

MEETING SUMMARY
Carroll County Planning and Zoning Commission

March 15, 2016

Location: Carroll County Office Building

Members Present: Matthew S. Helminiak, Chair
Richard J. Soisson, Vice Chair
Cynthia L. Cheatwood
Jeffrey A. Wothers
Alec Yeo
Daniel Hoff
Richard Weaver
Philip Hager

Members Absent: Eugene A. Canale,

Present with the Commission were the following persons: Philip R. Hager and Mary Lane, Department of Planning; Lynda Eisenberg and Scott Graf, Bureau of Comprehensive Planning. Clay Black, Laura Matyas, John Breeding, and Martin Percy were in attendance representing Development Review, as was Jay Voight, Zoning Administrator.

CALL TO ORDER/WELCOME

Chair Helminiak called the meeting to order at 9:00AM

ESTABLISHMENT OF QUORUM

Pamela Hare took attendance of the Commission noting that seven members were present and a quorum was in attendance.

PLEDGE OF ALLEGIANCE

OPENING REMARKS

Secretary Hager welcomed Mr. Hoff back from his leave of absence and again introduced Pamela Hare. Secretary Hager reviewed the draft agenda and recommended its approval.

REVIEW AND APPROVAL OF AGENDA

The agenda was approved as distributed on motion of Mr. Yeo, seconded by Mr. Hoff, and carried.

PUBLIC COMMENTS

There were no public comments.

REVIEW AND APPROVAL OF MINUTES

The minutes of the January 19, 2016, February 1, 2016, and March 2, 2016 meetings were approved on motion of Mr. Yeo, seconded by Mr. Soisson, and carried.

REPORT OF AGENCY REPRESENTATIVES

- A. Board of Education (James Marks)
- B. Management and Budget (Ted Zaleski)
- C. Health Department (Ed Singer)

- A. Mr. Marks reviewed the Board's plans for summer projects: bidding for four roofing projects, Westminster and South Carroll High School, Manchester and Westminster Elementary Schools. Mr. Marks reminded the Commission that the BOE is currently going through their appeals process for school closures set to take place in the Spring but there were no updates to be given in that area at this time.
- B. Ted Zaleski, Director provided an update on the Budget process. Mr. Zaleski also brought up the pending school closures and stated that the Board of Education and County have been working closely on how to facilitate the process. He stated that it isn't a simple process and as far as what happens once the buildings are in the County's hand no one knows yet. Several of the Commissioners have expressed their desire for Charles Carroll to become a community center of some sort. To do this would also require funds as it would need to be staffed, changes made to the building, these are topics that have not been discussed yet.

Mr. Yeo asked that, through these coming discussions, the zoning of the land be considered. Currently the zoning, while varied, allows for a school. Transitioning from a school to some other type of building may not be as feasible and anything within municipalities has its own concerns also. This Commission also expressed their concerns with regards to the connectivity with the roads in the South Carroll area, specifically Dickinson Road.

- C. Leigh Broderick, Director of Environmental Health, provided an update in place of Ed Singer:

COMMISSION MEMBER REPORTS

- A. Commission Chair, Matt Helminiak, that there were three plans approved: final site plan on the CJ Miller final minor subdivision, plan for Brady Green on McKinstry mill road, and a 1 lot minor subdivision called Ruth's Hope.
- B. Ex-Officio Member, Commissioner Weaver stated that the budget comments were appreciated, Ted summarized all biggest concern is that we budget for 6 years in advance this helps to have the budget balance out over a period of time as opposed to getting into trouble with a one year budget. He noted that there is a lot of uncertainty where the school system is concerned.
- C. Other Commission Members – there were no further reports.

ADMINISTRATIVE REPORT (PHILIP R. HAGER)

Secretary Hager provided a report to the Commission on the Legislative Session and its projected end date of April 11. He stated that this has been a great opportunity for Carroll County to gain a lot of information about what is going on in Annapolis, however it has put a little strain on some of the other department resources and has left little time to interface with the Planning

Commission as much as has been desired. Secretary Hager thanked the Commission for their understanding. He let the Commission know that the CIP letter had some changes made based upon comments made during the work session and told them the letter would be distributed via email within a day. Secretary Hager asked that the Commission please respond to let the Department know if all suggestions had been captured. Secretary Hager said he would make further changes if necessary but if the document was acceptable he would forward it to Mr. Zaleski.

Clay Black noted that six extensions had been requested. Of the six, two were Site Plans: St. Georges Episcopal Church, 9th extension; Illiano Plaza, 5th extension. Mr. Black stated that some are getting tired of asking for these extensions, we are recording some of these, it's a small number of lots and they are scattered throughout the County. Chairman Helminiak asked if there was a report that showed how many of these fall off that do not get recorded and Mr. Black said he would look into that further.

Chair Helminiak also asked if Development Review sent notes out as the expiration drew close and Mr. Black told him there were multiple ways the owners were notified prior to their request expiring.

