

**Planning & Zoning
Meeting Minutes
March 19, 2012**

ATTENDANCE: Michael Fortner, Michael Dawson, Pete Reich, George Jack, Ray Ryan, Town Planner Mary Ann Skilling, and Planning & Zoning Coordinator Dianna Battaglia.

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

APPROVAL OF MINUTES:

MOTION was made by Mr. Ryan and seconded by Mr. Jack to approve the January 18, 2012 Planning & Zoning Meeting minutes as written. **All in Favor. Motion Passed.**

NOTE: The February 22, 2012 meeting did not have an attending quorum so no official minutes were done, however discussion was recorded and documented.

NEW BUSINESS:

File No. SP2010-01 – Extension Request for Preliminary Site Plan approval; **PROPERTY OWNER & APPLICANT:** Cedar Corner LLC, 1316 Grafton Shop Road, Bel Air, MD 21014-2425; **LOCATION:** 1 Harvest Lane, north side of Cedar Corner Road east of Ingleside Avenue, Perryville, MD 21903; Tax Map 0029, Parcels 134 & 667, Zoned R-1, 33.362 acres.

Ms. Amy DiPietro, engineer with Morris & Ritchie Associates, and representing Mr. Kevin Geraghty stated Cedar Corner was annexed back in May 2009 and is planned for eighty-one (81) single family homes with public water and sewer. The storm water management is following the old regulations. The Preliminary Plan was approved in May 2010 and we're asking for an extension based on the current market conditions don't really behoove us to move forward at this time. We are requesting a one (1) year extension and hopefully things change and we can start moving forward. The demand for single family housing is down right now. Originally the annexation agreement had specified home prices to be Three Hundred Thousand (\$300,000) and that may be something that has to be reevaluated because that agreement was done during a different market than what we are presently looking at. We don't have a specific builder in here either and there was no minimum square footage required for each home.

Ms. Skilling indicated they are ten thousand (10,000) square foot lots. That was not part of the annexation but in order to get the numbers in there, and they had to have open space so they had to work all that in. Two things have to happen during an annexation; you have to have an Annexation Agreement and an Annexation Plan. As part of that the developer has to negotiate with the Town on what's going to happen, how many units and what are the stipulations in the annexation. There are a lot of criteria going into an annexation and that's what happened during this project. When it came through it was during a time when the market was a lot better and the Mayor and Commissioners were looking for the price range for homes to be a little higher, it was a residential area already. There was a couple of things that had to be done, there is a County road there, it's not a Town road, and they were working with the County to resolve some of their concerns under their road code.

Ms. DiPietro responded we did submit a Protocol 2 survey to DPW and they have agreed that post construction we will go back and do a rehab of Cedar Corner Road. It doesn't make sense to go out there and invest the funds to improve the road and then have construction vehicles driving over it and ripping up the new pavement. So we had discussed putting that off until after construction was

complete. We're working with Cecil County and have to improve the frontage one hundred (100) feet in each direction for acceleration and deceleration lanes. In addition we did discuss several options with DPW regarding the railroad bridge. They do not currently maintain any traffic signals in the County, they are all State maintained. DPW does not have the staff to do that and so we had to eliminate the option of putting in some kind of signal at the railroad bridge. And also they indicated they did not want any kind of mirrors so we were left with stop signs and basically reinforce the existing conditions of stop, look, make sure there's nobody coming and then proceed through.

Mr. Reich asked on this letter dated February 27, there's a whole list of requirements. Were these the things we talked about as conditions when we approved the preliminary plan, and are these the things that have not been done yet?

Ms. DiPietro responded some of them have been done, some of them have not. We thought it best to have the list of Planning Commission and Staff's conditions so that way we have a clear idea of what will be required in order to move forward with the project.

Mr. Reich indicated you are requesting an extension until May 2013. Do you intend to have all of this done by then?

Ms. DiPietro replied yes, the developer hasn't cut us loose yet to complete the engineering on the project but we are hoping the market improves and we're able to move forward.

