



**ARAPAHOE COUNTY
PLANNING COMMISSION
December 16, 2008**

Members

Arnold Hayutin
Brian Weiss
Leah Martin
Brett Larson
Kim Herzfeldt
Paul Rosenberg
Mark Brummel

OTHERS PRESENT

Jan Yeckes
Ron Hovland
Josh Seburn
Carol Kuhn
Irene Valenzuela
Chuck Haskins
Bill Skinner
Sherman Feher
Joleen Sanchez

OPENING COMMENTS

Ron Hovland, on behalf of Division Manager, Jan Yeckes, stated that this is the last meeting of the year. He said tonight's dinner was provided by the County to show its appreciation for the Planning Commissioner's dedication and service. Arapahoe County Planning Commission (PC) shirts will be ordered soon, so PC members should submit their information as soon as possible.

Mr. Hovland indicated that there are cases scheduled for January 6, 2009.

ADOPTION OF MINUTES

The motion to adopt the minutes from the October 7, 2008 Planning Commission hearing was made by Mr. Rosenberg, duly seconded by Mr. Weiss.

The motion passed unanimously.

CONSENT AGENDA

There were no Consent Agenda items.

REGULAR AGENDA ITEMS

Item 1 – P07-025, South Creek #08/Shops @ South Creek/Final Development Plan

Sherman Feher, Planner, established jurisdiction. He said the applicant, Harris Kocher Smith representing the owner, South Creek Ventures, LLC, is requesting approval of a Final Development Plan (FDP) known as the Shops at South Creek. He explained that this project is located at the intersection of Jordan Road and Broncos Parkway, and is proposed with five commercial buildings on five lots for a total of 5.07 acres; the proposed uses include retail, offices, restaurants, and a bank with approximately 28,400 square feet of buildings. He mentioned one correction to page six of the staff report. He said because the tallest building is 35 feet tall, there is a 25% open space requirement for buildings that are 25 to 50 feet in height. He referenced the table on page 6. He clarified that there would be 32.8% open space.

Steve Steele, Gibraltar Companies, 3600 S. Logan Street, said Gibraltar is the owner and applicant. He said this is the last acreage of an original PDP that dates back to 1999. He stated that the applicant has met or exceeded all of the County requirements. He said the area has an overlay district that governs a lot of the requirements and the applicant has met those. He mentioned that the civil engineer, the architect and the traffic engineer are present.

Mr. Hayutin asked if the issues regarding the fire department have been resolved.

Mr. Steele said there are no issues with the fire department.

Mr. Feher said as mentioned in the staff report, the initial referral letter did have some issues so there was a condition of approval that the issues be resolved before the case reaches the Board of County Commissioners (BOCC). He explained that staff received a fax from South Metro Fire District that was a little ambiguous that stated that the applicant had responded to the issues but the letter didn't say that the District gave approval. He stated that he tried calling the District yesterday but the contact person wasn't available. He said he never received a return phone call so that is why he left that condition of approval in the motion. He believes that issue has been taken care of but said he wants official confirmation from the District.

There were no public comments.

Mr. Feher indicated that Planning staff recommends approval of this case subject to the conditions contained in the staff report, based on the findings contained in the staff report.

The motion was made by Mr. Larson in Case No. P07-025 - South Creek No. 8/Shops at Southcreek, Final Development Plan, that the Planning Commission has read the staff report and received testimony at the public hearing. The Planning Commission finds itself in agreement with staff findings including all plans and attachments as set forth in the staff report dated December 5, 2008, and recommends this case favorably to the Board of County Commissioners subject to the following conditions:

1. The applicant will make any minor modifications to plans, as requested by the Public Works and Development Department.
2. The applicant will address all Division of Engineering comments and concerns as identified in any Engineering reports related to this case, at least two weeks prior to the BOCC hearing.
3. The applicant will address any and all SEMSWA comments and concerns as identified in SEMSWA referral reports related to this case, at least two weeks prior to the BOCC hearing.
4. The applicant will obtain approval from the South Metro Fire District at least two weeks prior to the BOCC hearing.