WESTMINSTER ANNEXATIONS

Secretary Hager explained to the Commission that as a courtesy to the Municipalities the County acts as a facilitator for these annexation processes which are typically, not contested. Secretary Hager indicated that Andrea Gerhard would go through each of these since each will need individual action taken in the form of a letter to the Westminster City Council. Secretary Hager stated that it has been the County's practice to not oppose these annexations unless there is a very good reason to do so and the only way to do so would be for the Board of County Commissioners to vote to send it to a referendum. Secretary Hager also indicated to the Commission that unless they saw a good reason to do otherwise, these properties would be under the City of Westminster's Development Review and not the County's.

Andrea Gerhard provided a detailed summary of each of the proposed annexations and responded to questions from the Commission. The Annexation candidates included: Schulte, Number 67; Barron, Number 62; and Bollinger, Number 63. Each was voted upon separately and recommended to be forwarded to the Board of Commissioners.

BICYCLE-PEDESTRIAN MASTER PLAN AND INTEREST SURVEY UPDATE

Bureau of Comprehensive Planning Chief, Lynda Eisenberg introduced Nokomis Ford who gave an update on the Bicycle-Pedestrian Survey that had recently been conducted. There were 846 responses. Ms Ford reviewed the data that had been gleaned from the survey.

The Vision for Carroll County is a diverse community made up of suburban centers, towns, and rural areas that are well connected in a safer and efficient manner to enable all modes and means of travel. Lynda Eisenberg mentions that this vision comes from the Freedom Bicycle and Pedestrian master plan and was tweaked to make it more encompassing to the County.

Ms. Ford then outlined the Goals of this Plan.

Mr. Yeo commented that there is a huge difference between the citizens who are walking/biking for exercise and leisure and those who are walking/biking as a means of transportation we need to separate as much as we can because of there is a significant difference between a professional cyclist and a twelve year old doing it for fun. The goals are good but statistics aren't matching them.

Goals are to 1) Identify and assess existing bicycle and pedestrian facilities and networks 2) identify a hierarchy of key connections and destination within Carroll County. 3) Support walkable and bike-able communities to achieve sustainability, livability, health and economic benefits including tourism opportunities. 4) Place a greater emphasis on walking and bicycling in all planning and development processes.

Mr. Yeo – expressed that there was a huge difference between using the trails for exercise and leisure and using the trails for travel. He stated that he is not in favor of putting people in the same places as cars due to safety.

Mr. Hoff voiced his opinion regarding the bike lanes currently existing, finding it bizarre that bike traffic be so close to automobile traffic.

Mr. Yeo spoke of the professional cyclist and lack of age restrictions. He does not support this. It is Ok with connecting areas together via sidewalks and such. Separate between those doing it for economic reasons as opposed to leisure.

Mr. Soisson stated that more of this would be seen in a municipality but would not feel safe doing it around the County.

Lynda Eisenberg spoke of the Tourism aspect with points of interest along trails. Also looking at this as a source of grant funding. The way that granting agencies are currently funding these projects the money is not there for recreational purpose.

Mr. Hoff said the word travel is important from a funding standpoint.

Ms. Eisenberg stated the opportunity to inject the Fight against Childhood Obesity into the plan was missed.

Chair Helminiak asked if there was a way to bifurcate and add something else into the plan

Secretary Hager suggested two sentences that may be used to provide direction for staff: *Cycling and walking are important travel modes and Carroll County embraces the exercise and leisure activities associated with cycling and walking and the importance that our citizens place upon these activities. Carroll County is committed to improving modal connectivity and infrastructure capacity for travel activities utilizing walking and cycling as an important alternative mode.*

FREEDOM PLAN DISCUSSION

Housing Element: Staff reminded the Planning Commission of the status with respect to the draft Housing Element. There were no further questions from the Planning Commission. Secretary Hager suggested that if there was no further discussion consideration of Endorsement may be appropriate.

A motion to Endorse by Mr. Yeo, seconded by Mr. Soisson, was carried.

Economic Development: Staff reviewed the 2007 EDLENS study conducted by Parsons Brinckerhoff. An Executive Summary had been distributed previously, and staff also distributed a one-page summary, an explanation of the methodology, and a map with the areas of Freedom that had been identified by the consultant as being suitable for additional employment lands. It

was generally agreed that the basic premise and conclusion of the study, that Carroll County needs to have a higher percentage of nonresidential assessable tax base, is still relevant. There were no further comments regarding the text of Element 5, and it was agreed that it should have “concurrence”, and be placed on the Department’s website for review and comment, to be followed in 30 days by consideration of Endorsement. As with all Elements, there will be further review once all Elements are complete.

Land Use: Lynda Eisenberg presented the 2001 Designated Land Use and two Future Land Use scenarios:

1. Scenario 1 - Future Land Use (FLU) based on changes made for properties that are being used differently from the 2001 designation, accommodation of appropriate land owner requests, and designation of higher commercial intensity and residential density based on location and proximity to infrastructure;
2. Scenario 2 - FLU based on the assumptions in Scenario 1, as well as additional employment lands based on the EDLENS study and discussions with the Department of Economic Development, adding higher density residential land where water and sewer could reasonably be served in the future, and converting Agricultural and Resource land to other uses, where feasible.

