

**Planning & Zoning Public Hearing & Meeting
Minutes
September 29, 2008**

ATTENDANCE: Chairman Heimberger, Michael Fortner, Matthew Oberholtzer, Evelyn Hansen, Betty Thompson, Priscilla Turgon, Town Engineer Chris Rogers, Town Attorney Keith Baynes, and Planning & Zoning Coordinator Dianna Battaglia.

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

APPROVAL OF MINUTES

MOTION was made by Michael Fortner and seconded by Evelyn Hansen to approve the August 18, 2008 Planning and Zoning Meeting minutes as written. **All in Favor, Betty Thompson abstained; Matthew Oberholtzer arrived after approval. Motion Carried.**

PLANNING & ZONING PUBLIC HEARING

Chairman Heimberger started the public hearing.

File No. TA2008-04 – Request for text amendment to Section 113 and 205 of the Town Zoning Ordinance; **APPLICANT:** Town of Perryville.

Chris Rogers stated that for the record, the notice of public hearing was advertised in the Cecil Whig on September 12th and September 17th so it was duly advertised. This is a public hearing by which you are being asked to make a recommendation to the Mayor and Commissioners changes to the Zoning Ordinance that occurred at a couple of workshops that we had on this subject. These proposed amendments, the intent is to only permit townhouses in the R2 zone as part of a Planned Unit Development floating zone. The history of this was that staff received a proposed townhouse development on the diocese property that was zoned R2. We looked at the Ordinance, and the Ordinance was conflicting in that it allowed townhouses in the R2 zone in two sections but did not provide for them in another section. So we had several workshops with you to figure out how townhouses should be permitted, or if townhouses should be permitted in the R2 zone, and if so, how should they be permitted. So what you have in front of you is to propose a series of amendments, the intent is to only allow townhouses as part of a Planned Unit Development. A Planned Unit Development is a development that is a floating zone that you would receive for your recommendation, and from what I can tell from previous workshops, the Planning Commission liked the idea of allowing them only as part of a Planned Unit Development because the Planning Commission determines the setbacks and the density and the lot layout for planning and development. There is no set density, there is no set setbacks. So, the intent of a Planned Unit Development is that it is flexible and it gives you the authority to set those standards. So, what I would like to review the handouts you have with the changes noted because it's the easiest too

understand. When we change the Ordinance in one place, we had to change it in other places to make sure everything was consistent. In Section 113, even though I've mentioned a Planned Unit Development, this changes the Mixed Unit Development zone because if we deleted townhouses in the R2 zone, that would have deleted townhouses being permitted in the Mixed Use Development. The Woodlands is a proposed Mixed Use Development and we didn't think that it was appropriate to not allow townhouses in that zone. So in Section 113, 1.a, we are deleting that section that says "All permitted uses and uses permitted by Special Exception in the R1, R2, NB and C2 Districts", and replacing that with "a. Residential Uses—Single Family Detached, Duplex and Townhouses". So townhouses would still be able to be proposed in a Mixed Use Development per that language. On the second page, the table, we are proposing to delete the reference to multi-family townhouses in the R2 zone. So we are deleting the PC. The next section, proposed changes on pages 209 and 210, Section 205, number 2 deleting the existing language "Townhouses shall be permitted in the R2, R3, TC, CM and PUD Districts provided", and replacing it with that language in red ("Townhouses shall be permitted in the R3 District and shall be permitted by Special Exception in the TC and RM Districts") that is drafted. Townhouses will no longer be permitted by right in the R2 zone. I think I forgot to mention in the beginning, that townhouses are already permitted in a PUD zone so we don't have to change that. That's why you don't even see any reference to it. Townhouses are currently permitted in a PUD, so what we are doing is changing other sections to make it consistent. In that Section 205.2 we found a couple of other inconsistencies as we were going through this. This previous table that I just talked about, as you can see this allows townhouses as a Special Exception with conditions in the TC zone. So that SC, Special Exception with Conditions, was inconsistent with that language in Section 205.2. So, we are permitting townhouses in the R3 and clarifying that they are only going to be permitted by Special Exception in the TC zone and RM districts. Another minor inconsistency in that Section 205.2 is that it references the CM zone there, in the existing language, in the blue. There is no CM zone so we are deleting that CM and replacing it with RM by Special Exception. So there are several minor changes around the edges but, again to summarize, the intent is to only permit townhouses in the PUD in the R2 zone and we made some minor changes to the Town Center district and the RM district to clarify that townhouses are only permitted by Special Exception. Do you have any questions?

Ms. Turgon inquired about the diocese property and asked what the status was with their project and are townhouses allowed.

Mr. Rogers replied that they are allowed only as part of a Planned Unit Development in the R2 zone. A Planned Unit Development, and they seem to be aware of this, is a floating zone and will go through the same process as the Woodlands project is going through. A general development plan to the Planning Commission; a general development plan to the Mayor and Commissioners. A preliminary plan and rezoning to the Planning Commission; a preliminary plan and rezoning to the Mayor and Commissioners. So that's the floating zone process, in general. The intent of a Planned Unit Development is to control the placement, design, and density of lot plan for residential development with a variety of building types. So, I can't speak for what plan

they will resubmit but they would have to resubmit it as a Planned Unit Development according to the Town's Zoning Ordinance that would have to be approved by Mayor and Commissioners based on recommendations by the Planning Commission.