5. The applicant will execute a Subdivision Improvement Agreement with the County.

Seconded by Ms. Martin.

The motion passed unanimously.

Item 3 – P08-019, Inverness # 57/L2/Corefirst/Final Development Plan (Continued from December 2, 2008)

Mr. Feher stated that this application was continued from December 2, 2008 and the applicant has since met public notice requirements and the Planning Commission has jurisdiction to proceed. He said the applicant and owner, Metropolitan Retail Development, LLC, is requesting approval of a Final Development Plan (FDP) for a 6,000 square foot bank on a lot approximately 1 acre in size. He said the lot is located near the intersection of E. Dry Creek Road and Inverness Drive West.

Brett Blank, Metropolitan Homes, 2696 S. Colorado Blvd., thanked the PC for continuing this case. He said this has been a five-year process. He presented a PowerPoint presentation, a copy of which has been retained for the file. He said there are 385 residences in Vallagio I, which was processed almost five years ago; that community is 50% sold and closed to date. He said the retail piece has 90 residences; all 90 have certificates of occupancy and there are 47 residents living in that building. He added that the Metropolitan Homes headquarters are now located there as well. He said the third community is Vallagio III, which has 36 golf villas, processed as Lot 1. He said the dirt work is done and the first foundation will be laid in 30 days and the next lot would be presented in mid-2009. Mr. Blank presented an illustration of the eight acres of Vallagio retail, previously approved as Lot 1, which was the 47,000 square feet of retail under 90 residences. He said Eddie Merlot's, which is an 11,000 square foot restaurant, was approved by the BOCC last week and would be under construction in 45 days and open in August of 2009. He said today he would discuss Lots 3 and 2.

Mr. Weiss asked about the location of this project.

Mr. Blank referred to the satellite view and referenced Dry Creek Road, I-25 and Inverness Drive West and the Inverness Hotel.

Mr. Weiss asked where the project is located in this area.

Mr. Blank pointed out the site on the map. He referenced the existing retail building with the 90 residences and the first floor retail, which ranges from 12 – 24 foot ceiling heights. He said the landscaping is complete throughout the perimeter of the entire community. He said the Dry Creek light rail station is directly across; that bridge was opened last year and he presented a photo of the bridge landing. He stated that would be rebid in February, and he expects the pricing to fit within the available funding. He said this 130-foot bridge that comes across Inverness Drive West will be completed by fall of 2009. A photograph of a recently approved Eddie Merlot's was presented.

Mr. Blank presented the plan for CoreFirst Bank, which is on Lot 2 in the northeast corner of the community on approximately one acre. He said the front door is situated directly across from the retail building entrance where the Metropolitan Homes office is. He said there would be a right-in/right-out from Dry Creek, which allows parallel parking and there is a full traffic light at the intersection of Dry Creek and Inverness Boulevard. He said CoreFirst is out of Kansas and has over 65 different branches; this would be the first Colorado main office. He said CoreFirst would open its first retail bank branch tomorrow in the Denver Tech Center; CoreFirst has seventeen grocery store branches and this office would be their headquarters in Colorado. He presented the right-in/right-out from Dry Creek. He stated that the landscaping is complete and will stay in place. He said the trash enclosure would be moved to the east side of the community and he referenced the new location. Mr. Blank then presented the architecture of the building. He said CoreFirst's trademark is a story and a half of glass in the front and is a great feature. He

presented the west elevation and said there would be three drive throughs, one of which is for an ATM machine.

Mr. Feher stated that Planning staff recommends approval of this case subject to conditions contained in the staff report based on the findings also contained in the staff report. He said Condition No. 3 has changed from the previous staff report. He explained that the Assistant County attorney and the applicant's attorney have worked together and have come up with a joint parking agreement that is satisfactory to both parties, so that agreement would have to be recorded and be referenced on the various exhibits.

Mr. Weiss wondered if joint parking agreements are a generally accepted practice.