Ms. Skilling reviewed the Staff Report (attached separately). When the major Preliminary Site Plan was approved there were conditions and I've listed some of these conditions here and I'm not going to go through them all but one thing I wanted to add at number 19 and 20, I've added these to the conditions because we were negotiating with the developer on the use of the Town's property for their pump station. For using Town property there, which is not in corporate limits, we asked the developer to extend the water and sewer lines to the rear of the property.

Ms. DiPietro indicated we completed a sewer study working with URS as well, and basically did a sizing on the pumping station to ensure the well was going to be deep enough and large enough to serve the properties north and also that the sewer lines would be deep enough to serve that, should the property north ever be developed at some time in the future. So the developer was going to incur that cost to go deeper and provide a larger pumping station.

Ms. Skilling stated number 19 covers that for use of Town property for locating the pump station we'd like to be able to consider some of that because what is being proposed is to deepen it, we're not sure whether we'll achieve that and whether to extend that line to that piece of property above. There might be a better solution for having the pump station on Town property, which is important because it's something the Town has to be responsible for. We still need to negotiate for that use. The second thing is if there is no activity in one year the Planning Commission shall not be bound by any prior approval granted for any Preliminary major site plan and the plan shall be deemed cancelled. You can't let it go on because regulations change, so at that point it would be three (3) years so we would need to reconsider. We're hoping that at some point in time, maybe later this year, conditions are right that there will be at least some progress forward.

Ms. DiPietro commented just as another clarification, if we do not receive approval to our storm water management plan before May 4, 2013 we lose our vesting of regulations and we would have to come back and potentially look at a new layout for the project because the new regulations are quite different and drive different planning practices. We only have technical approval right now.

Discussion continued regarding what constitutes moving forward and the definition of no activity. Infrastructure and construction activity will not occur until all conditions have been met and final plans have been approved. Once the record plats are recorded in Maryland that is typically your major Preliminary Site Plan approval, but conditions have to be met first before recordation can take place, and the Town will not sign off on a Site Plan before that. The developer still needs to submit for Final Site Plan approval before permitting or site activity is allowed. All conditions must be complete before approval of the Final Site Plan.

Motion made by Mr. Reich and seconded by Mr. Jack to approve extension of Preliminary Major Site Plan for one year until May 2013 with the conditions listed in the March 19, 2012 Staff Report. **All in Favor. Motion Passed.**

OLD BUSINESS:

Continued discussion and approval of final draft of proposed changes to Article XV Signs:

Ms. Skilling indicated the draft proposed changes is a version that was created from all submittals and discussions during the last meetings. We tried to incorporate all comments and put it all together in this one version.

Mr. Fortner stated the purpose of this meeting is to create a final document to go to public hearing. We don't all have to agree on it but we want it to go to public hearing next month. At that hearing we'll be able to say more, if you want to move forward or against on record, and then the Planning Commission will give a recommendation to Mayor and Commissioners.

Mr. Reich indicated that Mr. Dawson, Mr. Ryan, and Town Staff have done an excellent job in making this a lot clearer. The changes made are acceptable and I don't have anything I want to change.

Mr. Jack commented with the things that are going on with signs, especially with the electronic ones, we really need to have that section that addresses that. I have a safety concern in that the corridor from the Hatem Bridge east up to the first two lights is a very dangerous intersection especially in the morning and evening traffic. I think any moving signs in that area are only going to impose more danger to those driving and taking their eyes off the road. I'm not against ten (10) second messages being changed but I am concerned about that area. It's congested, bumper to bumper, and if people are trying to read messages and the lights change and they're driving, we're putting them in a potential hazard, that I don't think we should risk. So having said that, I just want to make clear my thoughts on that area because I think that is a concern this Town should have.

Discussion continued that other restrictions (Electronic Message Signs) prohibits the continuous scrolling of text or continuous image changing. The messages or images are only allowed to change every ten (10) seconds, so the continuous scrolling signs are prohibited. It prevents constant changing and is similar to the marquee type signs that you have to change the letters outside manually. This will allow them to have a sign they can change the message displayed digitally and limit the changing to every ten (10) seconds.