Mr. Heimberger asked how the members of the committee feel, do you agree with the proposed changes.

Mr. Fortner responded that he agrees. We have talked about it for a long time and it deals with it.

Mr. Heimberger stated that what he hears then is that they recommend approval to the Mayor and Commissioners.

Mr. Rogers stated that this will be introduced to the Mayor and Commissioners and it will be duly advertised again and people will have an opportunity again to speak their opinion regarding it.

Ms. Battaglia asked the board for a formal motion for the record.

Mr. Baynes stated that technically you should.

MOTION was made by Mr. Fortner and seconded by Ms. Hansen to make a recommendation to Mayor and Commissioners to adopt the Ordinance changes as presented. **All in Favor. Motion Passed.**

Copy of ordinance is as follows:

ORDINANCE NO: TA2008-04

MAYOR AND COMMISSIONERS OF THE TOWN OF PERRYVILLE

An Ordinance amending portions of Chapter 84 of the Code of Perryville, entitled Comprehensive Zoning Ordinance and Maps of the Town of Perryville to amend various sections of the Zoning Ordinance to only permit Townhouses in the R-2 Zone as part of a Planned Unit Development (PUD), to continue to allow Townhouses in a Mixed Use Development (MUD) Floating Zone and to clarify the permissibility of Townhouses in the Town Center (TC) and Residential Marine (RM) Zone.

WHEREAS, pursuant to Article 66B of the Annotated Code of Maryland, the Mayor and Commissioners of the Town of Perryville have the authority to enact a Zoning Ordinance and Zoning Maps to provide for land use regulation within the Town of Perryville; and,

WHEREAS, by Ordinance 2005-1 adopted January 20, 2005, the Mayor and Commissioners of the Town of Perryville adopted a new Zoning Ordinance and Zoning Maps to implement the approved Comprehensive Plan; and,

WHEREAS, the Mayor and Commissioners of the Town of Perryville wish to amend various sections of the Zoning Ordinance to only permit Townhouses in the R-2 Zone as part of a Planned Unit Development (PUD), to continue to allow Townhouses in a Mixed Use Development (MUD) Floating Zone and to clarify the permissibility of Townhouses in the Town Center (TC) Residential Marine (RM) Zone.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Mayor and Commissioners of the Town of Perryville that the Town of Perryville Zoning Ordinance is hereby amended as follows:

1. Amend Section 113.1.a., Permitted Uses in the Mixed Use Development Floating Zone, from:

- a. All permitted uses and uses permitted by Special Exception in the R1, R2, NB and C2 Districts.

and replace with:

- a. Residential Uses – Single Family Detached, Duplex and Townhouses.
- b. Non-Residential Uses – All permitted uses, uses permitted with conditions, uses permitted by Special Exception and uses permitted by Special Exception with conditions in the NB and C2 Zones.

2. Amend Section 161.1.310 by deleting Permitted with Conditions (PC) for Multi-family townhouses in the R-2 Zone.
3. Amend Section 205.2 from:

2. Townhouses shall be permitted in the R-2, R-3, TC, CM and PUD Districts provided:

and replace with:

2. Townhouses shall be permitted in the R-3 District and shall be permitted by Special Exception in the TC and RM Districts provided:

BE IT FURTHER ORDAINED AND RESOLVED that in all other respects Chapter 84 of the Code of Perryville, entitled Comprehensive Zoning Ordinance and Maps of the Town of Perryville, remains unchanged and in full force and effect; and,

BE IT FURTHER ORDAINED AND RESOLVED that this Ordinance shall become effective upon the expiration of twenty (20) calendar days following approval by the Mayor and Commissioners.

ATTEST:

Mayor and Commissioners of the
Town of Perryville

Denise Breder
Town Administrator

by:_____
James L. Eberhardt, Mayor

Introduced and read during a public Town Meeting of the Mayor and Commissioners of the Town of Perryville on the ____ day of _____, 2008.

Ordained, approved and passed by the Mayor and Commissioners of the Town of Perryville during a public Town Meeting on the ____ day of _____, 2008.

Denise Breder
Town Administrator

Mr. Fortner stated that there another area of concern for that property. There are other issues: there is a wetland area, a sensitive area, how are we expecting that to turn out and how is it going to impact the density. Do we have any idea of what's going to happen.

Mr. Rogers stated that they haven't resubmitted anything. But the issue is that it is in the critical area. The critical area is 1,000 feet from tidal waters and you usually see the critical area as a marking, you've seen it a million times on the plans. For whatever reason, the Town included this whole property in the critical area, so someone consciously drew the critical area line to include this property that went beyond the normal 1,000 feet. Because of that, the density is restricted to about four (4) units per acre. So in order to do what they had proposed to do before, they have to get the critical area line, the critical area designation changed. And that is essentially a rezoning. So that is another thing that they have to go through, another process that they have to go through, with the Town and in this case, the Critical Area Commission, to get that parcel designated.

