

**Planning & Zoning  
Meeting Minutes  
November 18, 2013**

**ATTENDANCE:** Pete Reich, Ray Ryan, 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.**

**APPROVAL OF MINUTES:**

**MOTION** was made to approve the October 21, 2013 Planning & Zoning Meeting minutes as written. (1 abstention: Mr. Barrett not in attendance.) **All in Favor. Motion Passed.**

**Old Business:**

Mr. Reich began the discussion for process and procedures. At the Maryland Planning Commissioners Association (MPCA) training one of the topics was Due Process: Effective Decision Making. One of the big issues in due process was adequate notice. The agenda is provided by staff a week before the meeting is held so we have all the information needed for our review and at the same time it is posted on the Town website.

Ms. Skilling explained we have established guidelines for any development project or site plan review for concept, preliminary, and final and helps to keep track of each. It's really our checklist but developers can use it to know all the stages. The checklist was created from Town Code, Appendix A which includes the basic information for applications at any phase of the project. When projects come in for subdivision there are other processes for that. Other processes include posting of properties for specific situations: permit, environmental, etc. and is all established in the Zoning Ordinance. We have this information available to the applicant and it helps to keep track of the status when processing multiple projects. We not only have to keep track of Town requirements but also those plans reviewed and approved by the County.

Discussion continued regarding the cut-off time for applicants to get their project in to be included on the agenda. Plans for projects are due at least three (3) weeks prior to a meeting for sufficient review time by all parties, including staff, town engineer, and others and to get it to the board members for review prior to the meeting. This allows time to establish the meeting agenda seven (7) days before the meeting. Water and sewer issues may require review by the Town consulting engineer.

Mr. Reich suggested an article in the next Town newsletter regarding Planning Commission meetings and that the agenda for our meetings is posted on the Town's website seven (7) days in advance so the residents of the Town knows it's there. I'm trying to figure out how to get more participation.

Discussion continued that if we're going to tell the public about publishing the agenda on the website, circumstances may require changes, and to make sure they know it could change.

Ms. Skilling commented some projects may involve subdivision and project managers are responsible to make contact with property owners, so property owners do get letters under some circumstances.

Discussion continued regarding a process at the Mayor and Commissioners meetings to approve the agenda at the beginning of the meeting and whether this is something to be done at Planning Commission meetings. A reason for approving the agenda is due to the number of issues for discussion, and to prevent other issues from being added and was suggested by the Town attorney. We don't have that same situation unless all of you are concerned about that. Is there a benefit to approving the agenda since there may be some issues that just came up in the community, and with our desire to increase participation, we should hear what they have to say. One way to make our meetings more formal is to follow Robert's Rules of Order. In the past there have been times when someone wanted to change the agenda, and without any foreknowledge about it then everyone's not prepared. The board should have everything to discuss in advance. The whole reason we have an agenda is so we don't go off track. If people start discussing topics that have nothing to do with an agenda item, you stop that and put it on the agenda for another time. People can get off topic of what is being discussed and that's where the chair should bring it back, this is what we are discussing, this project only, and if that is an issue that needs to be addressed, then we need to address that issue at another time because otherwise you could be off in many different directions. The agenda is created by staff based on project submittals or requests from staff or board members. Once the agenda is prepared it is posted on the website so the public has a good idea of what to expect. Approving the agenda at the start of a meeting is not required because basically when you post on the website you are notifying everyone what will be discussed. There would really be no reason to change it unless something comes up. We are following the processes required by our rules and regulations and by the Town ordinances and charter. We are following it by posting, following the Open Meetings Act by providing timely notice. All members agreed to keep it the way it is.

Discussion continued regarding the staff report and the information provided. It was emphasized that board decisions to deny or approve is fact based and you have to provide written findings of fact. It either meets Town requirements or it doesn't, and if it doesn't, the board can deny it. The board can approve plans with conditions and is included in the staff report, all the conditions that need to be met for that particular item to meet the code, which leads to the motion. The motion could be: "Approved with conditions as stated in the staff report". Other things may be brought up during discussion that should be added. The Planning Commission can make, change, or add conditions. Also, whether the staff report should include a recommended motion. A copy of the staff report is also provided to the applicant and there could be several motion variations depending on discussion. The final motion, the final decision, is the boards'. That is the power given to the Planning Commission and you have the power to change it, make recommendations based on the staff report with good evidence if there is a need, or whatever, to change it. In the past, the board had suggested a recommendation for a motion was included to help simplify making the motion during the meeting. If a recommended motion is included, the board shouldn't get in a back and forth with staff in front of the public and need to understand it is a recommendation. The board's review includes going over the same things to determine a decision. References are provided for the sections of the code not only for the boards' review but for the applicant so they know exactly where the information was obtained. There are going to be some instances where the board doesn't have time to research the entire policies and procedures in the code and rely on staff when making a decision.

Mr. Ryan indicated I like the way it's done and wouldn't change a thing. What I like about the recommendation is we have the information to make an interpretation, but what I see is lots of experience in pointing our Town in the right direction and they know the background of what

happened in the past to continue in the right direction, following the direction that was set in the Comprehensive Plan.

Mr. Reich commented I just wanted the board to understand that those conditions are what we need to either deny or approve preliminary plans, or whatever. So we can accept a plan with conditions or we can reject with reasons for additional information necessary to make a decision. Continuing with meeting procedures, keeping to Robert's Rules of Order the chairman recognizes the speaker, everyone should have a chance to speak and you can state your piece a second time. There isn't a need for motions on routine business and two things that are routine at our meeting is approval of the minutes and adjournment. With Robert's Rules of Order I can say: hearing none, the minutes are approved as written. Also, adjournment is routine and without objection, does not need a motion.

