

**Planning & Zoning
Meeting Minutes
January 27, 2014**

ATTENDANCE: Pete Reich, George Jack, Larry Souder, Henry Barrett, Paul Kurzer, Director of Planning & Zoning Mary Ann Skilling and Planning & Zoning Coordinator Dianna Battaglia.

Meeting called to Order at 6:30 p.m.

Mr. Reich welcomed a new member to the board, Mr. Larry Souder, former member on the Board of Appeals.

Members voted unanimously to elect Mr. Reich as chairman and Mr. Jack as vice-chairman, as required in Section 18 of the Zoning Ordinance.

APPROVAL OF MINUTES:

Without objection, the November 18, 2013 Planning & Zoning Meeting minutes were approved as written.

New Business:

Amendment to Zoning Ordinance:

Ms. Skilling provided background information from the staff report (attached separate). The property in question for this zoning change, in addition to other properties that could pertain to the changes, would have to go through the process as outlined for consideration under the proposed Highway Corridor Unified Development. The owner of the property, Mr. Patel and the developer for Dollar General has asked for a zoning change and the proposed is for Special Exception in the C-2 district on US40. Under current regulations there has to be three hundred (300) feet of road frontage. The proposed amendment addresses development of individual lots less than three hundred (300) feet in combination together to meet the frontage requirement with a unified development plan, to share a central entrance for ingress and egress, signage, storm water management, adequate parking, etc. The proposed is consistent with the Town's Comprehensive Plan and all is managed in a unified development. The intent of the C-2 Highway Commercial District is to provide for commercial activities that depend on highway traffic for business. Article X Permissible Uses allows for numerous low impact small commercial uses in the C-2 district that may benefit by the reduced road frontage. It would come to the Planning Commission, as all special exception requests, for a recommendation to the Board of Appeals, with a public hearing held.

Mr. Sussman, Town attorney, explained the proposed is consistent with the Comprehensive Plan and allows for smaller type projects and uses to be consolidated into a single unified development plan, to be approved based upon a specific site plan that takes into account forestation requirements, drainage, storm water management, internal circulation, highway access, and all the other things you would typically look at for a project if it were one large parcel. This would require multiple parcels to be treated as essentially one large parcel for development purposes and as part of a site plan that would have to be reviewed and approved as part of a special exception. So you're still maintaining the benefit of the three hundred (300) foot frontage and what it does do, whether for this property or for other property along US40 that might be consolidated for development

purposes while still having the benefit of complying with all the other sets of regulations for the entire property and the entire project.

Discussion continued that right now there are very few properties that meet the frontage requirement. This property in question does have the required frontage however the developer only wants to buy a portion and does not want to rent or lease. The three hundred (300) foot requirement was meant to put larger types of commercial development such as a shopping center, to have the unified development process for circulation, signage, as part of that. They will also have to do that and they also have to follow procedures and provide findings that demonstrate they meet all requirements to the Planning Commission as well as to the Board of Appeals. If there is a property divided into sections then all have to be included on that site plan. They have to show the lots to be subdivided, the square footage for each business, and all the storm water, circulation, for that particular development. They don't have to show the specific businesses going there but have to show the site pad. In order to get storm water management, they have to know the square footage for all pads that are going to be placed on that site.