Mr. Feher commented that he has been with the County for over seven years and joint parking agreements are not the most common thing; he had one case where there was a child care facility next to a recreational facility. He said in shopping centers there are more of these types of arrangements. He acknowledged that the Land Development Code (LDC) does provide for joint parking agreements where the applicant can show that there are no conflicts between two uses that have the same peak usage time. He said uses should be compatible with each other and Mr. Blank has a presentation to show how the parking plan would work. Mr. Feher explained that this is an administrative process; as long as the applicant shows that the requirements are met and that a joint parking agreement has been reached, the Planning Division Manager signs off, which she has on this case. He commented that there are interesting circumstances with this development; this is a TOD (transit-oriented development) so one would hope that the reduction of parking could be enhanced by the light rail. He said because there is a large amount of residential surrounding this development, one would hope that people would walk instead of drive; those are some of the considerations the Planning Division took into account. He said in some respects some of the onus of decisions to do this is that in this case, if the parking doesn't work, the owner is the one that is bearing the problem of not enough parking. He said staff feels that the applicant has met the requirements and the Planning Division Manager has signed off.

Mr. Hayutin asked who would be responsible for the maintenance of the parking lot and how it would be enforced.

Mr. Blank explained that the entire community falls under an association. He said there are three parts: commercial pad users, first floor retail and the 90 residents. He said there is one joint-use common association that covers all eight acres. He said there will be maintenance, which is the responsibility of the association, on all of the parking, sidewalks and landscaping throughout the entire community.

Mr. Rosenberg said there was discussion, when Eddie Merlot's was approved, about a restaurant that would be open different hours from Eddie Merlot's hours. He assumed that is in Lot 3. He asked if this joint parking agreement puts enforcement into that so that what was said is what would be done.

Mr. Feher said Mr. Blank would explain the mechanics of the parking study and Mr. McNish could address any other comments.

Mr. Blank presented a PowerPoint presentation of the parking plan, a copy of which has been retained for the file. He presented the entire community and referenced the inline retail at 7 AM. He said the plan is based on the proposed tenant mix. He referenced the parking that would be used by the in-line retail and the residential guests; all 90 residents have garage parking. CoreFirst parking was referenced. He said the restaurant opposite from Eddie Merlot's is on the opposite end, which would be a breakfast and lunch restaurant. He said that is set up in the covenants and in the purchase contract of Eddie Merlot's. He said there would be no parking for Eddie Merlot's at 7 AM. He said this example assumes that there would not be 100% of the garage used and light rail passengers were not taken into account. He said this also doesn't account for any of the 1500 residents that live in the area who would be walking. He presented the parking at the 11AM hour. He said the retail parking and CoreFirst parking would increase; there would be lunch-time restaurants in Lot 3 and would not impact the parking. The parking plan for 1 PM, 5 PM, 7 PM and 10 PM were shown. He said from 7-10 PM, Eddie Merlot's would take most of the parking.

Mr. Rosenberg questioned whether or not the bank is required to close at 5 PM.

Mr. Blank stated that the bank doesn't have a requirement, so the estimate is 5 PM, but even at 7 PM there is parking around the facility.

Mr. Hayutin asked what would happen if someone leaves their car in the parking lot.

Mr. Blank said there is a two-hour ticket and tow program that is in place for the protection of the retailers. He said the residential guests are the biggest violators but the others would be people who get coffee then go across the street. He further stated that the light rail parking is on the other side of the roadway and is sufficient. He said the ticket and tow program applies to any storefront parking, which would be monitored three times in the morning and three times in the evening. He said residential guests and employees would have parking stickers so the monitor could identify violators.

Mr. Weiss said if, in two or three years from now, the bank is no longer there and there is a restaurant there instead that would require parking in the evenings.

Mr. Blank explained that any new business would have to go through Arapahoe County to get the approval and then go through a covenant change, which is governed by the residents and the other commercial and retail businesses.

Mr. Weiss asked what would happen if Eddie Merlot's decides to serve lunch in two years.

Mr. Blank said they can't for at least fifteen years; that is written into their contract.

Mr. Weiss asked if that is specific to Eddie Merlot's.

Mr. Blank replied yes.

Mr. Weiss asked what would happen if a different steak house is there.

