties have signed.

Commissioner de la Fe: Could we have a copy of that?

Mr. Looney: We do and I will give it to you.

Commissioner de la Fe: Could you give it to the - - our clerk? Thank you very much. And it is not true that I kept deferring because I wanted a note that said that we would get free tickets to the Nationals games, but okay. Thank you, Mr. Chairman. The public hearing for this case was held on April 19, 2006. At that hearing, one speaker spoke in favor. There was only one

speaker. There were no speakers opposed. The Reston Planning and Zoning Committee has recommended approval, subject to a number of conditions, which generally tracked the issues that the staff report had identified as outstanding issues. The notes that we have been working on, low these many weeks, that accompany this CPA, have resolved those issues and improved the overall plan. However, the major objection that the staff report identified has not been resolved to staff's satisfaction, so its recommendation is still for denial. And this reason is that the staff does not believe that this is an appropriate place to put residential development. As stated in the report, "The proposed residential development would be segregated from the abutting office development and isolated from the surrounding community." I've discussed this objection exhaustively with staff. This is one case where the staff and this Planning Commissioner have agreed to disagree. These residents would be within walking distance of the retail available at Plaza America, including numerous restaurants, a pharmacy, grocery store, cleaners, etcetera. It is also within walking distance, though slightly farther because Plaza America is next door, of the Reston Town Center, which is across a 10-lane street, but it's still relatively close and within walking distance. In fact, this site lies within the Town Center District and as such, residential development is allowed anyway. There is a - - and the reason we are considering this Amendment is because the original concept plan for this site was only office. There is a residential tower within one block across the street, so I really don't think this is isolated from the community. In addition, these residences would be about a quarter mile to the future Reston Parkway Metro Station, which under the current plan should appear around 2015, and about an eighth of a mile from the Wiehle Metro station, which would appear about five years sooner than that. So, the site will be within relative walking distance, one short, one a little bit longer, of two Metro stations. The site is already served by both Reston's Internal Bus System and a variety of connector bus routes that tie the Reston Town Center to Tyson's Corner and the West Falls Church Metro station. I might add that this service is both inbound and outbound, so it's reverse and it's available during rush hour every 15 minutes and during non-rush hour every 30 minutes, both ways. Most importantly, to me and the Planning and Zoning Committee in Reston and the community as a whole, is the fact that this is one of the sites close to existing and future mass transit where residential development can occur in Reston because of the private covenants that bar residential development along the Dulles Corridor in Reston. I believe that with the Notes dated May 16th, this CPA merits our approval. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION APPROVE CPA 86-C-121-8-3, SUBJECT TO THE NOTES ON THE CONCEPTUAL PLAN DATED MAY 16, 2006.

Commissioner Hopkins: Second.

Vice Chairman Byers: Seconded by Ms. Hopkins. Any discussion? All in favor of the motion to approve CPA 86-C-121-8-3, say aye.

Commissioners: Aye.

Vice Chairman Byers: Opposed? Motion carries.

Commissioner de la Fe: Thank you very much, Mr. Chairman.

Vice Chairman Byers: Thank you very much.

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(The motion carried unanimously with Commissioners Alcorn and Harsel not present for the vote; Commissioners Lusk and Murphy absent from the meeting.)

KAD