Mr. Sussman provided an example that a site plan comes in and not all the uses have been specifically determined but the configuration of the lots has been determined and the building sites, the pad sites have been determined. This will allow that type of subdivision and that type of project could be approved but the understanding is it would be tied to restrictive covenants, tied to a plat that any lots that were to be developed after approval once the use became known would still be subject to the master site plan and all the requirements, all the storm water management, all the common signage, all the interior circulation, those would be conditions that would run with the approval of the site plan for the special exception. They will have to locate the pad, they will have to size the pad for parking requirements, they're going to have to determine the location of the pad to be able to deal with internal circulation, as well as ingress and egress to the entire site. They have to determine the location and size of the pads for storm water management. They need to know how much they are clearing for purposes of reforestation. The only thing you may or may not know at the time is exactly what the use is going to be but what you will know is that the combination of uses will generate not more than x number of vehicles per day, will require not more than x number of parking spaces, whatever measurement there for determining what the storm water flow is, and the runoff requirements and what type of on-site mitigation is going to be required. They'll need to know all of that to be able to get through the process. Any use that is allowed in the Highway Corridor Overlay District would be allowed on one of these sites. So even though you don't know specifically whether it's going to be a restaurant or an auto supply store or a small office building, whatever it may be, they can't put anything on that site that is not already permitted either by right or by special exception within the C-2 Highway Commercial District. We were presented with a situation that the regulations currently require three hundred (300) feet of road frontage and not understanding the purpose of that three hundred (300) foot requirement and we were also presented with a situation that there's a potential use and redevelopment of a significant parcel of property within the Highway Corridor Overlay District that, for which a particular user needs fee simple owned pad site, and once you carve off a lot for that user you no longer have the three hundred (300) feet of frontage. So, what are we trying to accomplish with that required frontage and what are we trying to accomplish to encourage good development here in the Town and the end result of that was the concept you have here in terms of a consolidated type of development with the overall site even though it may be broken up into parcels that have less than the three hundred (300) foot frontage. You may get an even better quality development because of the need to integrate across the entire site for all the things as mentioned. That's how we got to this particular content. There are other types of development scenarios in the regulations that allow this type, for instance a shopping center. It's a little different because you have one large site but with multiple pad sites still require the overall development of the site to be developed in a

unified way. It's not that much different from a lot of other development scenarios out there and even what we have with the CEMUD district for the casino and what is supposed to be related development there, a master site development plan is there on a larger scale than what we're talking about here. Here, we're essentially talking about a master site development plan for a much smaller parcel with the frontage of three hundred (300) feet that's not required to ensure an appropriate integration and interrelationship of whatever number of parcels are ultimately developed.

Mr. Souder commented I personally like the proposed and I'd like to see us develop pockets like that. Three hundred (300) feet is a large frontage area and the Town has some property out there but it isn't unlimited, so doing something like this is great. What I don't understand, and I haven't seen anything yet, a thumb-nail sketch for the site for what you're hoping to develop and where everything's going to be, where it's going to come in, where the different businesses would be located, how far back it's going to go.

Ms. Skilling responded that's really the next step once this is implemented and we get it in the regulations, they will have to come in with a site plan to show how they're going to do it. We don't have anything right now because they're looking to purchase something and in order to do that and move forward they need this regulation changed to be able to do that. They still have to go through a special exception to get there and there are standards they have to meet. Basically those standards are very similar to anything that comes to this town.

Mr. Sussman explained this is a proposed amendment to the Zoning Ordinance that would create this type of special exception. You're not approving a project; you're not approving a special exception. After it gets through the legislative process there would be an amendment to the Zoning Ordinance that will allow these gentlemen, or anybody else who feels they want to develop a project, to come in, prepare all these plans and engineering drawings to make a submittal asking for approval for a special exception. This is before you for initial review tonight. If you feel it's something you feel comfortable moving forward with, then it will be presented to the Mayor and Commissioners and there will be public hearings before you and the Mayor and Commissioners before this can be adopted as an ordinance. Once it's adopted, then an application could be submitted consistent with these regulations. So there is a lot to happen before these gentlemen or anybody else would want to invest a lot of money in putting together plans, engineering drawings, etc. They want to see the frame work under which they will have to operate first.

Discussion continued if it is possible that existing businesses could be bought out by someone, grandfathering, have small frontage, there are several businesses that the proposed amendment could apply. Hypothetically three parcels of existing commercial uses with a total frontage of three hundred forty-three (343) feet, and then one of the existing owners or a new developer would want to try and come in and buy up those three parcels and create a development out of them. Assuming they wanted to retain those same lot lines and create a single lot that would have three hundred foot frontage then they could use this as a basis for redevelopment of those parcels. Again, it comes back to the Planning Commission as a special exception.

Mr. Jack indicated I like the proposal and don't see anything wrong with it, but I'm just trying to get a feel for how it would be used. We have one gentleman who wants to do this now but there is the possibility down the road that could happen.

Mr. Sussman continued I see it as a vehicle for future redevelopment and an assemblage of parcels.