It was generally agreed, with several modifications, that Scenario 2 is preferable as a way to increase the tax and employment base for the planning area and the County as a whole. Even under this scenario, the total acreage conversion is less than was expected, given existing use of land and physical constraints of certain properties. Ms. Eisenberg will revise the maps and distribute the new scenario to Commission members, and the next meeting will focus on a discussion of land owner requests.

PRELIMINARY AND FINAL SUBDIVISION PLAN REVIEW

A. F-15-0029 – O’HAGAN’S RIDGE, RECONFIGURED AND RELOCATED LOT

LOCATION: North side of Carrollton Road at Houck Road, E.D. 8
OWNER: David E. Wilson & Rebecca L. Wilson, 16 Brian Daniel Court, Reisterstown, MD 21136
DEVELOPER: Same as Owner
SURVEYOR: RTF Associates, 142 East Main Street, Westminster, MD 21157
ZONING: Agricultural
ACREAGE: 5.92 acres
WATERSHED: Liberty Reservoir
NO. OF LOTS: 1 Relocated and Resized
FIRE DISTRICT: Reese
MASTER PLAN: Agricultural
PRIORITY
FUNDING AREA: Outside
DESIGNATED
GROWTH AREA: Outside

Action Required:

Two actions are required:

1. Approval of the Preliminary Plan of Subdivision pursuant to Chapter 155, *Development and Subdivision of Land*, of the Code of Public Local Laws and Ordinances of Carroll County.
2. Approval of the Final Plan of Subdivision pursuant to Chapter 155, *Development and Subdivision of Land*, of the Code of Public Local Laws and Ordinances of Carroll County.

Existing Conditions:

There are two subject properties, both owned by David and Rebecca Wilson; Lot 4 of O'Hagan's Ridge which is a 2.366-acre property and the 71.419-acre Remaining Portion (Plat Book 52, Page 181). Both properties lie in the Agricultural Zoning District and are buildable parcels but are void of residences. The Remaining Portion currently hosts a tree farm operation and is accessible via an existing drive from Houck Road as well as a use-in-common driveway from Carrollton Road. The use-in-common driveway is shared by three users. Lot 4 is accessed from O'Hagan's Drive, a use-in-common drive shared by five lots (two existing users).

Lot 4 exists as open land currently utilized as cropland in conjunction with part of the Remaining Portion. In addition to the tree farm, the Remaining Portion has an extensive forested area and stream segment at the western section with an existing 2.405-acre forest conservation easement and a forested water resources protection easement.

All surrounding properties are zoned Agricultural and are served by private wells and private septic systems. To the northeast of Lot 4 are two properties in Rider Estates that are built with single-family houses. The adjoining property to the northwest is vacant and owned by the Brennans who own Lots 1, 2, 3, and 5 of O'Hagan's Ridge subdivision with a residence built on Lot 3. Across Houck Road are large farmlands combined with smaller residential lots.

Two lots in the Colvery View subdivision are encompassed by the Remaining Portion; a 2.379-acre property with a residence and an 8.976-acre property which, in addition to a residence, hosts a farm complex with associated outbuildings. Adjoining to the northwest is a 169-acre farm under an agricultural easement. At Carrollton Road and adjoining to the west is the Mewshaw Property subdivision. Across Carrollton Road are multiple properties ranging in size from 1 to 4 acres, built with single-family houses, and private drives to Carrollton Road.

The subject properties are outside of a designated growth area and will be served by private well and septic systems.

Plan Review:

The developer proposes to consolidate the 2.366-acre Lot 4 of O'Hagan's Ridge into the Remaining Portion then subdivide to create Lot 4A, a 5.81-acre lot at Carrollton Road west of the existing use-in-common drive for Colvery View and the Remaining Portion. Access is proposed from a private drive from Carrollton Road. Lot 4 will be removed from the existing Declaration of Maintenance Obligations (DMO) for O'Hagan's Drive.

Depicted on the plan is a proposed residence on the Remaining Portion utilizing an existing private driveway from Houck Road.

The plan was subject to citizen involvement on April 27, 2015 during the Technical Review Committee meeting. There were no citizens who spoke at the meeting. Development Review received prior communications from multiple citizens regarding this project. A letter was submitted by the Shanks, adjoining property owners in Colvery View. Phone correspondence was received from Mr. Dull, adjoiner in Colvery View. Both Colvery View owners stated

concerns with proximity and privacy. Additional phone correspondence was received from Mr. Rider and Mr. Brennan, Lot 4 adjoiners, inquiring about the plan and commending Mr. Wilson's neighborly demeanor. Mr. Ashburn, adjoiner at Carrollton Road, phoned to request a plan to review the proposed driveway location in relation to his existing driveway.