Mr. Blank confirmed that a new business would fall under the same approval process of Arapahoe County and the covenants. He said that is part of the parking restriction document that Mr. McNish and the applicant's attorney created, which is being recorded against the property.

Mr. Rosenberg wondered why the lunch restriction on Eddie Merlot's is only for fifteen years and if Eddie Merlot's would be torn down and replaced with something else.

Mr. Blank explained that fifteen years is the lifespan of a typical contract. He said one cannot foresee further than fifteen years.

Mr. Weiss commented that a typical dinner at a steakhouse like Eddie Merlot's might last longer than two hours, which would violate the two hour parking rule.

Mr. Blank clarified that Eddie Merlot's has 75 restricted valet parking spaces, and a majority of their patrons are valet, so those parking spaces are excluded.

Mr. Hayutin asked where the employees would park.

Mr. Blank said within the same lot or in any out lot; parking areas that face the retail is consider patron only parking.

Mr. Weiss said if one of these companies goes out of business, it must be approved by the Vallagio HOA.

Mr. Blank clarified that if it is a pad site the plan must be heard by the County because there would be a structural façade change.

Mr. Feher confirmed that if there is a use change, such as a restaurant to a bar, that would come to the County for a full hearing.

Mr. Rosenberg wondered what would happen if Eddie Merlot's changes to a different restaurant.

Mr. Feher stated that would be an administrative amendment through the County.

Mr. Herzfeldt asked if this bank would be the core location for the metro Denver area.

Mr. Blank answered yes. He said CoreFirst primarily did agriculture up to about ten years ago and now does small business loans. He added that their other locations would be in Broomfield and Arvada.

Mr. Weiss inquired about how many employees the bank would have at this location.

Mr. Blank said that is based off of the square footage.

There were no public comments.

Mr. Weiss mentioned that he has worked with joint parking agreements in his line of work and they have always been a monumental failure and he has always found them to be more trouble and they cause more problems than they originally set out to be. He said this particular lot has an abundance of parking, if the PC is only looking at this lot on this property for this bank. He said 50 spaces are required and there are 77, and for this lot, the applicant is well within the requirements. He said he starts having real concerns when this is put with the larger development.

Mr. Herzfeldt commented that it is wonderful to have new banks moving to the area that provide more banking opportunities for the citizens. He said he is encouraged to see that in this market and this is good for Arapahoe County.

The motion was made by Mr. Brummel in Case No. P08-019, Inverness # 57/L2/Corefirst Bank/Final Development Plan, that the Planning Commission has read the staff report and received testimony at the public hearing. The Planning Commission finds itself in agreement with staff findings including all plans and attachments as set forth in the staff report dated December 8, 2008, and recommends approval to the BOCC of this case this case subject to the following conditions:

1. The applicant must make all minor modifications to the Final Development Plan as requested by the Public Works and Development Department at least three weeks prior to the BOCC hearing.
2. The applicant must address the Division of Engineering's comments and concerns, contained in Engineering staff reports at least three weeks prior to the BOCC hearing.
3. The applicant will record the signed joint use parking agreement and make reference to it on the FDP and replat exhibits.
4. The applicant will address at SEMSWA issues and comments contained in their referral letter at least three weeks prior to the BOCC hearing.
5. The applicant will vacate an existing drainage easement and obtain approval in conjunction with or prior to the BOCC hearing for the replat and FDP.
6. The applicant must execute a Subdivision Improvement Agreement with the County.
7. A replat will be approved by the BOCC before or in conjunction with the FDP at the BOCC hearing.

Seconded by Mr. Herzfeldt.

Mr. Weiss said when looking at this specific lot, there are no problems with the parking spaces and requirements.

The motion passed unanimously.

Item 2 – P08-014, Inverness #57/L3/Vallagio Retail/Final Development Plan (Continued from December 2, 2008)

Mr. Feher established jurisdiction. He said the applicant and owner, Metropolitan Retail Development LLC is requesting approval of a Final Development Plan (FDP) for a 5,000 square foot retail restaurant building on Lot 3 of Inverness No. 57. He said this one-acre lot is located near the intersection of E. Dry Creek Road and Inverness Drive West.