Mr. Joseph Snee, Attorney, introduced Mr. Ty Davenport, developer for Dollar General Stores, out of South Carolina and flew up today to be here, and Tory Pierce, engineer with Frederick Ward and Associates, and the property owner, Mr. Ketan Patel. As correctly summarized, we approached the Town after Mr. Davenport identified the property that has the existing motel that Mr. Patel owns, that we could not meet the three hundred (300) feet frontage requirement. We asked for the text amendment that is before the Planning Commission tonight which would allow us to proceed as a special exception. We haven't done any detailed engineering until we hopefully get through this process. We thank the Town for this and we fully support the legislation. It will allow for redevelopment of the existing parcel to go forward and look forward to working with you and the Mayor and Commissioners as we move forward.

Ms. Skilling indicated we need to move forward, or not, with the draft document, do you agree or like the amendment as written or do you have any recommendations for changing. The next step is to hold a public hearing. Any amendment to the Zoning Ordinance has to go through the public hearing process, first to the Planning Commission and then to the Mayor and Commissioners. At this point if there are no changes or any recommendations for changes we would move forward to schedule the public hearing and once that is done, the recommendation would be made to the Mayor and Commissioners.

Discussion continued the parcel that Dollar General wants to buy is larger than three hundred (300) feet however they don't want to purchase the entire site and want to divide it so that individually the piece Dollar General wants would be less. They don't want to buy the entire site, and would create three separate parcels, to then qualify as a special exception. All individual parcels would be put together as one umbrella, an association and all the properties are going to be encumbered by the rules and regulations for that particular association.

Mr. Jack asked as they prepare the site plan will everything that's on there now be removed? Is that part of what the plan will do, when the final concept comes in? I would hope when you're developing a piece of land with a vision of being developed in a way that that is clear, the site pads are set up. I bring that up because the owner is here and a lot of times they leave and don't understand what needs to be done.

Ms. Skilling responded when that concept comes in that is something that will have to be looked at.

Mr. Sussman indicated it may be that if there is a way that the owner wanted to retain part of the existing structure, personally I don't see how looking at the layout, but it may be a portion of the existing structure could be retained and redeveloped, but just remember that as part of the requirements here all of the structures need to be part of a common design, common signage, and things like that. So I think it would require some sort of redevelopment of the existing motel if there is a desire to keep any of that as a motel.

Mr. Sussman continued what we are here tonight for is to get a consensus, we're not looking for a vote tonight but just trying to get a sense and consensus from the Planning Commission that you are comfortable with this and if you are to move forward with the public hearing. This is just your first look at it and you will have a more formal look at it at a later date.

Mr. Reich commented I like what's in it, it makes a lot of sense, and we'll go around the board here to see if there are any comments to not move forward.

Mr. Barrett indicated my only concern would be that it doesn't infringe upon the responsibilities and the rights of the Board of Appeals.

Mr. Sussman explained the Planning Commission has the option to either recommend approval or approval with conditions, and the Board of Appeals can only approve it if it has incorporated the conditions that the Planning Commission has recommended. If the Planning Commission recommends against it then the Board of Appeals cannot approve it.

Discussion continued that if the Planning Commission, as the official planning body, finds that the proposal does not comply with the Highway Corridor Overlay District requirements then the Board of Appeals cannot approve it. And that is the findings you have to make: either as presented, or with conditions that you recommend, that the project would comply with the requirements for development in the Highway Corridor Overlay District. This is similar when Mayor and Commissioners send things back to you to make decisions on because you're the one who looks at these issues through the planning process. You have the authority to make sure it meets certain criteria that's set forth in this ordinance here, and all other regulations when reviewing the project. Not only does the Planning Commission have to make findings that it would comply with the Highway Corridor Overlay District regulations with any specific conditions, but the Board of Appeals have other findings to make as required in Section 57.

The Planning Commission members continued with no objections to move forward with the proposed amendment. The public hearing will be scheduled for the next meeting, if the advertising deadline can be met.

Old Business:

Principio Health Center II Sidewalk:

Mr. Ryan Woerner, Stewart Properties and Mr. Mark Means from Union Hospital, explained the proposed sidewalk for the project. The Public Works Agreement for Phase II requires a sidewalk is installed along the road frontage on US40, a little more than five hundred (500) feet. In lieu of that requirement they propose to provide a bus transit stop with an interconnecting sidewalk to utilize the existing sidewalks throughout the campus. Reasons are that US40 isn't walkable, and complications on the site with existing grade, retaining walls and topographic layout, making it very challenging.