Mr. Fortner asked if the Critical Area Commission will give a recommendation, or do we give a recommendation to the Town Commissioners or do they tell us what to do. Do we have to go to them first. We have to get a recommendation.

Mr. Rogers responded that to be honest, there has always been some confusion as to who has the final say. Your's is definitely a recommendation. The Mayor and Commissioners have the final say but it doesn't happen without the Critical Area Commission which is state regulated.

Mr. Fortner asked if they don't get this zoning change then they will be limited to four (4) units per acre. They will still be able to develop it with the Ordinance.

Mr. Rogers replied yes.

Ms. Thompson asked Mr. Rogers if he knows how many acres are in that parcel.

Mr. Rogers relied that he didn't know. I didn't bring the plans with me. I think there was an impervious surface issue as well that they couldn't get around it without this Critical Area change, but it may not even be that because they had so much open space, and I think there was impervious surface issues as well. They needed to get that and the Critical Area changed in order to propose anything that looked like what they were doing.

Ms. Thompson asked about a letter that was sent out regarding funding for the pier project.

Ms. Battaglia responded that I didn't send out that letter, maybe Denise did.

Mr. Rogers stated that he was involved with it a little bit. The pier, the transit pier down here at the pavilion by Rogers Tavern, the original funding for that was earmarked in the Federal budget, and the new transportation bill....it was in the original Federal spending, ten years ago, maybe eight years ago, and it has taken us this long to get through the process. And the new transportation bill says that if you haven't started something by the time this new bill is approved you're going to lose funding. We had worked with the State Government and the Federal Highway Administration to get that, to finalize the project. The thing is 98% designed and is ready to go on the streets for bidding, but it's such a complicated process with the State and the rest of the Government agencies to get it through the review process that it takes a long time. From what I understand, the Feds and the State are fully behind the project and they would recognize the funding would be discretionary for it.

Mr. Heimberger asked if there was a drop dead on it.

Mr. Rogers replied that there was a drop dead but they're trying to have it considered or grandfathered in. I don't know all the gory details but just know that we were told to press forward with the design, get it in, and get it ready to submit. It's ready to go on the street.

Ms. Turgon asked about the Perryville Yacht Club and their proposed next building and height.

Mr. Rogers stated that she had missed the public hearing on that issue regarding the height. The bottom line is it has to be held to the height requirement and the average grade.

Mr. Baynes stated which is 35 feet.

Mr. Rogers responded it was set at 40 feet. Because of the different height definition, they won't be able to build as high as what is there now.

Ms. Turgon asked if they are going to come back.

Ms. Battaglia responded that she did have a phone call today from Wilson Deegan's office asking what the deadline is for an application for the next meeting. I have a feeling that I will be receiving something this week that would be discussed at the October meeting.

Mr. Baynes asked for it is to be for a variance.

Ms. Battaglia responded that she didn't say what it was. She just wanted to know what the deadline was, so maybe they are going to be coming in for the next building, I don't know. We'll find out if something is submitted.

Mr. Heimberger asked about the name change for the neighborhood business on 222, is there a holdup on that. Can we stop them from being in business because of a name change.

Ms. Battaglia responded that he did submit a Zoning Certificate for permitted use as Pizza Tower, because it is a new owner. Denise is reluctant to sign that because of existing violations regarding the signs. We are holding up on that and in the process of drafting another letter with fines included, to try to get them to comply with correction of existing violations.

Mr. Heimberger stated that one other thing he has a question on. That building that is across the street from the Farm Store. Has anything ever been done on that. I think they were given some kind of, do you know where I am talking about.

Ms. Hansen stated the doublewide manufactured home.

Mr. Heimberger responded in other words on the parcel at Route 40 and 222, on that lot on the side of the old car dealer.

Ms. Battaglia stated that the car dealer is gone and there is a manufactured home.

Mr. Heimberger responded, yes that is the one. That is an eyesore there and my understanding was that at one time if they were given the right to do that if they would put in some nice plants and stabilize it, and now it's been just sitting there since day one.

Ms. Battaglia said that there is a sign there that it is a company that sells those manufactured and modular homes.

Mr. Heimberger stated that there is never any activity there.

Ms. Battaglia said that there is that one home sitting there and there is another building, an old nursery, and a letter was sent out regarding cutting the grass. I know that was done.

Mr. Heimberger asked if they were granted some kind of immunity to put that up if they did some landscaping and some other things. But it never happened.

Ms. Thompson stated that it might be by virtue of the fact that they had that business there, but like you said, it's just sitting there.

Ms. Battaglia said she will make a note on it to check into.

Motion was made by Evelyn Hansen and seconded by Betty Thompson to adjourn the meeting at 6:55pm. **All in Favor; Motion Carried.**

Respectfully Submitted,

Dianna Battaglia
Planning & Zoning Coordinator