Mr. Blank presented an illustration of the area and referenced Lot 3, which is the middle parcel and the last lot within this retail/mixed use development. He stated that this proposal is for a 5,000 square foot building that would be situated on one acre directly west of the building that was just presented off the right-in/right-out off of Dry Creek Boulevard. He said the parking is to the south and west and there would also be parallel parking off the right-in/right-out. He said the landscaping already exists and the trickle channel would be slightly modified. He presented a photo of the site in its current state and said the parking lot is where the building footprint would be. He stated that the original plan was to have the building closer to the west side but based on some input from significant retail players, they wanted more of a street feel and a pedestrian-oriented entry off of Dry Creek. Mr. Blank said the parallel parking would be installed and all of the landscaping and site lighting would be reutilized within this site. He displayed a rendering of the southerly exposed patio space that would be used jointly by any user within this building and residents and other retailers; there would be a large open space with a fire pit that is accessible from all areas. He noted that there is no amenity for the 90 residents, so this would be a gathering place for them as well. Mr. Blank then presented photos of existing fire pits as Whisper Sky, which are similar to the proposed fire pit on Lot 3. Illustrations of the architecture were presented. He added that the building would be one story with prominent glass and overhangs at the entries. He referenced the location of the trash enclosure which would be screened.

Mr. Weiss said right now this building would be a sales center.

Mr. Blank explained that the building is partitioned into three potential bays and that is how the building is being marketed. He said there would be a restaurant and the building would be constructed as such as soon as there are tenants. He said the building would be designed with a grease trap and sufficient roof space for a restaurant.

Mr. Weiss said Metropolitan Homes would not stay there permanently.

Mr. Blank clarified that Metropolitan Homes would not be in that building.

Mr. Feher said Planning staff is recommending approval of this case subject to the conditions contained in the staff report, based on the findings also contained in the staff report. He said as in the previous case, Condition No. 3 has been changed due to the fact that the joint parking agreement has been constituted and needs to be recorded on the plat and the FDP.

Mr. Weiss asked if the occupancy would be different based on what occupies each of these subsections.

Mr. Feher said yes. He said the applicant plans on the most liberal use of parking in this building so the parking could be reduced if needed.

Mr. Blank agreed. He said the planned use is for a restaurant, which has a parking requirement of 10 spaces per thousand square feet; the parking would drop significantly if there is a retail use here.

Mr. Weiss asked where that number comes from.

Mr. Blank responded that is the Arapahoe County standard.

Mr. Weiss wondered if that is based on the 2006 IBC (International Building Code) which has different classifications.

Mr. Feher stated that is based on the PDP requirement which was approved a few years ago.

There were no public comments.

Mr. Rosenberg announced that he has concerns related to the parking. He said in Lot 2, the parking takes care of itself, but here in Lot 3, there is other parking and he hopes that this will work and that is a big hope.

Mr. Blank said during the original inception of the mixed use, there was a joint partnership between Inverness Business Park, the RTD (Regional Transportation District) and the Arapahoe County Commissioners, who wanted this area to be a gateway to an Arapahoe County retail center and wanted to get away from wide open parking fields that had minimal landscaping and that were sized for Christmas shopping. He said that is why the standards were written directly for sites such as this, similar to Belmar. He said this is not a new concept; although it may be new to Arapahoe County it's common in Chicago, New York and Los Angeles, where there have been joint uses for years; there is a natural cohesiveness that happens with the tenants. He explained that the applicant is taking the risk; even though he has to convince the PC that this will work, he has to convince the guy who will spend \$2 million on a restaurant that he'll have enough parking. He said at this point, all tenants believe this does work. He said he believes that this plan is in line with where communities are going.

Mr. Weiss asked why Mr. Blank feels that the applicant is more at risk than the public. He said if there are not enough spaces, people would start parking on Inverness Drive or Dry Creek or on sidewalks where they are not supposed to be parking.

Mr. Blank said people would not be willing to stop and park on a street that has a speed limit of 45 miles per hour. He said there is no parking on Inverness or Dry Creek. He said he understands the concern, but that is why there is a process with the Planning Division and the signature of the Planning Director is key. He said Planning has agreed that this project meets the Land Development Code.