Mr. Reich commented some of us have seen this before and made a recommendation to the Mayor and Commissioners, with some discussion and they were asked to come in and show the proposed changes for more discussion because their commitment to put a sidewalk down US40, the whole length of the property, is essentially a sidewalk to nowhere.

Discussion continued to the east of the site is a wetland buffer and forest retention area so future development will never be on that side. There is also a drainage ditch along the roadway which is SHA's storm drain system. To the west the properties are not within Town limits and a sidewalk wouldn't connect to anything. Continuing west towards Cedar Corner there is no property there, it's all owned by State Highway or CSX and you wouldn't be able to do anything there.

Mr. Woerner indicated our proposal in lieu of the sidewalk is to put a bus shelter transit stop there, if supported by Cecil County Transportation Department. If we can get a drop off there it would service not only Union Hospital but the rest of the site when fully developed. We think it would be much more beneficial to the Town than a sidewalk that goes to nowhere. It would bring people to the site and transportation to leave the site and also would service the amenities we have on the site. We're proposing the location on the east side of the entrance going in.

Discussion continued the Planning Commission had talked about this last October with a proposed location for the bus stop to be internal at the roundabout to get people off US40, however the public bus did not want to come onto private property. In addition, the circle includes a lot of infrastructure within the circle.

Ms. Skilling commented there is quite a shoulder there and would be room for people to get off the bus and vehicles could still go around to the entrance. State Highways say they require bus stops in the acceleration lane (when leaving the site) the location where the bus stop is now, which I think is more dangerous. So that's why we're trying to get them to understand why it's beneficial to be here, it's better circulation for the people using the bus to come to the site.

Discussion continued that looking at the property, to put a sidewalk on top of the State's drainage ditch doesn't make sense, there is a tall berm there and the existing retaining wall. The proposed location has been sent to State Highways for comment, with their response as a recommendation for the bus stop to remain at the current location. The property to the west is elevated topographically, the contours lines shown on the site indicates that corner is steep, it's twelve (12) feet higher than our property and it's not in corporate limits. Other complications on the west side of the property is a three (3) foot elevation difference from US40 to the proposed site pad for future restaurant, in addition to the meter vault box and all the infrastructure connections. It would be very challenging to install a sidewalk with that infrastructure. The only place where the site is flat is on the east side of the entrance at the proposed location.

Mr. Souder commented from a service standpoint, a people standpoint, it seems the proposed is a very direct, accessible, short route.

Mr. Woerner explained on this site plan, we have put a temporary parking lot for Union Hospital which is the parking lot for a future building. A sidewalk will be installed there and it's very accessible to the rest of the site from the proposed bus stop location.

Ms. Skilling indicated the idea was to make it internally accessible to people, to be ADA compliant, for people to be able to get on a bus and get here. I think the Mayor and Commissioners are receptive and that's why it's here before this group because if you agree and then will go back to them as the best scenario. This is a medical campus, and the proposed location is centrally located.

Discussion continued if the Mayor and Commissioners would have more leverage with the State, or to have a Plan B. It could be the hospital might want to make some recommendations, or if Cecil County would support this to State Highways.

Mr. Means commented if this group and the Mayor and Commissioners agree, it makes sense then collaboratively to approach the State because it sounds like most of the conversations have been via email. You can look at this site, and maybe if you're gifted as a civil engineer you can understand it, but I think if we get the State to the site and let them see the value of the proposed location and the inequities that are on the other side, I think logic may prevail.

Discussion continued regarding the agreement with the Town for the five hundred (500) feet sidewalk all the way down US40. There ought to be a way for relief from that obligation some other way like maybe paying into a sidewalk fund rather than build the sidewalk somewhere else, which is an alternative. The planning group can't change that because it's in the Public Works Agreement and the Mayor and Commissioners are the only authority to change that, as the legislative branch. You can make a recommendation to the Mayor and Commissioners that this is a logical way to

solve this since it is a sidewalk outside of corporate limits, and would better suit this type of campus.

