

Board Agenda Item
April 26, 2011

4:00 p.m.

Public Hearing on RZ 2009-BR-015 (College Town Associates, L.P.) to Rezone from R-1 to C-6 to Consolidate 0.16 Acres With 19.74 Acres of Land Zoned C-6 to Permit Commercial Development Associated with PCA C-083-02 with an Overall Floor Area Ratio of 0.24. Located on Approximately 0.16 Acres (6,795 sq. ft.) Braddock District

and

Public Hearing on PCA C-083-02 (College Town Associates, L.P.) to Amend the Proffers for RZ C-83 Previously Approved for Commercial Development to Permit Modifications to Proffers and Site Development with an Overall Floor Area Ratio of 0.24. Located on approx. 18.64 ac. of land zoned C-6 and 1.1 ac. of land zoned R-1, Braddock District.

and

Public Hearing on SEA 87-A-086-02 (College Town Associates, L.P.) to Amend SE 87-A-086-02 Previously Approved for Drive-In Financial Institution to Permit a Child Care Center, Fast Food Restaurant, Drive-In Financial Institution, a Service Station with Mini-Mart and an Increase in Building Height from 40 Feet up to a Maximum of 75 Feet and Associated Modifications to Site Design and Development Conditions, Located on Approximately 18.8 Acres Zoned C-6, Braddock District

RZ 2009-BR-015 is located on the E. side of Ox Rd. approx. 400 Ft. S. of its intersection with Braddock Rd. Tax Map 68-1 (91)) 9A.

PCA C-083-02 is located in the S.E. quadrant of the intersection of Ox Rd. and Braddock Rd. Tax Map 68-1 ((1)) 9.

SEA 87-A-086-02 is located at 10697 Braddock Rd. Tax Map 68-1 ((1)) 9A and 9 pt.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission public hearings were held on January 19, 2011 and the decisions were deferred to Wednesday, April 20, 2011. The Commission voted 9-0-1 (Commissioner Hall abstaining; Commissioners Donahue and Lawrence absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2009-BR-015, subject to the execution of proffers consistent with those dated April 5, 2011;
- Modification of the lot area, lot width, and open space requirements (for the R-1 zoned property of RZ 2009-BR-015) to permit consolidation of that lot into the existing shopping center site;

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- Approval of PCA C-083-02, subject to the execution of proffers consistent with those dated April 5, 2011;
- Approval of SEA 87-S-086-02, subject to the Development Conditions contained in Attachment 3 of the staff report addendum dated March 23, 2011;
- Modification of the peripheral parking lot landscaping requirements to provide a 10-foot minimum distance along the frontage of the northern and western property lines in favor of the landscaping shown on the GDP/SEA Plat; and
- Modification of the transitional screening and barrier requirements along the western and southern property lines in favor of the landscaping shown on the GDP/SEA Plat;

ENCLOSED DOCUMENTS:

Attachment 1 - Verbatim

Staff Report previously furnished and available online at
<http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdfw/4345402.PDF>

STAFF:

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

Planning Commission Meeting
April 20, 2011
Verbatim Excerpt

RZ 2009-BR-015/PCA C-083-02/SEA 87-A-086-02 – COLLEGE TOWN ASSOCIATES, LP
(Decision Only) (Public Hearing held on January 19, 2011)

During Commission Matters

Commissioner Harsel: Mr. Chairman, this piece of property goes back many, many years. It started off in 1973, '72, when the applicant, which is still - - when I say the applicant, I'm talking about the current applicant, or relatives of his - brought this forward to a Planning Commission hearing - there were no proffers at that time - and brought it forward to do a shopping center on land that had previously been promised as a library and as a postal station, and finally came in as a shopping center. We - - it was rezoned at that time. There were no proffers. It was just rezoned and there was an agreement. Then in 19- -- I think it was '84; I'm not that familiar with it - - '85, it came back. And because there were no proffers at that time the entire 26 acres was brought in for a Proffered Condition Amendment so we could get proffers. And at that time - that we did this - the neighborhood, who had been very vocal on several things - supposedly, were supposed to be protected by use of a covenant between themselves and this applicant. That was done in '84. The covenant that's been in effect until now: it will not be part of the current proffers as it had been previously - and also the Special Exception process. And I think in all fairness to the applicant, he has been very diligent in pursuing those but at the time the proffer was put in we had a different County Attorney than we have at this time. I can understand the County Attorney being hesitant to let this stay in; however, at this time I would like to ask Mr. Martin, as the attorney for the applicant, to please come forward, because we're on the record.

