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3/22/99

6:00 p.m. Item - PCA-94-D-040 - TECTUM, L.L.C.
Dranesville District

On Wednesday, March 17, 1999, the Planning Commission voted 7-0-3 (Commissioners Alcorn, Byers and Murphy abstaining; Commissioner Coan not present for the vote; Commissioner Thomas absent from the meeting) to recommend to the Board of Supervisors approval of PCA-94-D-040, subject to the execution of proffers consistent with those dated March 15, 1999.

The Commission also voted 8-0-2 (Commissioners Alcorn and Murphy abstaining; Commissioner Coan not present for the vote; Commissioner Thomas absent from the meeting) to recommend to the Board of Supervisors that the waiver of the service drive requirement along the property's Georgetown Pike be reaffirmed.

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DEPARTMENT OF PLANNING AND ZONING
MAR 19 1999
ZONING EVALUATION DIVISION

Planning Commission Meeting
March 17, 1999
Verbatim Excerpts

PCA-94-D-040 - TECTUM, L.L.C.

Decision Only During Commission Matters
(Public hearing held on February 17, 1999.)

Commissioner Downer: Thank you, Mr. Chairman. Three weeks ago we had an application by Tectum, L. L. C., for a shopping center in Great Falls at Route 193 and Seneca Road, and many of you may recall, the GFCA had endorsed it and there didn't seem to be any issues or problems. And lo and behold, we had seven speakers sitting out in front. And the issue was in the rear of the shopping center, the applicant wanted to put in an outdoor patio to seat 32 people and the homeowners who now live behind the shopping center had all just moved in within the last year and had just formed their homeowners association and it had been turned over to them a week before the hearing. So, we listened to their objections. Since then we've had three meetings. We've met weekly on the site. The issues were noise. The applicant did a noise study that showed that the noise would really be very insignificant if the board on board fence that was there now was converted to a solid board fence, and additional trees and screening were put in. The applicant had put significant screening outside the fence on the property owners -- the residential side -- 35 feet of screening, and I understand that's very tight. There's been a significant amount of screening. Some of the trees have died. So we asked the applicant if he would be willing to work with the Urban Forester to supplement the dying and bad trees with ones that might be more effective for noise. The applicant agreed to do that. We had discussions over the time that the outdoor seating would stop and there was quite a bit of debate over that and the applicant finally agreed to 10:00 o'clock on Sunday through Thursday and 11:30 Friday and Saturday evenings. And that was worked out with the homeowners. It was agreed that there would be no waiter or waitress bus stations, no music at all on the patio, no contests, happy hours, amusements of any sort. This restaurant that is in there is a very elegant new Parisian restaurant. It is a white linen napkin type restaurant. They don't use disposable plates and it's very, very nice. For those of you who haven't been out to Great Falls, you might want to go see this restaurant. I'll give them a little plug. There's a beautiful wine area and very elegant tables. So during the course of these meetings, we came up and the applicant added, I think, it's nine new proffers to what we saw three weeks ago. You should have received a set of those proffers this evening that show the new ones which are underlined. We have one neighbor on Lot 7 directly behind the patio and that neighbor is the one, if you will recall, who wants to put in a swimming pool and a deck out behind her house. And the swimming pool will be sited very close to this shopping center, which is where the patio is going to be. She is very concerned about screening. The applicant felt he could not -- she wanted 125 feet of staggered Leyland Cypress or an equivalent trees. The applicant said: "There's no room on my 35 feet to put in all these trees." And so the neighbor offered that he could put them on her land. At that point, I said: "Well, I can't require the applicant to put trees on your land. If you want to work something out with him on your own, you're free to do so." She really doesn't want the patio. We have a letter from her tonight. She's opposing the patio. She intends to have her own music out there and didn't want their music and didn't want their noise,

and so we really didn't come to a happy agreement with this one homeowner, I am sorry to say. The applicant has agreed to try to keep working with her. He will supplement his own landscaping as best he can. He's offered her \$1,000 to put trees on her own land, if she wishes, to help mitigate, but so far we have no agreement. However, the homeowners, and you'll see a letter from them, hopefully in this evening's packet that you all got, Seneca Gate, did come to an agreement to support the new proffers. And they feel that the applicant worked with them and answered all of their questions and mitigated as much as they can. One thing they did put in, I think it's Proffer -- let's see here -- it's on the hours. We put in something a little unusual. It's Proffer No. 1. We put: "The 10:00 p.m. closing time for Sundays through Thursdays may be extended if mutually agreed upon between between the applicant and the Seneca Gate Homeowners Association." If the Homeowners Association finds the outdoor seating does not produce any noise or disturbance to them, the applicant would like to extend that hour to 10:30. So the homeowners have agreed that they will talk again in six months to a year and if all looks well, perhaps they'll work that out and then they don't have to come back before us with an SEA -- or a PCA actually. So, Mr. Chairman, I know normally when we get proffers with this many changes, people like to have time to look at them. But these are really addressing not staff concerns, these are addressing the neighbors' concerns. And so I think I've covered them all. Oh, the other thing that they also agreed, the shopping center applicant, that the colors of the umbrellas have to be mutually acceptable between the homeowners and the shopping center. So they are going to be working very closely together.

