



ALBEMARLE COUNTY PLANNING **STAFF REPORT SUMMARY**

Project Name: SDP201800066 Longhorn Steakhouse – Special Exception	Staff: Christopher Perez, Senior Planner
Planning Commission meeting: June 25, 2019	Board of Supervisors meeting: July 17, 2019
Owners: CV Associates c/o Simon Property Group	Applicant: Rare Hospitality International Inc. c/o Jack DeGagne
Location: Vacant parking lot associated with 1531 Rio Road East, Charlottesville, VA 22911 (Fashion Square Mall)	Acreage: 12.56 acres (lease area 89,948 SF)
TMP: 06100-00-00-13200	By-right use: PD-SC Planned Development Shopping Center – shopping centers, retail sales and service uses; residential by special use permit (15 units/acre)
Magisterial District: Rio	Conditions: Yes
Requested # of Dwelling Lots: NA	DA – X
Proposal: Request to vary the approved application plan to develop a 89,948 SF leased area of TMP 61-132 that currently functions as overflow surface parking for the Fashion Square Mall. The new use will consist of a 5,465 SF restaurant building and associated parking.	Comp. Plan Designation: Core Area within Rio29 Small Area Plan- area intended to have the highest intensity of development with a mix of uses including residential, commercial, retail, office, institutional and employment uses.
Character of Property: Parking lot of existing commercial and retail uses.	Use of Surrounding Properties: Commercial and retail uses.
Factors Favorable: <ol style="list-style-type: none"> 1. The proposal does not increase the overall intensity of the approved development. 2. The proposal reduces the amount of existing impervious surfaces. 3. The proposal utilizes existing road connections. 	Factors Unfavorable: <ol style="list-style-type: none"> 1. The proposal fails to meet Comprehensive Plan's pedestrian access and connectivity goals of the district. 2. Applicant lacks appropriate documentation for Jack DeGagne to sign the special exception application.
<u>RECOMMENDATION:</u> Staff recommends approval of the Special Exception with conditions.	

STAFF PERSONS: Christopher Perez, Senior Planner
PLANNING COMMISSION: June 25, 2019
AGENDA TITLE: SDP201800066 Longhorn Steakhouse – Special Exception
APPLICANT: Rare Hospitality International Inc. c/o Jack DeGagne
PROPERTY OWNER: CV Associates c/o Simon Property Group

APPLICANT’S PROPOSAL:

Request to vary the approved application plan to develop a 89,948 SF area of TMP 61-132 that currently functions as overflow surface parking for the Fashion Square Mall. The new use will consist of a 5,465 SF restaurant building and associated parking (see Attachment A).

COMPREHENSIVE PLAN:

The Comprehensive Plan designates this property as Core Area within Rio29 Small Area Plan- area intended to have the highest intensity of development with a mix of uses including residential, commercial, retail, office, institutional and employment uses.

SELECTED PLANNING AND ZONING HISTORY:

- **SDP-125 Fashion Square Mall – Offsite Road Improvements**
Approved 7-5-1979
- **SDP1979-7 Fashion Square Mall Application plan for the PD-SC Zoning**
Approved 10-26-1979 (see Attachment B)
- **SDP2009-74 Red Lobster Seafood Co – Final Site Plan**
Variation to application plan approved administratively
Site Plan approved 2-26-2010
- **SDP2018-66 Longhorn Steakhouse – Initial Site Plan**
Under review
- **ARB-2018-153 Longhorn Steakhouse**
Under review: scheduled for the 6-17-2019 ARB meeting

REASON FOR PLANNING COMMISSION REVIEW:

The applicant has requested a special exception to vary the application plan for the Fashion Square Mall development as authorized by County Code Section 18-8.5.5.3. Staff is recommending approval with conditions requiring the construction of sidewalks and associated improvements in certain locations (condition 1). The applicant opposes providing all the pedestrian access mentioned in this condition. Based on Board of Supervisor’s policy for processing Special Exceptions, if an applicant does not agree to staff recommended conditions, then the Special Exception request will be reviewed by the Planning Commission. The Commission’s recommendation will be forwarded to the Board for consideration during their review and action on the request. The applicant has provided justification for the request (see Attachment C).

ANALYSIS OF 8.5.5.3 VARIATION FROM APPROVED APPLICATION PLAN:

The [Board of Supervisors] are authorized to grant a variation upon a determination that the variation:

(1) is consistent with the goals and objectives of the comprehensive plan;

The Special Exception request is to allow a modification of the application plan associated with the PD-SC Zoning of the site. The proposed modification to the application plan is to allow a currently designated parking area to be developed with a commercial use. Staff finds this modification is more

consistent with Rio29 Small Area Plan than the current parking lot use of the site. It provides for more efficient use of the property and improves the character of the frontage of the site.

There is one aspect of the proposed site development, the proposed sidewalks/pedestrian connections, that are not consistent with the recommendations of Rio29 Small Area Plan. The Rio 29 Small Area Plan designates this site as being part of the Core Zone of the district, which is bordered by a planned street network consisting of wider pedestrian accessways to accommodate the heavier flow of pedestrian and bike traffic planned for this area. Shared use paths are required in this zone as it is intended to have the highest development intensity of the district with a focus on pedestrian access (see Attachment D).

The applicant has attempted to meet the pedestrian access and connectivity goals of the district by providing an 8' wide shared use path along the northern boundary of the lease area. The shared use path connects to the existing sidewalks on Rte. 29 and permits pedestrians internal access to the site (east to west); however, the shared use path does not continue southbound throughout the site, thereby failing to provide pedestrians safe internal access from north to south. Instead pedestrians utilizing the path are guided to the vehicle travelway accessing the site or left to traverse the site's parking lot in order to move throughout the site.