Ms. Skilling indicated that years ago we had an intern here and one of the things that came up was Robert's Rules of Order and what was discussed was a municipality can follow those rules but it can be changed to suit your Town. So you can adjust procedures, like the Mayor and Commissioners' meetings handled things a little differently.

Mr. Reich indicated without objection I can make a change to the order of the agenda if needed. I will write up some procedures for our meetings and bring it to the next meeting. Other information included on the staff report, wastewater management and wetlands, those are two important topics that if there is something really serious about the project, I think we should have somebody at the meeting to be able to address that. And I'm even more serious about traffic studies. The thing about traffic studies is they give us a report and we have no chance to question that traffic report. Under due process we're supposed to be able, the Town, the public, question the witnesses, in particular Cedar Corner project.

Mr. Ryan commented to be able to question the validity of the study, or any document we get from a developer. What it comes down to is, why would the developer have all these people in here for a project and it's going to cost money. I'm afraid that's going to scare a developer away from us. Once we get that study to question, present it back to the staff or present it back to the developer that we like the project but have a lot of questions and we're not willing to say yes or no or maybe right now and they can decide whether they want to bring the expert, or their staff, either by email or attend the meeting to be able to talk about the answers we need.

Discussion continued regarding Town requirement for a traffic impact study is done at Preliminary plan stage. Copies of traffic impact studies are received and there is a process of reviewing traffic impact studies, by State Highway, Cecil County, and TAC (Technical Advisory Committee) and comments provided from all reviewing agencies. At the initial meeting when a developer presents a concept plan or the first site plan, when they start talking about traffic studies, we can always say we're not ready to say yes or no, and ask them to come back to the next meeting. If we're not comfortable with the decisions we're making for the Town, then we need to get more comfortable and sometimes that means getting more information and ask for their traffic consultant to attend with them to get answers. A full traffic impact study is a very comprehensive report, with a lot of detail, containing traffic counts, how they did it, background developments, not just in Perryville but all surrounding areas. Mr. Reich expressed that the board should be able to determine and verify the data validation and accreditation of the model to be able to predict what is going on.

Discussion continued regarding the traffic report for Cedar Corner was done as part of the annexation and later only portions of the full report was presented. It included information for

how the development would affect the road, but not necessarily bringing that into town with all the existing and how it would be affected.

Mr. Reich indicated another thing to remind you is the decision we have to make is really simple, either it meets the ordinance or it doesn't. There are many gray areas when making a decision and how we deny or approve isn't as simple as it appears at first glance. If you make a decision to deny then you have to have findings of fact, why you denied it and it can't be because I didn't like it, it has to be it didn't meet specific regulations and recorded in the minutes.

### **New Business:**

Ms. Skilling indicated there is a developer (Dollar General) who wants to come to the Town on US40 and we're working with the Town attorney for an amendment to our regulations. Current regulations require that for a development to occur for a subdivision on US40 in the C-2 district you have to have three-hundred (300) feet of road frontage. For small businesses that is very difficult to do because they don't need three-hundred (300) feet of road frontage. The reason for the requirement in the ordinance, and the goals of the Comprehensive Plan talks about this, is to have limited access off US40, to not have numerous access points on Route 40. At the time the Comprehensive Plan was done they looked at what happened in Elkton. So we're putting together an amendment for a special exception in the C-2 district that under certain conditions a number of small businesses would be managed as a group, a business type homeowners association, with single access, single signage, joint circulation and shared site maintenance. The Planning Commission will review the amendment first but the proposed would give small businesses the ability to buy a smaller portion of the whole but still achieve the goals of limiting numerous access points off the highway. This is for ownership property which differs from typical strip malls that are owned by one entity and then lease space to small businesses. Examples of recent development sites that are leased to others are the Principio Health Center and Perryville Station, both of which have space and small pad sites available. There have been cases where small businesses come in looking to buy and develop property along Route 40 but some are too big and others are small and don't meet the setback requirements. So we're working on a change to the code, to the Permissible Use Table, to allow this type of use as a special exception with specific criteria in the C-2 district. They would have a maintenance agreement for all businesses who bought into the property to share in storm water management and all the other issues. Circulation of one entrance would have to be adequate to serve all businesses to get in and out and around all buildings, for pickups, for deliveries, that has to still be there so we're not circumventing our regulations. In addition they would have to provide parking per regulations for whatever businesses are there. They will have to think about how they're going to do it, what types of businesses will fit, how the parking spaces will be achieved, if they want to buy a lot.

Ms. Skilling continued that anyone can request an amendment to the zoning ordinance but we have to go through the process of making the amendment, to make sure it meets our Comprehensive Plan. When we get it and what all those considerations are going to be, Mayor and Commissioners can make recommendation to amend the zoning ordinance. There are no guarantees because it has to go through the process, reviewed by the Planning Commission, and the Board of Appeals. So this is going through the process as a possibility because there are some benefits to the Town for commercial development in the C-2 district.

Discussion continued that currently in the Permissible Use Table there are certain uses that can be allowed as a special exception and you have to demonstrate you meet certain criteria to get that special exception and the criteria is pretty structured. We're trying to look at whether small businesses would be more appropriate for this type of development in this area on lots less than

three hundred (300) linear feet of road frontage and to look at it as an economic benefit to the Town. More information will probably be in January for the board to review and decide if you think it's worthy to proceed. Regarding the Subdivision chapter Ms. Skilling indicated I really want to get back to it and get it finished and happen in January too because it really is almost finished. I just have to get back to it and finalize it.

**Adjournment:**

Without objection the meeting was adjourned at 7:50 p.m.

Respectfully Submitted,

Dianna M. Battaglia  
Planning & Zoning Coordinator