Chairman Murphy: That should be an interesting meeting.

Commissioner Downer: Yes. So, Mr. Chairman, I am going to go ahead and RECOMMEND APPROVAL OF PCA-94-D-040, WITH THE PROFFERS DATED MARCH 15, 1999.

Commissioner Koch: Second.

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

Commissioners Hall and Byers: Mr. Chairman?

Chairman Murphy: Ms. Hall, then Mr. Byers.

Commissioner Hall: Thank you, Mr. Chairman. I couldn't help but comment on this letter that we have received from the neighbor who wants to build a pool. This property -- this home was built next to a shopping center. I mean the shopping center hasn't changed its identification. She wants to put a pool in her backyard and you know, I don't see this as a one way street. When I decided to put an addition onto my home, I worked with my neighbors. I even paid to plant trees to offset my intent to add a patio. I really think this neighbor is being unfair. It seems like she wants all the responsibility put on this applicant, and I don't think that's right. So I am going to support the motion and would encourage

that maybe the applicant's done quite enough and that this neighbor needs to do something to improve her lot. After all, she wants to put this swimming pool right on the property line, or close to it, and I think she needs to do something to mitigate the impact of the shopping center.

Chairman Murphy: Mr. Byers.

Commissioner Byers: Mr. Chairman, I really don't have a big problem with the application, but I really would like to have a chance to just read it. Even though these are agreements with the community, I want to make sure that somewhere there isn't a minefield in here.

Commissioner Downer: Understand. Would you want me to defer decision to later this evening? Or do you think you need overnight?

Commissioner Byers: I'll try to read it real fast while you all are doing other things.

Commissioner Downer: All right. So we, what, table it, Mr. Chairman, for later this evening?

Chairman Murphy: Well, how long is it going to take you?

Commissioner Byers: Oh, that's all right, I'll just abstain.

Chairman Murphy: All right. Further discussion of the motion? I'm going to abstain because I was not here for the public hearing. But since this is March 17th, I'd like green umbrellas. All those in favor of the motion to recommend to the Board of Supervisors that it approve PCA-94-D-040, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners Alcorn, Byers and Murphy: Abstain.

Chairman Murphy: Motion carries. Mr. Byers abstains. Mr. Alcorn abstains. The Chair abstains. I already said that. Three.

Commissioner Downer: Mr. Chairman, I'd like to thank Jorge Kfoury, Susan Yantis, the Seneca Gate Homeowners and John Ulfelder and Ruth Carter of the Great Falls Citizens Association, who came to all the meetings, tried to work very closely together and it didn't start off as well as I had hoped, but it ended well, I think. So I want to thank all of them for their efforts, and Jackie and Kris for their advice and listening to all of us. Thank you.

Chairman Murphy: Okay. Thank you very much. Is there any other Commission business?

Ms. Kristen Abrahamson: Commissioner Downer?

Commissioner Byers: Mr. Chairman?

Chairman Murphy: Mr. Byers.

Ms. Abrahamson: You have a waiver.

Commissioner Downer: I had a waiver, didn't I?

Ms. Abrahamson: Yes.

Commissioner Downer: Sorry about that. Mr. Chairman, I RECOMMEND THE PLANNING COMMISSION RECOMMEND A WAIVER OF A SERVICE DRIVE ALONG THE PROPERTY'S GEORGETOWN PIKE FRONTAGE BE REAFFIRMED.

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.

Commissioner Alcorn: Abstain

Chairman Murphy: Opposed? Motion carries. Mr. Alcorn and the Chair abstain.

Commissioner Downer: Thank you.

Commissioner Byers: I was thinking about Ms. Hall's comment, that this is -- these things are a two way street. And I agree. You have a restaurant owner who wants to put in a very quiet sedate upper class restaurant with outdoor activity that will be quiet. Suppose the adjacent neighbor decides to have a pool party and it gets rowdy and noisy and disturbs the people at the restaurant. You're right, it's got to be a two way street and each side has to give a little bit.

Commissioner Downer: That was discussed and is a concern. Thank you for your comment.

Chairman Murphy: Thank you.

Commissioner Alcorn: Mr. Chairman, I missed the discussion, but I also wasn't at the public hearing, that's why I'm abstaining.

Chairman Murphy: Okay.

Commissioner Alcorn: Thanks.

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(The first motion carried by a vote of 7-0-3 with Commissioners Alcorn, Byers and Murphy abstaining; Commissioner Coan not present for the vote; Commissioner Thomas absent from the meeting.)

(The second motion carried by a vote of 8-0-2 with Commissioners Alcorn and Murphy abstaining; Commissioner Coan not present for the vote; Commissioner Thomas absent from the meeting.)

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