Mr. Hayutin wondered what would happen if this doesn't work.

Mr. Blank said it's the same question as what happens if the residential doesn't work. He said what happens if the fifty foot setback isn't enough to draw the tenants and the building goes dark. He said it is all part of the game of being in commercial development.

Mr. Hayutin said it is unfair to answer a question with a question.

Mr. Blank explained that, realistically, if something doesn't work, then there would be an empty building and someone would not be able to produce the business volume and that would naturally progress to a change. He said if a restaurant doesn't work, that restaurant would go away and it would be replaced by something else.

Mr. Hayutin asked Mr. Blank to explain how the applicant arrived at this solution to parking.

Mr. Blank said the applicant took the Arapahoe County standards and the PDP, which was approved in 2004. He said in 2004 it was envisioned that this would be a mixed use, higher density, residential and

retail area. He said Inverness Communities and the BOCC knew that there would have to be some type of joint use parking arrangement in order to get the densities that they required. He said those standards were applied for Lots 3 and 4 to the available parking. He said when all the retail was looked at the applicant knew that 15,000 feet is leased office space and would never be retail. He said retail and office both meet at 4 parking spaces per thousand square feet. He said there are .25 guest parking places per resident, so with 90 parking places, that is where he comes up with the residential guests. He said the restaurant parking is at ten per thousand square feet, so the restaurants are in spaces A, H, J and T; the reason those would be the only restaurants is because with three stories of residential above, there had to be shaft space through those three stories in order to allow shafting for kitchens, hoods, grease ducts, etc. He said there are only four places in the inline retail that would ever be restaurant, as a restaurant could not physically be in any other space. He said the spaces could be retail or office space, but they were planned for restaurants. He stated that Eddie Merlot's is a known commodity and has 11,000 square feet. He said the parking needs are known and the bank meets the requirement of 4:1000 based on square footage. He said with the inline retail, based on the prospective tenants with office, shop space, a guaranteed restaurant and primary, these are the spaces that would be used. (Mr. Blank referred to the parking plan) He said resident guest parking at 7AM would include holdovers from the night before. He said there would be no resident parking on the surface.

Mr. Rosenberg asked what happens when a resident has three cars.

Mr. Blank said residents won't have that many cars here. He said that discussion is held with potential buyers before they purchase. He said buyers get two parking places and one guest parking permit, which must be used on a different vehicle and must follow the parking requirements.

Mr. Weiss commented that he lives in a complex where people are not supposed to have more than a garage space and an assigned space, but people still have three cars which end up in visitors' spaces permanently.

Mr. Blank asked if the parking lot is patrolled by ticket and tow parking.

Mr. Weiss said allegedly.

Mr. Blank explained that there is \$50,000 budgeted for ticket and tow and there will be patrols three hours in the morning at two-hour increments; there will physically be a uniformed ticket and tow person. He said CoreFirst parking is based on numbers from the tenants; CoreFirst was asked how many people they would have including employees at 7 AM. He said retail shop 3 is envisioned to be a coffee shop. He reiterated that Eddie Merlot's would have no parking at 7 AM. He said the green on the plan represents available parking. He said there is no benefit for light rail; this was designed to be a walkable community.

Mr. Hayutin asked how many spots are reserved for residential guests.

Mr. Blank said at 7 AM there would be 5 guest parking spaces for 90 units.

Mr. Larson questioned whether or not that meets the code.

Mr. Hovland said the code requires one quarter space per unit.

Mr. Blank presented the parking plan for 10 PM and said there would be more residential guest parking at that time. He said those cars do not have to be moved by 7 AM. He said on Saturday mornings, the offices would be empty and that is the nature of joint use parking.

Mr. Hayutin said Belmar was mentioned and he asked how the parking works there.

Mr. Blank said Belmar is not 100% filled out to date but Belmar has a more detailed plan where the parking is separated for medical offices and dental offices and the movie theatre.

Mr. Weiss said Belmar has two parking garages.