The concept plan was presented to the Planning and Zoning Commission on May 19, 2015 with a request for direction regarding relocation and resizing of Lot 4 of O'Hagan's Ridge (see minutes, attached). Following an explanation by the owner, Mr. Wilson, as to the agricultural productivity and accessibility of land in the location of Lot 4 versus that in the area of Lot 4A, the Planning and Zoning Commission had no objection to proceeding with the plan as presented. The proposed use is consistent with the 2014 Carroll County Master Plan Future Land Use Map designation of Agricultural.

One citizen was present who conveyed concerns of altered aesthetics. The Planning and Zoning Commission suggested plantings on Lot 4A as screening. Although screening is not a code requirement, Mr. Wilson indicated that he was amenable to the idea. His intention is to maintain privacy through plantings at the time that a residence is constructed.

No floodplain or streams exist on proposed Lot 4A. Storm water management will be addressed with a drywell. No landscaping is required. Forest Conservation requires the difference in disturbance between Lot 4 and Lot 4A be addressed. A Forest Conservation Easement of 0.381 acres, adjoining the existing Forest Retention Area on the Remaining Portion, will be recorded.

As no additional residential lots are being created, this project is not subject to Concurrency Management.

Recommendations:

Pursuant to Chapter 155, staff recommends approval of the preliminary and final plans subject to the following conditions:

1. That any changes to the Preliminary Plan and Plat as submitted and approved by the Commission herein shall be resubmitted to the Commission for further review and approval.
2. That Parcel A is conveyed to the County Commissioners of Carroll County by a deed to be recorded simultaneously herewith.
3. That an amended declaration of maintenance obligations removing Lot 4 from the responsibilities for maintenance of the use-in-common drive, O'Hagan's Drive, be recorded simultaneously herewith.
4. That a storm water management easement and maintenance agreement be granted to the County Commissioners of Carroll County as an easement of access to the County Commissioners or authorized representatives by a deed to be recorded simultaneously with recordation of the plat.
5. That a forest conservation easement be granted to the Carroll County Commissioners simultaneously with recordation of the subdivision plat.

Discussion:

Daniel E. Hoff, Commission member, questioned what made the owner decide to come out on Houck Road as opposed to coming out on the existing drive.

Mr. Wilson, owner, explained that he had initially constructed the existing apron to be used for ingress and egress and that it was put on the very top of the crest for visibility purposes.

Richard J. Soisson, Commission member, questioned if there would be landscaping.

Mr. Wilson, owner, answered he intended to plant trees for further privacy but, currently there are a lot of trees and the plan is to leave as many as possible. Because of the existing trees the neighboring houses cannot currently be seen from the building location.

Mr. Hoff stated that the owner was not required to put trees in and Mr. Soisson stated it was the Commission's recommendation.

There were no public comments.

Decision:

In accordance with Chapter 155, the Commission, on motion of Mr. Wothers, seconded by Mr. Soisson, and carried (Commissioner Weaver abstained), approved the final site plan with the five conditions outlined in the staff report.

SPECIAL REPORTS

A. F-16-0012 – Hewitt's Landing Amended Landscape

LOCATION: West side of Murray Road, South of Maryland Route 140, E.D.4
OWNER: Vistas Homebuilders LLC, P.O. Box 142, Woodstock, MD 21163 (LLC members: Mark Frizzera & Mike McGinnis)
DEVELOPER: Same as Owner
ENGINEER: Development Design Consultants, Inc., 192 East Main Street, Westminster, MD 21157
NO. OF LOTS: 15 existing

Action Required:

The developer requests that the Planning Commission allow for a reduction of the number of street trees required.

Background:

Hewitt's Landing was approved by the Carroll County Planning and Zoning Commission at the August 21, 2012 meeting and subsequently recorded on April 24, 2015 in Plat Book 53 Pages 316-319. At the time of approval, compliance with the landscape ordinance required 135 street trees being placed along the subdivision streets.

In May of 2011, Chapter 134 – Landscape Enhancement of Development was amended. The amendments included the removal of the street tree requirement. At the March 20, 2012 meeting, the Planning Commission voted to allow an administrative reduction of up to one-third of the street tree planting units on an approved preliminary plan. Any reduction beyond one-third would have to be approved by the Planning and Zoning Commission. The amended plan proposes a 75% reduction of the 135 street trees approved to 33.5 street trees.

Attached is a sketch, provided by DDC, which shows the amended landscape plan as submitted and approved by Landscape Review contingent upon the Planning and Zoning Commission approval.

The developer has requested time with the Commission to discuss a reduction of the landscape requirements greater than the 33% staff allowance.

Attached are copies of the record plat and previously approved landscape plans.

Discussion:

Andrew Stein, engineer, stated the developer, Mark Frizzera, initially contacted him with two concerns. 1) the amount of planting on the plan was not consistent with the rest of the neighborhood; on the plan there are far more plantings than what the rest of the neighborhood has. 2) The second concern was the amount of plantings going on individual lots and the additional cost and maintenance this would cause for the homeowner.

