

3:00 p.m.

Public Hearing on PCA 91-P-027 (JSH Enterprises, LLC) to Amend the Proffers for RZ 91-P-027 Previously Approved for Commercial Development to Permit Construction of a Light Vehicle Service Establishment and Modifications of Minimum Lot Size and Lot Width Requirements and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.27, Located on Approximately 20,901 Square Feet Zoned C-8 and HC, Providence District

and

Public Hearing on SE 2009-PR-021 (JSH Enterprises, LLC) to Permit a Light Vehicle Service Establishment and Modifications of Minimum Lot Size and Lot Width, Located on Approximately 20,901 Square Feet Zoned C-8 and HC, Providence District

The application property is located at 7800 Lee Highway, Tax Map 49-2 ((1)) 93.

**PLANNING COMMISSION RECOMMENDATION:**

On Thursday, January 28, 2010, the Planning Commission voted 8-0-1 (Commissioner Murphy abstaining; Commissioner Sargeant not present for the vote; Commissioners Hall and Harsel absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 91-P-027, subject to the execution of proffers consistent with those dated January 27, 2010;
- Approval of SE 2009-PR-021, subject to the Development Conditions dated January 27, 2010 and subject also to Board approval of PCA 91-P-027;
- Waiver of the requirements to construct a major paved trail along the site frontage on Route 29 (Lee Highway), in favor of the right-of-way dedication and the existing sidewalk shown on the GDP/SE Plat;
- Modification of the transitional screening and barrier requirements along the southern property line, in favor of the landscaping shown on the GDP/SE Plat; and
- Direct the Director of the Department of Public Works & Environmental Services to permit a deviation from the tree preservation target percentage, in favor of the proposed landscaping shown on the GDP/SE Plat and as proffered.

Board Agenda Item  
March 9, 2010

---

**ENCLOSED DOCUMENTS:**

None. Staff Report previously furnished.

**STAFF:**

Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
William O'Donnell, Staff Coordinator, Zoning Evaluation Division, DPZ

Planning Commission Meeting

January 28, 2010

Verbatim Excerpt

---

PCA 91-P-027 & SE 2009-PR-021 – JSH ENTERPRISES, LLC (Decision Only)  
(Public Hearing held on January 7, 2010)

During Commission Matters

Commissioner Lawrence: I have a decision only tonight on another case, which is JSH Enterprise. Mr. Chairman, I'd like your indulgence, if I may, before I do a motion on that case, to have a little exchange with the staff member who was the coordinator on it, Mr. O'Donnell. If I may have a couple of minutes time –

Chairman Murphy: Please.

Commissioner Lawrence: Thank you. We received a letter, actually, about noon today on this. And I'm sorry there wasn't time to incorporate that in the prepared statement I have for the motions. But I do want to address a couple of the matters raised in the letter. Mr. O'Donnell, there's a question here about the size of the site, the lot, for this light vehicle service establishment. That was addressed as part of the staff analysis and is in fact the subject of the request for waiver of minimum lot size requirements. Is that correct?

William O'Donnell, Zoning Evaluation Division, Department of Planning and Zoning: Yes. That's absolutely correct.

Commissioner Lawrence: And staff recommends approval.

Mr. O'Donnell: Yes, it meets all the requirements under the special exception standards.

Commissioner Lawrence: Thank you. And another matter, I think, that needs to be mentioned here is there's some statements about an environmental impact statement. This is not a gas station; it's a light service and repair operation. Nevertheless, there will be petroleum based materials on the site. And as part of site plan review, is it not – DPWES looks at that at that point, does it not?

Mr. O'Donnell: Yes. It's actually part of the PFM to make sure that the hydrocarbons are removed from the site adequately.

Commissioner Lawrence: Okay, so that stone is not left unturned.

Mr. O'Donnell: Exactly.