Mr. Blank countered that Belmar also has 2 million square feet of retail; this project only has 47,000 square feet and is much smaller. He said the green areas are open parking and if all the parking is used as planned, there would still be fields of parking at 10 PM because the office people would not be in, and light rail and residents walking to the site are not accounted for. He said the applicant is excited about bringing in a positive influence to Arapahoe County. He argued that people are willing to invest money in Arapahoe County and are willing to pay building permit fees, planning division fees and open stores in an economy where it is not prevalent because they buy into the idea of Vallagio. He emphasized that Vallagio was named Community of the Year and won Site Plan of the Year and Units of the Year. He said around the nation, Vallagio understands the concept and is now bringing that to culmination by filling out these retail pieces that are the amenities for these residents.

Mr. Hayutin said he can appreciate the explanation, but he hopes it works.

Mr. Blank noted that in this lot, 50 spaces are required and 76 have been provided.

Mr. Weiss said that changes now that Eddie Merlot's is approved. He said now Eddie Merlot's would be taking over some of those spaces.

Mr. Blank said it is a joint use area.

Mr. Weiss inquired if the other restaurant would have limited hours.

Mr. Blank said there are no hours of restriction because the specific tenant is unknown at this time. He said there are no restrictions on Lot 3.

Mr. Weiss said theoretically someone could buy all three sections of Lot 3 and open a bigger restaurant.

Mr. Blank said yes, and that would still fall under the presumed parking scenario. He presented the 11 AM parking scenario and said this plan assumes a very busy lunch hour, as the biggest market is the lunchtime within Inverness Business Park, where there are 900 acres of underserved offices. He said there could be a pizza restaurant or a sushi bar and there could also be a night club, which would be desirable. He said at 5 PM Eddie Merlot's begins to fill out and there would be open parking at their valet. The parking at 7 PM was presented. Mr. Blank said the bank does not envision being open that late, but that could change. He then presented the parking at 10 PM.

Mr. Weiss asked how many spaces would be dedicated to Eddie Merlot's at 10 PM.

Mr. Blank estimated 109 spaces.

Mr. Weiss pointed out that the capacity for Eddie Merlot's is 400.

Mr. Blank said the parking ratio is 10 spaces per 1,000 square feet.

Ms. Martin commented that the applicant has thought of every possible scenario and has done a thorough job of vetting the parking situation. She said the applicant has also met all the requirements of the County and staff is agreeable with this plan.

Mr. Herzfeldt said he is comfortable with this project. He stated that it is always hard for the PC to understand parking. He said he likes the concept of avoiding a sea of asphalt. He said he understands that there is a risk, but the tenants would be leaving if it doesn't work.

Mr. Weiss said this should be thought of realistically. He stated that for every one thousand people only ten would drive to the site.

Mr. Herzfeldt said if the parking isn't adequate then the code must be changed.

Mr. Larson and Ms. Martin agreed.

Ms. Martin stated that the PC was concerned about too much parking for a recent case.

Mr. Hayutin asked if Mr. Feher feels comfortable with this plan.

Mr. Feher said yes.

Mr. Hovland said Ms. Martin is correct in that there was a long discussion two weeks ago about parking and who had too much parking and who had too little parking. He said tonight there is discussion that meets the County's code requirements. He said the County worked with Inverness and Vallagio in 2004 and came before this Planning Commission for the PDP. He said what the applicant is proposing breaks up pretty well. He explained that the planners go out and watch places and in the morning, many people go in and out and are not hanging around for 30 minutes. He said anywhere else in Denver people are picking up breakfast snacks for work. He stated that the dentist office and wine shop would not be open at 7 AM. He said this mix works well and the hours work well. He said at 5 PM most of the offices, including the dentist would be done for the day and their parking would open up. He said the plan has been well thought out. He said he shares some of the apprehension if some of these restaurants become so popular that people are waiting in line for an hour. He said some restaurants turn people away on a regular basis without reservations. He said there is a sea of asphalt and there are still very popular restaurants. He commented that this area would have a community feel but there would always be room for people to park somewhere, even along the east/west drive to the back of the building. He said that is the first place he would go because that would be the most available parking. He further stated that this is an urban environment and staff has recommended approval because they feel that this is going to work after analyzing the numbers. He said this is different than a regional shopping center as there would be no grocery store open 24 hours per day; this is a specialized market and people that aren't in this area would not come here and sit for an hour to enjoy a cup of coffee. He said there would be a lot of catering to the residents in the area and that is probably where everyone is coming from. He said the dentist office is open and he assumes he is doing well. He stated that this area would grow and there would be some changes in uses but there would be adequate parking.

