



Legislation Details (With Text)

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Title: Permit Extension Request for Previously Issued Conditional Use Permit for The Shoppes at Jones Ferry at 405 Jones Ferry Road

Indexes:

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Attachments: 1. Attachment A - Resolution Approving the Extension Request, 2. Attachment B - Staff Report, 3. Attachment C - Letter from Applicant's Attorney, David Rooks

Date	Ver.	Action By	Action	Result
2/18/2014	1	Board of Aldermen	approved	Pass

TITLE:

Permit Extension Request for Previously Issued Conditional Use Permit for The Shoppes at Jones Ferry at 405 Jones Ferry Road

PURPOSE: The Board is asked to review a request for an extension of the date when a Conditional Use Permit would otherwise expire for The Shoppes at Jones Ferry at 405 Jones Ferry Road.

DEPARTMENT: Planning Department

CONTACT INFORMATION: Marty Roupe, 918-7333

INFORMATION: The property owner of 405 Jones Ferry Road, Mr. Calvin Mellott, has requested the extension of the date on which a previously issued Conditional Use Permit (CUP) would otherwise expire. The Board of Aldermen originally granted the CUP on September 25th, 2007. Thereafter, based on court proceedings resulting from the developer filing a lawsuit regarding the appropriateness of one or more CUP conditions, a permit extension granted by State Bill 831, and previous extensions granted by the Board of Aldermen, the current resulting expiration date for the CUP was November 21, 2013.

Staff contacted the property owner and developer in advance of November 21 regarding the matter. Mr. Calvin Mellott, property owner, then came to Town Hall on that date and made payment for the extension of the permit. Staff received and processed the check. Afterwards, staff contacted Mr. Mellott's attorney, Mr. David Rooks, and discussed what the payment did and did not mean regarding whether the permit can be extended.

In short, staff determined that Mr. Mellott has standing to continue forward with making a request for extension of the permit since he did make payment on the date the permit otherwise would have expired. But since the applicable LUO section (**see Staff Report**) requires action by the permit-issuing authority, the Board of Aldermen in this case, payment alone does not automatically extend the life of the permit. Staff discussed the matter with Mr. Rooks and he subsequently submitted a written statement (**see Attachment**) requesting that the

Board extend the permit expiration date to November 21, 2014.

Historically, permit extension requests have been submitted, reviewed, and granted by the permit-issuing authority in advance of the expiration date. Again, though, staff has determined that Mr. Mellott has standing to make the request based on submitting payment on November 21, 2013. As a result, the Board may proceed on one of the following three ways:

- 1) Extend the CUP for an additional year, with a resulting new expiration date of November 21st, 2014;
or
- 2) Choose to deny the extension of the CUP for an additional year by determining that Mr. Mellott did not submit payment and associated information in a timely enough manner for the Board of Aldermen to reasonably consider the application prior to the date on which the permit otherwise would expire;
or
- 3) Deny the extension of the CUP for an additional year due for some other reason.

A resolution (**Attachment A**) is provided approving the extension if the Board chooses to adopt it.

FISCAL & STAFF IMPACT: None

RECOMMENDATION: Town Staff requests that the Board of Aldermen review the information, consider the request, and decide whether to extend the date on which the CUP otherwise would or did expire to November 21, 2014.