Ms. Skilling stated any sign in the C-2 district along that highway is going to have to be approved by State Highways. And they have limitations in their regulations that state eight (8) seconds. There are some people who say even that is still a distraction because if you're sitting there at the light on Route 40 and 222 longer than that you're seeing something change. We will submit these proposed changes to State Highways if they might have any concerns. Also when heading east on 40 there are yellow blinking lights for caution, so there are a lot of distractions in that small area. The biggest concern I

have is Lindy's, old Honda property, Royal Farms, Mr. Burkin's properties, 7-Eleven, if they all start putting these kinds of signs up what is that going to do to that corner. We tried to address these things and my concern is once we start it, where is the end.

Mr. Fortner replied this provides control on that. I do have one little recommendation for change regarding item f: "*all indoor messaging signs visible from a public right-of-way are subject to all conditions and standards of this Ordinance*". I would like to propose putting a size limit, if a sign is over four (4) square feet, because someone may want to display a beer sign that is small and doesn't blink. First of all I'm thinking that Code Enforcement shouldn't have to look at every little thing like this. Just a small sign that flashes, it's more to attract the attention of the pedestrian walking up there. The Sushi place has a flashing beer sign, and I don't know if we really want to get into regulating every little thing. I feel like we should regulate what the traffic sees and the major things they are seeing, and if it's just a little sign I don't know if we want to worry about that.

Ms. Skilling responded if you read some of the data, distractions are a problem. So I don't know whether that's another distraction. What distracts me more on Route 40 are the yellow blinking lights and the traffic signals. That section of Route 40 is an area of concern from the Town's perspective because there are a lot of pedestrians who walk on Route 40 and at night you really have to keep an eye on that. If a driver gets distracted someone is going to get hit because there is a lot of pedestrian movement there. We've tried to accommodate for everything and even the Town would probably like to have an electronic sign that they could have things posted because now we have to go up there and manually change it. The Fire Company wants one. We did cover some of the non-profits in here by saying those organizations in other districts would be allowed with review by the Planning Commission.

Discussion continued regarding Electronic Message Signs and whether all types of signs would have to come to the Planning Commission for approval. Any request for an electronic sign in the C-2 district, as long as it conforms with the various conditions listed, would be able to be approved unless Town Staff felt it required additional review by the Planning Commission. Suggestion was made to include a maximum size for indoor signs before having to obtain approval. Comment was made they should have to come in for Town review whenever they want to put something up. If we thought something was distracting and blinking, and that's not allowed except for time, date and temperature, so we would be able to cover that. It still comes down to do we want to have to regulate all sizes of indoor signs such as "Open" or "Beer".

Ms. Skilling stated someone may complain and we would have to look into that, or if it becomes a distraction. Any signage should get a Zoning Certificate. It would be enforcement to let them know if it is blinking that it has to be made static, it's an enforcement issue. Another issue may not necessarily be the size but the illumination power, but that would get too specific, too much detail. We need to have some control so we don't have problems. We'll have to explain no flashing and why it is that way, it's a distraction to flash. If there are existing signs out there flashing or blinking, we will need to enforce it. What happens when everyone starts putting little blinking signs in their windows.

Mr. Reich commented instead of stating four (4) square feet maybe specify instead two (2) feet by two (2) feet to eliminate someone putting up a sign that meets the square footage requirement but is three (3) inches by twelve (12) feet.

Ms. Skilling indicated we may need to change the wording to clarify a little better and look around Town at signs that may be blinking and is it worth regulating everything we do, but we definitely need to consider distractions on the highway.

Mr. Jack stated if anyone read the article on distracted driving, it does say a two (2) second distraction of any kind doubles the risk of an accident. So it's important that we do get these things right, minutet as they may seem because we are responsible in our area for what we allow to happen out there.