Mr. Frizzera, developer, stated that Hewitt's Landing has a lot of forest area and groupings of mature trees. To plant 135 trees could become a maintenance issue as they mature nor would they blend in or add to the aesthetic. Additionally the plantings along Murray Road pose another issue with the transmission lines.

Mr. Stein, engineer, indicated that the previously approved plan conflicts with the BGE Right Tree, Right Place program and the species selected to be planted on the West side of Murray Road side are directly below transmission lines and does not comply with the BGE requirements.

Mr. Yeo, Commission member, asked if the Planning Commission were expected to look at the species or quantity.

Mr. Stein, engineer, answered that it would just be the quantity because he had already adjusted the species.

Mr. Stein, engineer mentioned that the manual revision eliminated the requirement for any street trees but the developer recognizes the benefit of having them.

No public comments.

Mr. Soisson, Commission member, indicated that he is a proponent of street trees and is disappointed that they've been eliminated; he said that he feels maintenance is minimal and has an objection to eliminating 75% and would prefer a 50% reduction.

Mr. Hoff, Commission member, pointed out that no street trees are required but the developer is still willing to plant regardless.

Mr. Yeo, Commission member, supported Mr. Soisson but recognizes the developer's effort and reiterates that the commission cannot require them to do more than the code requires.

Mr. Frizzera offered adding more trees.

John Bowman, Landscape Specialist, spoke to clarify two issues. He pointed out that the original plan had two requirements: 1) street trees and 2) a rear and side yard screening required of a dwelling unit where side or rear lot lines abut a public right of way." The street tree requirements have been eliminated but the screening tree requirement has not changed. The original designer chose to screen substantially along entire lot line along Murray road. So there are two things the developer is asking for: 1) Reduce the amount of proposed street trees and 2) Approval of reduced screening trees.

Decision:

The Commission, on motion of Mr. Hoff, seconded by Ms. Cheatwood, and carried (Commissioner Weaver abstained), the reduction of street trees from the original 135 to 49 street trees.

The Commission, on motion of Mr. Hoff, seconded by Ms. Cheatwood, and carried (Commissioner Weaver abstained), to approve what has been submitted and shown on the plan as opposed to what was originally approved.

B. S-16-0013 Tri Star Martial Arts

LOCATION: 1840 Liberty Road; Election District 5
OWNER: TMAE LLC, c/o Deborah Thompson, 8 Sheppard Lane, Eldersburg, MD 21784
CONTRACTOR: DMS Sign Connection, 102 Lookout Avenue, Mt. Airy, MD 21771
ZONING: Business General
ACREAGE: .97 acres

Background and Action Requested:

The property owner has requested to replace the existing 15 foot high sign with a 29 foot high sign (drawings attached) in the same location. The owner proposes to keep the same sign cabinet but raise the pole height by 14 feet. The property is lot 2 of South Carroll Commercial Park (Plat Book 22 Page 6). In 1980, a site plan was approved for a Hardees restaurant; Tristar Martial Arts is the current user of the building.

Access to the site occurs via a shared entrance with lot 1. This and all surrounding properties are zoned Business General and are on public water and sewer.

The proposed sign meets the applicable zoning regulations for height, size, and location. Staff has brought to the owner's attention the Planning and Zoning Commission's history of scrutinizing the review of sign heights.

Staff forwarded the proposal to the Planning Commission Chair for input and direction. The Chair indicated that the entire Commission should review the proposal. The Carroll County Code of Public Local Laws and Ordinances § 155.059 SITE PLAN REQUIREMENTS states the following:

(A) General requirements.

- (1) Except as provided in division (A)(4) below, all principal permitted and conditional uses in any district shall be subject to a site plan review by all applicable review agencies as determined by the Director.
- (2) The site plan shall be presented to the Planning Commission, which shall have the authority to approve the plan as presented, approve the plan with modifications or conditions, or disapprove the plan.
- (3) No zoning certificate or building permit may be issued until the Planning Commission has approved the plan.

(B) Site development plans. In approving site development plans, the Planning Commission shall have the authority to:

- (1) Approve the location and design of all site improvements;
- (2) Limit the number and approve the location and design of entrances and exits;
- (3) Require a plan which shows how signs are to be located and designed and may approve, reject, or modify the sign plan to promote an attractive and pleasing appearance;

(4) Require a plan which shows the location, design, and effect of any outside lights to be used on the property and the effect of any inside lights to be used if their use would affect adjacent, neighboring, or contiguous properties. The Planning Commission may approve, reject, or modify the plan where appropriate to prevent visual interference to the traveling public on adjacent roadways, or glare or reflections on adjacent buildings or neighboring properties;

Staff is requesting that the Commission review the proposal and provide direction.