Mr. Woerner stated as the property owner my greatest concern is that Public Works Agreement is restrictive to our certificate of occupancy. Building construction continues with a finish date around April 1st. So in order to get occupancy I know I have to push the State to try to get an answer but the State is going to be tough to get an answer by that occupancy date. The battle with the State for the transit stop we are proposing is located on the deceleration lane coming into the site. They would like it on the acceleration lane coming out of the site, where the existing transit stop is located now.

Discussion continued that we're trying to relocate the transit stop or come up with an alternative to the five hundred (500) foot sidewalk along US40. The alternative is what is shown as proposed, to connect to the internal sidewalks for the campus from the bus stop and not put in the sidewalk along the highway. The State does not state their reason, but it was stated as they recommend the transit stop remain as located, but don't explain why. If there's not a reason such as regulation to deny us, we'll go back to them for explanation. If the State has a legitimate reason why, or if there really isn't rules or regulations that we can't do that, then we have a better understanding. I don't think anyone has objection to putting it there. We're here to talk about tonight is to release them from their obligation to put in the sidewalk along US40. There are no problems with visibility along the highway westbound to see a bus pulled over. There is plenty of sight distance with the terrain there. We don't need a sidewalk to nowhere but we do need direct access to all the buildings on campus. The proposed layout is the closest we can physically get without being dropped off at the front door. This location is flatter, lower, cleaner, and more direct to all locations within the campus. The other side, the high side has a berm there and people aren't going to want to stop there, hike up the hill and walk all the way across the site. Another alternative sidewalk would be to connect the existing bus stop down along the highway and then the people don't have to walk up that hill, however the State's not going to want that sidewalk in the State's right-of-way. But in order to do that option for a sidewalk they would have to take that berm out and move everything off the highway. Questions continued about the surrounding area and the area across the highway at Mill Creek Road. Residents in that area may come across the highway to access the bus stop and it isn't safe to cross US40. There is a bus stop on the east side of the highway for those residents in Chesapeake Landing community. Bus stop locations must be safe and you don't want to put the bus stop that would leave them at a disability or determinant of those who are using the bus stop.

Mr. Skilling indicated the reason it came back here is Commissioner Ryan suggested that it come back here to come up with a proposal if you didn't agree with it or if this internal walkway was adequate to get people around then why do we need that sidewalk along the highway. So the suggestion was to come back here to discuss it as a group so you can recommend to Mayor and Commissioners as the planning group what makes more sense, a sidewalk internal and central to the entire campus instead of the sidewalk along the highway.

Discussion continued to find a solution and with the existing bus stop now. If the State says the bus stop can't be moved, and the Town eliminates the sidewalk requirement where would you run the sidewalk for the people to get on the campus. Could use space from the future restaurant pad site, take up some parking on that restaurant pad site, do a couple of switchbacks, and connect with the parking that is existing on the bank pad site and bring it up to the internal sidewalk, but you still wind up going down a hill. That's going to make a long walk and you can't service that back side with a sidewalk because there are a set of steps on that back side that goes to the dental clinic. They would have to come around in the parking lot and walk. The proposed location is a more

central location, level, handicap accessible, with very minimal sloping, with better access to the campus. Question was raised about the number of riders using the existing bus stop now and to obtain that information for Cecil County Transit. Walking along US40 isn't an ideal situation. We would have a convincing argument regarding safety issues with the appropriate people at State Highway.

Mr. Reich brought up the fact that on the west side, in order to make it handicap accessible you would lose much of the restaurant pad in order to meet the slope requirement.

Discussion continued regarding who has authority for bus stops, with existing locations placed by Cecil County Transit as designated by State Highways. We don't want to cause due hardship on those who use the bus stop. Some people are walking across US40 to get the bus in the opposite direction, however most people from the development (Chesapeake Landing) at Mill Creek Road and using the bus stop located at Cedar Corner Road.

Discussion continued with questions asked why the required sidewalk wasn't included on the site plan during development.