In order to successfully satisfy the County's pedestrian access and connectivity goals for this planned area the applicant should provide a shared use path southbound along the eastern border of the lease area (adjacent to the mall "ring road") and connect it to the required sidewalk along the southern egress for the site.¹ Additionally, the shared use path should be increased to 10' wide and provided with a 6' wide landscape strip between the "mall ring road" and the shared use path in order to buffer pedestrians from vehicles. Staff has proposed condition 1 to address these required improvements. The applicant opposes providing all the pedestrian access mentioned in this condition.

Prior to site plan approval the Virginia Department of Transportation (VDOT) shall approve the proposed shared use path connection to the existing sidewalks within the Rte. 29 right-of-way, therefore ensuring that the connection is permitted. If the proposed shared use path connection to the existing sidewalk on Rte. 29 is not permitted by VDOT then the applicant shall provide either a shared use path or a 10' wide sidewalk in place of the required sidewalks along the southern egress of the site, which shall connect to the existing sidewalks on Rte. 29. At the time this report was being written VDOT had not provided their review comments on the current proposal.

(2) does not increase the approved development density or intensity of development;

The development of this outparcel does increase the square of development on-site by approximately 5500 square feet. The square footage increased on this site is permitted under PD-SC zoning for the site. Staff opinion is that the limited additional square footage will not practically increase the overall intensity of the approved development because many of the approved uses in the mall have closed. This portion of the approved development currently consists of 261 existing parking spaces, which historically remain vacant for most of the year. As proposed the parking count of this area is being reduced to 131 spaces, 85 spaces designated for the proposed restaurant use and 46 remaining for the existing mall use. With the reduction in parking the overall development remains in compliance well beyond the minimum required for the mall.

¹ On October 17, 2018 the applicant received staff's initial review of the proposal, which explained the above deficiencies in the proposal and provided guidance to remedy them. The applicant requested a deferral and began a written dialog with staff to discuss how to revise the proposal to meet the requirements and gain a recommendation of approval. See the attached email correspondence with the applicant from December 4, 2018 and March 19, 2019 (see Attachment E).

The development of this outparcel also reduces the amount of impervious surfaces from 79,127 SF down to 64,625 SF. The proposal provides 4,497 SF of new landscape islands throughout the parking lot. Additionally, a substantial amount of new landscaping is being installed in these new landscape islands, around the proposed building, along Route 29, and along the access road south of the site.

The proposal utilizes the existing road connections for the Fashion Square Mall development. No new connections are proposed.

(3) does not adversely affect the timing and phasing of development of any other development in the zoning district;

The timing and phasing of the development is unaffected.

(4) does not require a special use permit; and

A special use permit is not required.

(5) is in general accord with the purpose and intent of the approved application.

The proposed modification is in general accord with the purpose and intent of the approved application.

ANALYSIS OF 33.44(b) WHO MUST SIGN AN APPLICATION FOR A SPECIAL EXCEPTION:

b. The application shall be signed by the owner or the eligible easement holder of each parcel that is the subject of the special exception.

On October 17, 2018 the applicant was informed that the SE application was lacking the appropriate signatures. On May 23, 2019 the applicant submitted a certificate of incumbency to act as signing authority to submit the SE application. The certificate acknowledges that Washington Prime Group is affiliated with the ground lessee of TMP 61-132, not the underlying property owner. Under County Code §18-33.44(B), the application requires the signature of the underlying owner(s). This certificate does not suffice. The SE application is lacking the appropriate signatures.

ANALYSIS OF 33.45(C) DETERMINATING COMPLETENESS OF SPECIAL EXCEPTION APPLICATION:

C. The Director shall determine whether an application is complete within 10 days after the application was received.

Staff failed to determine whether the special exception application was complete within the allotted 10 days after the application was received. The applicant was notified of the application's deficiency on October 17, 2018 with the County's first review of the initial site plan.

SUMMARY:

In consideration of the above analysis staff finds that the requested variation is not acceptable per the relevant factors discussed in the staff report and summarized below.

Factors Favorable:

1. The proposal does not increase the overall intensity of the approved development.
2. The proposal reduces the amount of existing impervious surfaces.
3. The proposal utilizes existing road connections.

Factors Unfavorable:

1. The proposal fails to meet Comprehensive Plan's pedestrian access and connectivity goals of the district.
2. Applicant lacks appropriate documentation for Jack DeGagne to sign the special exception application.

RECOMMENDATION:

Staff recommends approval of the Special Exception with the following conditions:

1. The following items shall be adequately addressed with the final site plan:
 - a. Continue the shared use path southbound along eastern border of the lease area and connect it to the required sidewalk along the southern egress for the site.
 - b. Provide a 6' wide landscape strip between the southbound shared use path and the travelway shared with the mall to buffer pedestrians from vehicles.
 - c. The shared use path(s) provided onsite shall each be a minimum of 10' wide.
 - d. If the proposed shared use path connection to the existing sidewalk on Rte. 29 is not permitted by VDOT then the applicant shall provide either a shared use path or a 10' wide sidewalk in place of the required sidewalks along the southern egress of the site, which shall connect to the existing sidewalks on Rte. 29 (see Attachment E for location of sidewalk).
2. Prior to final site plan approval provide written documentation permitting Jack DeGagne to sign the special exception application for this variation on behalf of the property owner.

ATTACHMENTS:

- A. [Exhibit A – Initial Site Plan/layout](#)
- B. [SDP1979-7 Fashion Square Mall Application plan](#)
- C. [Special exception request and justification](#)
- D. [The Rio 29 Small Area Plan - Core Zone Standards and Guidelines](#)
- E. [Email correspondence from December 4, 2018 and March 19, 2019](#)