Discussion:

Commission members and Ms. Thompson, owner, discussed the reasons for wanting the sign higher. They also discussed that at 29 feet, the Tri-Star sign would then be higher than that of the neighboring Mr. Tire. There were conflicting opinions on how tall the sign needed to be and how that was affected by the depth/height of the berm.

Mr. Hoff expressed that it is very difficult for the Commission to make a decision based only on the photos they have been shown.

Mr. Yeo stated that to have more definitive measurements as this sign would/could be used as a reference in the future. He suggested the owner come back in two weeks for the night meeting.

There were no public comments.

Decision:

The commission decided to revisit and rule on this topic at the March 30th night meeting.

Mr. Hoff left the meeting.

C. S-11-010 – Adams Paradise

Gail Kessler, County Attorney, spoke on the ruling from the Court of Special Appeals. She read the ruling and explained the next steps. The owner has decided to not move forward with the variance but is moving forward with the parking lot.

Chair Helminiak confirmed with Gail Kessler that the Planning Commission had jurisdiction over the parking lot only at this meeting.

SUBJECT: S-11-010, Adams Paradise, Senior Housing
LOCATION: South side of Oklahoma Road, west of Westchester Hills Court, Election District 5
OWNER: Minnie Aleta Adams & Arla A. Ely, Trustee et al., 5845 Oklahoma Road, Sykesville, MD 21784
DEVELOPER: Marc Silverman, 1431 Longhill Drive, Rockville, MD 20854
ENGINEER: CLSI, 439 East Main Street, Westminster, MD 21157-5539
ZONING: R-20,000, Conservation
ACREAGE: 15.6380 acres (R-20,000 - 13.1422 acres, Conservation - 2.4958 acres)
WATERSHED: Liberty Reservoir
NO. OF UNITS: 75 Assisted Living / Alzheimer's, 85 Independent Living

MASTER PLAN: 2001 Freedom Community Comprehensive Plan - Medium Density Residential, Private Conservation

PRIORITY

FUNDING AREA: Freedom

DESIGNATED

GROWTH AREA: Freedom

PUBLIC FACILITIES IMPACTED

ROADS: Oklahoma Road

FIRE & EMS: Sykesville

POLICE: Carroll County Sheriff's Office / Maryland State Police / Municipal Police

WATER: Freedom

SEWER: Freedom

Action Requested:

The plan is before the Planning and Zoning Commission for briefing on the current review status of the site development plan. No action is requested.

Site Plan Review Status:

On January 11, 2016, Adams Paradise, a site development plan for a senior housing community, was re-submitted to the Carroll County Bureau of Development Review and subsequently distributed to technical review agencies. As previously presented to the Planning & Zoning Commission on July 17, 2012 at the concept plan review (see minutes attached), a three-story, 156,621-square foot building with residential exterior features – gabled roofs, brick veneer and siding, front porch, chimneys – is depicted. The building houses 75 units for assisted living / Alzheimer's and 85 units for age-restricted, independent living. Previously, the plan included 90 and 100 units, respectively. The concept plan's alternative parking plan, as depicted and addressed at the July 17, 2012 meeting, has been integrated in the re-submittal plan set.

On June 17, 2015 the Court of Special Appeals of Maryland affirmed the Carroll County Board of Zoning Appeals finding of Adams Paradise being consistent with the Master Plan and granting of a conditional use for a retirement home, assisted living facility, in the R-20,000 Zoning District. While the developer had previously pursued a parking variance, the current parking requirement of 157 spaces for 160 units plus 20 employees is now being met and no variance will be necessary.

Whereas the concept plan and report presented the building size, location, materials and colors, and configuration, two parking lots, and access as shown on the current re-submittal; whereas consistency with the Master Plan and the granting of the conditional use was affirmed by the Court; whereas concept stormwater management approval has been granted; the January 11, 2016 Adams Paradise site development plan submittal is being processed as final plan. Review will be attentive to the Planning and Zoning Commission's assessment and concept plan review comments including parking, loading, dumpster, and delivery area locations. Once all technical review agencies have approved the plan it will be reviewed for conformity with Chapter 156 of the Code of Public Laws and Ordinances of Carroll County Maryland: *Adequate Public Facilities and Concurrency Management* and presented to the Planning and Zoning Commission for final approval.

A courtesy notification of this Special Report briefing to the Planning and Zoning Commission was provided to adjainers and previously engaged citizens.

Discussion:

John Maguire indicated that he and the developer were at this meeting for a briefing. He summarized the appeal process this case had gone through and stated that this plan was still under review. He stated that he understood this meeting is to give an interim report and answer any questions.

Jeffrey Wothers, Commission member, asked if the only thing that comes back to the Planning Commission for a decision would be the final plan and that would not be done today.

John Maguire confirmed that was correct.

Chair Helminiak asked if there were any more questions.

Laura Matyas reminded the Planning Commission that the citizens have been notified and Development Review has heard back from about 12.

Chair Helminiak stated that the public were welcome to speak on other topics but that the Planning Commission was here to decide on the parking lot.