Mr. Weiss said what concerns him is that staff is planning for uses right off the bat and that is not to say that ten years from now the economy is worse than what it is now and uses might change. He said it may change to something that is not planned for right now. He said right now the plan depends on the dentist being there only until 5 PM. He said once the dentist retires there could be a liquor store or another business that might stay open past 5 or 7 or 10.

Mr. Hovland said the building is built for office type uses and unless something really dramatic happens it would stay with the daytime business pattern with not much going on during the weekend. He said it all balances out over time as long as the applicant maintains integrity towards the uses.

The motion was made by Ms. Martin in Case No. P08-014, Inverness #57/L3/Vallagio Retail/Final Development Plan, that the Planning Commission has read the staff report and received testimony at the public hearing. The Planning Commission finds itself in agreement with staff findings including all plans and attachments as set forth in the staff report dated December 8, 2008 and recommend approval to the Board of County Commissioner of this case subject to the following conditions:

1. The applicant must make all minor modifications to the Final Development Plan as requested by the Public Works & Development Department at least three weeks prior to the BOCC hearing.
2. The applicant must address the Division of Engineering's comments and concerns, contained in the Engineering staff reports at least three weeks prior to the BOCC hearing.

3. The applicant will record the signed joint use parking agreement and make reference to it on the FDP and replat exhibits.
4. The applicant will address at SEMSWA issues and comments contained in their referral letter at least three weeks prior to the BOCC hearing.
5. The applicant will vacate an existing drainage easement and obtain approval in conjunction with or prior to the BOCC hearing for the replat and FDP.
6. The applicant must execute a Subdivision Improvement Agreement with the County.
7. The replat will be approved by the BOCC before the FDP at the BOCC hearing.

Seconded by Mr. Herzfeldt.

Mr. Weiss said he is hesitant to recommend approval and he finds that this case is completely different than the last case because of its location and its proximity to a big restaurant that has already been approved. He said he would not vote in favor of this case.

Vote:

For: Herzfeldt, Martin, Brummel, Larson, Hayutin

Against: Weiss; Rosenberg

The motion passed 5-2.

Mr. Hovland provided an update regarding the Board of County Commissioners' actions. He said this morning the BOCC approved the Strasburg zoning overlay; only one property owner was present and he spoke glowingly of the PC and staff for helping get this done. He said the Board voted unanimously to approve the overlay without many questions. He said that is because the first hearing regarding the Pulte office building took a great deal of time discussing parking and cross access. He said the Board voted 3-2 in favor of that project. He said the applicant was a little unhappy but would make the necessary changes. He said last Tuesday the Board unanimously approved the CAEPA (Centennial Airport Environs Planning Area) regulations which replaced the JPA (Joint Planning Area). He said Centennial did not want to speak about anything related to those regulations. He further stated that Eddie Merlot's was approved on the consent agenda. He said the PC has done well with the approval process and looking at the issues. He said the discussion on the Vallagio cases would be carried forward.

Mr. Hayutin said the PC members feel that they have to say what they have to say.

Mr. Hovland said the Board appreciates the fact that the PC spends the time to vet these applications so the Board doesn't have to spend an hour on each case. He said the Board likes to spend about eight minutes on each case and that is a great compliment to the PC.

Mr. Hayutin said the PC hopes that they do not rubber stamp each project and that each question is valid.

Mr. Hovland said the PC's concerns go into the staff report that the Board gets.

Adjourned at 7:45 PM.

Arnold Hayutin, Chair

Joleen Sanchez, Asst. Clerk to the Board