Mr. Woerner explained it wasn't required by the Town then. The Town wasn't asking for sidewalks at Phase I. In order to get through for Phase 2 that's when the Town came to us and said we want a sidewalk. Until then the infrastructure and retaining wall had already been installed. Phase 1 included the bank pad site which required the retaining wall and the first building in the rear. After that we came in for building number 2, Phase 2 and that's when the sidewalks came into play. The entire site was laid out like this, it was on the original submission to the Town for the entire project and then when we came in for Phase 2 that's when it came in. So everything was laid out, everything was built, the retaining wall was in place, and we didn't plan for a sidewalk out there.

Discussion continued that in Town regulations it is recommended to install sidewalks wherever possible and the Planning Commission at that time added it as a requirement. Options available are either the proposed location as Plan A, or a Plan B to provide connection from the existing bus stop.

Motion was made by Mr. Jack and seconded by Mr. Barrett to recommend to Mayor and Commissioners Plan A to include a bus stop east of the entrance and connected to the site as drawn; if not feasible then Plan B, install a sidewalk along US40 from the existing bus stop to the proposed bus stop location and release the project from additional sidewalk obligation.

Discussion continued regarding how the developer can meet the obligation because he is unable to do what he is supposed to do. It's not consistent with the Phase I. We need to get with State Highways to get this figured out but in the meantime Plan B is an option to go all the way across the front. Mr. Woerner commented that if he has to go with Plan B, I may as well install the sidewalk along US40 as required now. Mr. Kurzer indicated we need to amend the motion to state the actual location of the existing bus stop at the west of the property and if Plan A is not allowed by SHA.

Amendment to Motion: Motion made by Mr. Jack and seconded by Mr. Barrett to recommend to Mayor and Commissioners Plan A to include a bus stop east of the entrance and connected to the site as drawn; if not feasible then Plan B, install a sidewalk along US40 from the existing bus stop at the west end of the property to the proposed bus stop location and release the project from additional sidewalk obligation.

Further discussion continued regarding wording for the motion, the location will not have two bus stops. Can you to meet handicap accessibility requirements with the Plan B option with the developer's recommendation to tie in to the existing bus stop with our internal sidewalks, coming from the existing bus stop onto our site to be ADA compliant. Now if you want to put footage on that to say twenty feet has to be compliant or the first fifteen, but after that it's going to follow the contour of the site. Also, consideration should be for people who use it, which will be the easier for them? If we have to use the existing bus stop location what is the easiest way for the bus riders to get where they want to go, which direction is the easiest for a resident or somebody using it to climb into this development, either along US40 or up some trail going through the site.

Mr. Means responded it would be easier from the existing bus stop, which is located on the west side of the property, verses traveling west to east because at that point you're going to be crossing the entrance driveways, you'll be crossing two intersections of cars coming either in or out, and I think to propose traffic that way would be not that efficient because you're pushing them into traffic.

Mr. Reich asked for a vote on the open motion.....3 nays: Barrett, Reich, Jack. Motion Failed.

Motion made by Mr. Jack and seconded by Mr. Barrett to recommend to the Mayor and Commissioners installation of Plan A east of entrance with connection to site, or Plan B connect the existing bus stop to internal walkways on the campus and relieve the developer of the current sidewalk obligation along US40.

Discussion continued regarding the wording of the motion and amendment.

Amended Motion made by Mr. Jack and seconded by Mr. Barrett to recommend to the Mayor and Commissioners in lieu of the developer installing a sidewalk along US40 across total frontage, the developer to install Plan A: establish bus stop to the east of the entrance with sidewalk connection to the site; if not feasible, then install Plan B: tie existing bus stop to sidewalk structure. **4 ayes; 1 opposed-Kurzer. Motion Carried.**

Meeting procedures:

Mr. Reich provided procedures in writing for reference with copies to all members.

Discussion continued regarding sufficient advance notice required for public notification, the ethics of giving people due process, give people enough notice. The procedures include following Robert's Rules of Order but there are times we may not want to do that. You can establish your process and procedures to the point of following most but as long as you establish that and stick by that, many don't follow all. Just so we understand we'll follow as much as possible or to the extent possible. With no objections we'll publish these as the process.

Adjournment:

Without objection the meeting was adjourned at 8:29 p.m.

Respectfully Submitted,

Dianna M. Battaglia
Planning & Zoning Coordinator