January 28, 2010

PCA 91-P-027 & SE 2009-PR-021

Commissioner Lawrence: I do think that deals with most of the substance of that letter. And thank you, Mr. Chairman. There's still, of course, the public hearing at the Board. So if the author still has material to discuss, it can be discussed there. Now then, Mr. Chairman, this evening we have the decision on SE 2009-PR-021 and PCA 91-P-027 in the name of JSH Enterprise, at the Merrifalls Shopping Center on Lee Highway. At the public hearing on January 7<sup>th</sup>, several concerns were raised and the decision was deferred to give time for the applicant to work on issues. Last night, you received revised proffers and development conditions. A neighbor had concerns with the elevation presented toward his property. In the PCA, Proffer 4 has been revised to address that issue. I note also that the neighbor has a fence in place along that side of the property which provides screening. This proposal is not required to provide screening on any other side. I also wanted to raise the odds that trees not on the application property, but close to it, would be preserved. And Proffer 9, I hope you'll notice, now has added language to that end. Although it's not a part of the application, there was concern about the visual impact of a transformer at the southwest corner of the mall building. I asked staff to look into the possibility that it might be screened with vegetation. Unfortunately, it appears we cannot plant something tall enough to accomplish that without it being also tall enough to impact the power lines at that location. However, the applicant has provided for a different neighborhood benefit on the other – that is, the northern and eastern – sides of the shopping center and the subject property. A new proffer, Number 16, which is at the end of the proffer list there in your handout will, if the neighboring HOA permits it, result in the erection of a chain link fence, which should help with the problem of pedestrian cut-through to and from the shopping center. Finally, Development Condition 7 for the Special Exception has been expanded to strengthen the language on storage of vehicles in the process of work at the light service establishment. Incidentally, Commissioners will recall that at the public hearing staff provided some information on how the traffic impact of this light vehicle service use compares with that now approved or with another use such as a specialty coffee shop. It's true that some adroit maneuvering is needed to get from the service road to a right turn onto Lee Highway westbound from the shopping center, whatever one's purpose in being there was. But this use will entail a smaller number of drivers than would the other options; therefore, fewer people needing to make that maneuver. Mr. Chairman, I'd like to make five motions. I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF PCA 91-P-027, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE NOW DATED JANUARY 27<sup>TH</sup>, 2010.

Commissioner de la Fe: Second.

Chairman Murphy: Seconded by Mr. de la Fe. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve PCA 91-P-027, say aye.

Commissioners: Aye.

January 28, 2010

PCA 91-P-027 & SE 2009-PR-021

Chairman Murphy: Opposed? Motion carries. Chair abstains; was not present for the public hearing.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF SE 2009-PR-021, SUBJECT TO THE DEVELOPMENT CONDITIONS NOW DATED JANUARY 27<sup>TH</sup>, 2010, AND TO THE BOARD'S APPROVAL OF THE ASSOCIATED PCA.

Commissioner de la Fe: Second.

Chairman Murphy: Seconded by Mr. de la Fe. Is there a discussion of that motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2009-PR-021, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Chair abstains.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A WAIVER OF THE REQUIREMENTS TO CONSTRUCT A MAJOR PAVED TRAIL ALONG THE SITE FRONTAGE ON ROUTE 29, LEE HIGHWAY, IN FAVOR OF THE RIGHT-OF-WAY DEDICATION AND THE EXISTING SIDEWALK SHOWN ON THE GDP/SE PLAT.

Commissioner de la Fe: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF A MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS ALONG THE SOUTHERN PROPERTY LINE IN FAVOR OF THE LANDSCAPING SHOWN ON THE GDP/SE PLAT.

Commissioner Lusk: Second.

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

January 28, 2010

PCA 91-P-027 & SE 2009-PR-021

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Chair abstains.

Commissioner Lawrence: Finally, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS DIRECT THE DIRECTOR OF DPWES TO PERMIT A DEVIATION FROM THE TREE PRESERVATION TARGET PERCENTAGE IN FAVOR OF THE PROPOSED LANDSCAPING SHOWN ON THE CDP/FDP AND AS PROFFERED (*sic*).

Commissioner Lusk: Second.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Chair abstains.

Commissioner Lawrence: Thank you very much, Mr. Chairman. I'd like to thank the staff for their good work in getting this thing shaped up and shipped out. Thank you very much, Billy.

Mr. O'Donnell: Commissioner Lawrence, on the last motion, it should actually read: GDP/SE PLAT. That's my mistake – instead of CDP/FDP.

Commissioner Lawrence: All right. May the record be corrected to Mr. O'Donnell's –

Chairman Murphy: Without objection.

//

(The motions carried by a vote of 8-0-1 with Commissioner Murphy abstaining; Commissioner Sargeant not present for the vote; Commissioners Hall and Harsel absent from the meeting.)

JN