Motion made by Mr. Dawson and seconded by Mr. Fortner to change the wording in number 7, item f: "*All indoor Electronic Message Signs visible from a public right-of-way larger than three (3) square feet are subject to all conditions and standards of this Ordinance*". **Mr. Fortner, Mr. Reich, Mr. Dawson approved; Mr. Jack and Mr. Ryan opposed. Motion Carried.**

Discussion continued regarding proposed change for electronic message signs permitted as a freestanding in C-2. Mr. Dawson asked do we want to add anything for the aesthetic view, that it has to be accompanied by a main sign, it can't serve as your everything sign.

Ms. Skilling indicated we usually try to do a Master Signage Plan for everyone. Perryville Station has a main sign which includes all the businesses in that development. Signage should look nice along the highway and not become cluttered. We continue to try to work with Mr. Burkins. He has two separate parcels, two signs and two additional sign poles not used that should be removed. He should have a nice sign that includes the Sushi Bar and if anyone comes in where the former Renegade Shop was and the other empty space, the sign should encompass everything on that property. The other property is the carpet store and Laundromat. Current code allows one freestanding sign per property. As the proposed change is written an electronic sign is only permitted as a freestanding sign. When they come in for a new business we usually recommend they are going to have to come in with a signage plan for that business, whether it's a single business or otherwise, what are you going to put out there.

Discussion continued that as a freestanding sign it needs to be a monument type with the electronic message sign as part of the whole. No business should be allowed to put an electronic sign on the face of their building because that would not be allowed. We should be encouraging these types of signs to be part of their freestanding or monument type sign as the most appropriate place for them.

Motion made by Mr. Reich and seconded by Mr. Jack to change the wording in number 7, a. "Permitted as a freestanding/monument sign..." **All in Favor. Motion Passed.**

Motion made by Mr. Ryan and seconded by Mr. Reich to send the draft with the changes as discussed to public hearing at the next Planning Commission meeting in April. **All in Favor. Motion Passed.**

Mr. Jack continued for clarification regarding the signage at last month's meeting for Mr. Burkins, it was discussed he's allowed two (2) signs, one for each separate parcel.

Ms. Skilling explained we have talked to him about doing some nice signage for all of his businesses and now we are in a position that some of those poles up there are going to have to come down. And that's just a code enforcement thing because we're not going to allow you to do anything else until he removes those and he also has to demonstrate where the right-of-way is for State Highways. We received information from SHA to give to Mr. Burkins to show he had to have a site plan and the right-of-way line from center of Route 40 measures one hundred nine (109) feet. Those empty sign poles should have come down a long time ago because clearly if they're still standing and you're not using them they have to come down. And unfortunately it hasn't been enforced and we can do that, until such time if he does give us a master sign plan for what he's going to do.

Mr. Jack responded just like everyone else, and this is just another example that we were talking about. If his sign was to come before us can we impact our decision based on his non-conforming to the Zoning Ordinance?

Mr. Ryan replied I think we do impact our decisions on that because before we say approved we're supposed to make sure they conform to what we want. The Planning Commission would make that a condition for approval that any signs that do not meet regulations would have to come down.

Ms. Skilling stated it's in the Zoning Ordinance already but we just have not enforced it but we're waiting to get his signage so that when it comes in we have a better idea and have leverage.

Mr. Ryan indicated it could be as simple as the Code Enforcement officer goes up there tomorrow and says these sign poles are illegal, you have to take them out. And then issue whatever paperwork she is allowed, within thirty (30) days, fifteen (15) days, whatever, to get it done. Shouldn't have to wait to get it done. There are a lot of places that could happen.

Mr. Jack stated it does present a situation which we can look at and be aware of the fact that there are only a certain number of signs that are allowed along road frontage, that's a good example and also what happens when they're overloaded in such a manner and creates more distractions.

Motion made by Mr. Reich and seconded by Mr. Jack to adjourn the meeting at 7:45 p.m. **All in Favor. Motion Carried.**

Respectfully Submitted,

Dianna M. Battaglia
Planning & Zoning Coordinator