Mr. Bowersox suggested that it is premature for the Planning Commission to be moving forward with their decision. This project was started in 2012 and he feels that the Development Review staff should seek a new traffic study. Mr. Bowersox went through the concepts of Planning and Zoning. He indicated that he has had no official word that the petition for a variance has been abandoned. His suggestion was that this case go back to the BZA before the Planning Commission ruled on it as only they could say if this parking lot can this exist without a variance.

Alec Yeo, Commission member, indicated that had been his position as well.

John Maguire answered that this has been to the BZA, the parking lot was on the concept plan, and there had been a lot of testimony heard about the parking lot. He stated that they had not formally dismissed the variance case since there was no need to; a formal withdrawal shouldn't change the Planning Commission role of ruling on the final plan.

Jeffrey Wothers asked for clarification if this additional parking lot was approved or not relevant on preliminary plan.

John Maguire – it was part of the concept plan that was denied by the Planning Commission and approved in the first case as part of the concept plan. When we went back a week later that is when the conditional use of the parking variance was granted.

Alec Yeo stated that the court decision does not allow the Planning Commission to make these decisions.

Mr. Maguire told Mr. Yeo that the court decide this in legal proceedings and in legal proceedings these cases can get dismissed so the court is not directing the applicant to go back and get a variance they are saying “you don't have a variance; if you want it you will have to go back to the BZA and make a case for it.”

Mr. Yeo reiterated that this should go to the BZA before it comes to the Planning commission. He then asked Mr. Maguire why he was afraid to go back to the BZA.

Mr. Maguire replied that they had already been to the BZA.

Mr. Wothers asked if they were opposed to going back to the BZA.

Mr. Maguire said they were; they had spent six days there the last time and there was only one member left from the original group. They would need to start over and this plan is almost identical to the other except the number of spaces has been reduced.

Mr. Yeo asked at what point that had been approved.

Mr. Maguire answered that it had been approved the first time.

Mr. Yeo asked if the method used to calculate parking spaces wasn't up for debate.

Mr. Maguire answered that it was not since no variance is being sought.

Mr. Wothers stated the concept plan has been approved and procedurally they just want to move to the final plan.

Mr. Maguire would like for this to be treated like any other plan.

Mr. Bowersox stated there are underlying zoning issues. The BZA may say YES but this is their jurisdiction to determine that conditional use is same as what was approved before. The BZA is in a better position than the planning commission is to rule on this.

Mr. Wothers repeated back for clarification, the Conditional Use included a request for a Variance and that was material to the consideration.

Cynthia Cheatwood, Commission member, concurred.

The conditional use was granted without any discussion of this additional auxiliary parking lot. The discussion about the parking lot was always in the context of moving forward without having to build it in a form of a Variance. Mr. Bowersox once again suggested that, instead of the Planning Commission trying to put themselves in the minds of the BZA, let the BZA decide.

Gail Kessler said you can't approve a concept plan or conditional use without a parking lot to go with it. She again summarized the steps this case has been through. Once again she stated that all that has been remanded is the parking variance which is no longer being sought. The only thing that has changed from the original plan is the density of the facility, thus requiring fewer parking spaces rendering the need for a parking lot variance null; therefore making this case appropriate for the Planning Commission to rule on as opposed to sending this back to the BZA. It is the applicant's decision if he wants to pursue the variance; if he does he will then need to go back to the BZA.

Ms. Cheatwood stated that they don't discuss the conditional use in relation to the parking variance; they are completely separate.

Ms. Kessler states that it should be separate, the parking variance was decided after.

Mr. Maguire- concept plan was decided during the five days of the first seven hearings. The conditional use and variance were a separate case.

Mr. Soisson asked if Mr. Maguire had requested the variance originally and why.

Mr. Maguire indicated that he had requested it because the testimony was that it was unnecessary that he still believes that the project will be over-parked.

Mr. Soisson stated that the BZA and circuit court approved variance.

Mr. Bowersox stated that the fact the developer is focusing on a new topic for review, suggest there is something the Planning Commission is being asked to review that wasn't there before. He believes there is confusion between a concept plan and conditional use. He once again suggested that this case be decided on by the BZA as Conditional Use is a zoning issue.

No action to be taken.

Mr. Yeo asked Ms. Kessler to address the comments Mr. Bowersox had made about the difference between the Concept Plan and Conditional Use.

Ms. Kessler stated that the Conditional Use is not before this body at all; that decision has been made by the BZA and affirmed by the Courts. The BZA made the determination on the Concept Plan and they approved it but they do not remain standing in the shoes of the Planning Commission concerning that Concept Plan. They made the decision based on the appeal and now the matter is back before the Planning Commission. The BZA stands in the shoes of the Planning Commission for an appeal only. They do not involve themselves with every step of the plan. It comes back to the jurisdiction.

Chair Helminiak asked what latitude the Planning Commission had in terms of what they could decide when the final comes back to them.