Chairman Murphy: Mr. Martin, please identify yourself for the record.

Keith Martin, agent for the applicant: Keith Martin, Tramonte, Yeonas & Roberts.

Commissioner Harsel: Mr. Martin, is your client aware that there is a covenant running with this land with 10 lot owners from the adjoining residential neighborhood?

Mr. Martin: Yes, ma'am.

Commissioner Harsel: And when was the last time that it was amended?

Mr. Martin: The last time it was amended was 1984.

Commissioner Harsel: You have not gone out? Because I talked to the lot owners and they've signed something.

Mr. Martin: No. You asked me the last time it was amended, but there have been amendments to that, that are in-hand, that we have diligently pursued, that are ready to be recorded.

Commissioner Harsel: Okay. Do you have a copy of that – of those?

Mr. Martin: Yes, yes ma'am.

Commissioner Harsel: – just one that I could put into the record at this time.

Mr. Martin: Yes.

Commissioner Harsel: Thank you. If you could present it to the clerk so we could include it in the record, I would appreciate that very much. This case has been four years working through itself. We had a public hearing on April 19th (*sic*) – I mean, I'm sorry – January 19th – and at that time we had speakers, and the main thrust of the thing – no one had problems with, per se, what was going on. Their problem was, number one, they did not know what was the final result that was going here; and also they mentioned – unfortunately, or fortunately, the covenant. Since the public hearing there has been an outreach by the applicant. There have been meetings with the community. Fifty people showed up, so that showed there was interest, definitely, interest. And then the applicant has, many times, approached the 10 lot owners with the new covenant to be signed, which they have signed, and they all felt very comfortable with it. I will say this: I looked at the GDP. Staff looked at it. We had input from neighbors, from community members, from other, past people that lived in the area, that had been around this thing, and they had a whole list of things that they wanted done to make this a viable, interesting shopping center. I have to admit it looks like it was done in 1985. There has been nothing done since 1985. We are all very, very excited. And like I said, everything requested of this applicant, he has come forthwith with a set of proffers and the development conditions, but mainly the proffers – we would say the tower is too high – okay, he lowered it to what the citizens wanted. There's a matter of a traffic light. If we have our traffic light, and it's going to be funded, I cannot thank Mr. Wolff enough for working with the citizens through this application. And we are all very, very excited to see this. To me the one outstanding thing of this whole application is that the whole shopping center has - - will start the renovations before we get any out buildings. And that was a big fear of mine, of citizens, and of staff – that they are asking for a drive-through fast-food restaurant and a separate childcare. And the fear was that those would go in and the shopping center would continue to look like it was in 1984. We're not going to have that. Everything will be done in order to get the new buildings and I myself could not be more excited. And I know that the Board of Directors of the Community Association is very excited. It's a vibrant shopping center. It's utilized by the neighborhood; it's utilized by George Mason University. It is just a real exciting place. And it's going to be more exciting once we get going on that. So, Mr. Chairman, I have a series of motions, and I'll try and explain what each one of them is. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2009-BR-015, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED APRIL 5TH, 2011. And this is the one acre on 123.

Commissioner de la Fe: Second.

Chairman Murphy: Seconded by Mr. de la Fe. Is there a discussion of the motion?

Commissioner Hall: Mr. Chairman, not present.

Chairman Murphy: Okay.

Commissioner Hall: I will be abstaining.

Chairman Murphy: All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2009-BR-015, say aye.

Commissioners: Aye.