Ms. Kessler replied that they could discuss on this plan whatever they would discuss on a final plan with the understanding that the Conditional Use, Density, and Concept Plan have been approved. Taking all litigation out, this would be treated the same as a Concept Plan that went before the Planning and Zoning Commission, got approval, then came back for final.

Mr. Yeo stated that he felt like he couldn't make a decision today.

Ms. Kessler stated that the Commission is not bound to take advice of counsel and that she is trying to advise the Commission of the appropriate procedures.

Mr. Wothers asked if Ms. Kessler thought it made any difference that the applicant had not abandoned the matter before the BZA procedurally.

Ms. Kessler replied that it is similar to a settlement. Mr. Silverman has decided to put the parking lot in with the required amount of spaces and should something come up that avenue would still be open. He should not be made to choose. Nothing has been decided as of yet.

Mr. Wothers asked if they shouldn't be made to choose.

Mr. Maguire stated what if something changed and the request for Variance has been dismissed. Then he wouldn't have the right to ask because it had been dismissed.

Mr. Maguire stated that if they got to the point of final approval and it was a condition to dismiss the variance they would comply.

Mr. Soisson asked what would happen if the Planning Commission didn't approve the plan for whatever reason. Then they would have the right to go to the BZA.

Mr. Maguire indicated that like any other plan, their option would be to appeal.

Chair Helminiak stated that they would skip ahead to Item 19 on the agenda.

FREEDOM COMPREHENSIVE PLAN UPDATE

Lynda Eisenberg, Chief, Comprehensive Planning Bureau, reminded the Commission of two upcoming activities: the first item is the joint work session between the Planning Commission and the Board of County Commissioners scheduled for April 6; and the second item is the Public Outreach Meeting for the Plan on April 27 at the South Carroll Senior Center.

Ms. Eisenberg moved on to the Land Use discussion stating that there were currently 37 properties from 14 different owners that had made future land use change requests. Approximately 90% of these properties were already acting in a different manner.

Chair Helminiak asked if Ms. Eisenberg wanted the Planning Commission to vote on these individually.

Ms. Eisenberg stated that unless the Planning Commission preferred otherwise, these could be voted on as a whole.

Beginning with the property west of Route. 26 the recommendation is to move the land use to Commercial Medium, basing the recommendation on size and intent.

Mr. Yeo mentioned that, in some areas of this road, partial consolidation could be advantageous for everybody.

Secretary Hager replied that it may be something we would want to look at and if someone does consolidate a parcel or two it would give us something larger with which to work could make it suitable for a medium intensity way as well. Keep in mind that our highest level, the C-3 is going to be pretty intense – typically larger stores.

Ms. Eisenberg stated there were some properties (visible on map shown to Planning Commission) that have existing water and sewer that want to move to commercial. Staff is recommending that they remain residential. They are not currently being used for anything commercial now, there are all residential up against these properties.

Chair Helminiak indicated that he believed some of these properties to have business in them.

Ms. Eisenberg pointed out a home business was different.

Discussion turned to the proposed Employment Campus on Obrecht Road and other possible locations for Employment Campuses.

Secretary Hager spoke to the Planning Commission saying the staff had put great thought and consideration into these properties and tried to indulge the Landowner's request where possible. Secretary Hager expressed the desire to have this element endorsed so that staff can move forward with additional analyses, especially, infrastructure assessments. This will dictate the remaining activities of Plan development.

Chair Helminiak asked about another request on Freedom Avenue (and Piney Ridge). Chair Helminiak asked if it would be better made C2 because of the size. Mr. Yeo stated that he envisioned a C1 zone as houses-turned-doctors offices.

Secretary Hager reminded the Commission of previous discussions and Mr. Yeo's advocating the need for several (five) levels of zoning. Secretary Hager agreed with Mr. Yeo that there should be more commercial zoning categories but perhaps the time is not now. He also said that there is a need for some sort of zoning for an office professional as the transition from older residential to businesses is becoming more frequent. For the time being, however, the C1 level will encompass those businesses.

Secretary Hager explained to a member of the audience the steps that are taken before these documents become a finalized draft. He also discussed the formal outreach process that is undertaken as part of the Plan Approval process.

Ms. Eisenberg also stated this process helps with long term projections.

The Commission, on motion of Mr. Wothers, seconded by Mr. Soisson, and carried (Commissioner Weaver abstained), for the approval of the Future Land Use Map.

BRIEFING/DISCUSSION: “PETROLEUM STORAGE FACILITIES” ZONING CODE AMENDMENTS

Secretary Hager briefed the Planning Commission on the process for this piece of legislature. He told the Commission that if they were comfortable with the document they could move to endorse this document and forward it to the Board of County Commissioners with the recommendation that they schedule a hearing and consider adoption.

The Commission, on motion of Mr. Wothers, seconded by Chair Helminiak, and carried (Commissioner Weaver abstained), to endorse this document.

PUBLIC COMMENTS

There were no public comments.

The Commission adjourned at approximately 2:00 PM.

Secretary

Approved