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

Commissioner Harsel: All right. Mr. Chairman, following – hooked on with that rezoning, I'm going to go ahead and do the modification. I MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS A MODIFICATION OF THE LOT AREA, LOT WIDTH, AND OPEN SPACE REQUIREMENTS FOR THE PROPERTY ZONED R-1, which was this rezoning 2009 015, TO PERMIT THE CONSOLIDATION OF THAT LOT INTO THE EXISTING SHOPPING CENTER SITE.

Commissioner de la Fe: Second.

Chairman Murphy: Seconded by Mr. de la Fe. Discussion? All those in favor, say aye.

Commissioners: Aye.

Commissioner Hall: Abstain.

Chairman Murphy: Opposed? Motion carries. Same abstention.

Commissioner Harsel: And the reason I wanted to combine those two was because part of the original rezoning has kept a 50-foot to 75-foot strip between the shopping center and the residential area as R-1. It belongs to the shopping center. It's R-1. But it is not being rezoned with this, only the 123 part is being rezoned. This is the biggie. I MOVE THE PLANNING COMMISSION RECOMMEND, with excitement, APPROVAL OF PROFFERED CONDITION AMENDMENT C-083-02, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED APRIL 5TH, 2011.

Commissioner de la Fe: Excitedly seconded.

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

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstention.

Commissioner Hall: I'm sorry I missed it. Abstain.

Chairman Murphy: Yeah, and – she excitedly abstained.

Commissioner Harsel: Now, staff has recommended that we do all of the SE's together. We have five SE's. And I was a little concerned, but the applicant was okay with it. And that is, if any of these change, the whole kit and caboodle has to come back. We're going to do a SPECIAL EXCEPTION FOR A QUASI-PUBLIC USE, WHICH IS THE CHILDCARE CENTER. We're going to do it for – a SPECIAL EXCEPTION FOR A FAST-FOOD RESTAURANT. We're going to do a SPECIAL EXCEPTION FOR A DRIVE-IN FINANCIAL INSTITUTION. We're going to do a SPECIAL EXCEPTION FOR A SERVICE STATION WITH MINI-MART; THAT'S ALREADY EXISTING. And we're going to do a SPECIAL EXCEPTION FOR AN INCREASE IN BUILDING HEIGHTS. Therefore, Mr. Chairman, I MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SPECIAL EXCEPTION AMENDMENT 87-A-086-02, SUBJECT TO THE DEVELOPMENT CONDITIONS CONTAINED IN ATTACHMENT 3 OF THE ADDENDUM DATED MARCH 23RD, 2011.

Commissioner de la Fe: Second.

Chairman Murphy: Seconded by Mr. - - Mr. de la Fe. Is there a discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SEA 87-A-086-02, say aye.

Commissioners: Aye.

Commissioner Hall: Abstain.

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

Commissioner Harsel: I have a couple of modifications. I MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A MODIFICATION OF THE PERIPHERAL PARKING LOT LANDSCAPING REQUIREMENTS TO PROVIDE A 10-FOOT MINIMUM DISTANCE ALONG THE FRONTAGE OF THE NORTHERN – that's one - that's Braddock Road – AND WESTERN – that's 123 – PROPERTY LINE IN FAVOR OF THE LANDSCAPING SHOWN ON THE GDP/SEA PLAT DATED – the one we just did.

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, say aye.

Commissioners: Aye.

Commissioner Hall: Abstain.

Chairman Murphy: Opposed? Motion carries. Same abstention.

Commissioner Harsel: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENT ALONG THE WESTERN – that's 123 – AND SOUTHERN PROPERTY LINES – that's where we have the 50-foot buffer and we already have the brick wall - property lines -- IN FAVOR OF THE LANDSCAPING SHOWN ON THE GDP/SEA PLAT.

Commissioner de la Fe: Second.

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

Commissioners: Aye.

Commissioner Hall: Abstain.

Chairman Murphy: Opposed? Motion carries. Same abstention.

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(The motions carried by a vote of 9-0-1 with Commissioner Hall abstaining; Commissioners Donahue and Lawrence absent from the meeting.)

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