

**TOWN OF ELKTON  
PLANNING COMMISSION  
APRIL 11, 2022  
MEETING MINUTES**

**Present:** Dave Wiseman; Keith Thompson; G. Edward Ginder; William Muller; Lisa Blackson, Esquire; Jeanne Minner, Director of Planning; Nick Cannistraci, Planner

**Absent:** Art Blount

Mr. Wiseman called the meeting to order at 6:00 p.m. He stated the first item on the agenda is approval of the minutes from the March 7, 2022 meeting as written. There being no corrections from the Commission members Mr. Wiseman called for a motion.

**MOTION:** Motion was made by Mr. Ginder to approve the minutes of the March 7, 2022 Planning Commission meeting as written. The motion was seconded by Mr. Thompson with the remaining Commission members voting as follows: Mr. Wiseman – Aye. The motion passed unanimously.

**REQUEST OF MCCRONE REPRESENTING WILLIAM H. BRADY, INC., CONCEPT SITE PLAN, LOT 2, SW/S BLUE BALL ROAD, TAX MAP 026I, PARCEL 419 AND ZONED BI (BUSINESS AND INDUSTRIAL)**

Mr. David Strouss of McCrone and Mr. William H. Brady were in attendance to address this request. Mr. Strouss stated the property is 5 acres off Blue Ball Road in the Triumph Industrial Park. Mr. Strouss stated that currently on this property there is a tenant who does boat repairs but the lot is mostly vacant. They are proposing to place RV & boat storage in a 3 acre area and are requesting to place gravel rather than paving in that area.

Mr. Strouss stated there is a limited financial benefit to this use but meeting the need for this type of use is a perfect location. It is mostly out of view from Blue Ball Road and there are only other commercial/industrial tenants in the area.

He stated they are presenting the Concept Site Plan to determine if the Commission members are amenable to this use. They are requesting five (5) design waivers which include: A. Request waiver of interior shade trees within vehicle accommodation area; B. Request waiver of perimeter landscaping around vehicle accommodation area; C. Request waiver of curbing within vehicle accommodation area; D. Request waiver of pavement within vehicle accommodation area (Stone Surface Only); and E. Request approval to move to Preliminary/Final for next step of review. He stated if the full Town code were required to be met it would not be financially feasible to continue with the request.

Mr. Strouss noted that if the Commission approves the Concept Site Plan they are required to apply for a special exception for this use. Mr. Strouss noted that they will be providing a six (6) foot chain link security fence, with barbed wire on top, around the lot to keep vehicles within that area so vehicles don't park on the grass.

Mr. Strouss stated that since this area is for the temporary storage of boats and RV's they would like to provide a crushed stone surface as opposed to paving the entire three (3) acres. He stated that if everything is agreeable to the Commission and the Town they would like to move on to Final at their next submission.

He noted he received comments from the Town and KCI but they are still awaiting a response from State Highway and comments regarding the traffic impact study.

Mr. Strouss stated there was a comment regarding placement of an opaque fence around the property but the owner would prefer to place a chain link security fence with barbed wire.

Mr. Wiseman asked if there would be automatic gate access. Mr. Brady stated they will have automatic gate access for tenants. Mr. Wiseman asked for clarification regarding their next submission and how that would work with regard to the special exception required for this use. Ms. Minner stated if the Concept Plan is approved then they would have to apply for the special exception and variance prior to submitting for Preliminary/Final.

Mr. Ginder asked if Ms. Minner if she had any reservations with the design waivers. She stated she and Ms. Blackson feel the request for crushed stone rather than paving should be submitted as a variance request to the Board of Zoning Appeals. Discussion ensued about how this would impact impervious surface and stormwater management for the site. Ms. Blackson stated she believed a variance is necessary for this type of request. Ms. Minner stated her questions were regarding the ingress and egress and the possibility of dragging gravel on to the road as vehicles leave the property.

Mr. Strouss stated there is already a paved driveway existing into this lot from Blue Ball Road through Lot 1. Mr. Brady stated that the back entrance to the lot along Technology Drive would not be used.

There were questions about traffic impact onto Blue Ball Road. Mr. Strouss stated State Highway will be reviewing the plans and they would have to address any comments from SHA.

Mr. Strouss stated his goal for this meeting is to get the Planning Commission's attitude about the design waivers in order for the owner to determine if the project is feasible. Discussion ensued regarding other storage facilities nearby in the County that have gravel with no trees or curbing. Mr. Thompson noted that a similar facility located in Town was required to place pavement.

Mr. Wiseman asked if Ms. Minner had any other comments. She stated the afforestation for the site needed to be addressed since there is no forest existing.

Mr. Wiseman entertained additional comments from the Commission members. There were no other questions. He entertained questions from the audience. There was no one in attendance with any questions.

**MOTION: Motion was made by Mr. Muller to approve the Concept Site Plan for William H. Brady, Inc. contingent upon addressing all outstanding comments, approval of design waivers A, B and E, acquiring a variance from the Board of Zoning Appeals for the requested design waiver D and acquiring a special exception for this use per Article X, Section 10.220 in the Town Zoning Ordinance and Article XII, Section 5. The motion was seconded by Mr. Ginder with the remaining Commission members voting as follows: Mr. Thompson – Aye; Mr. Wiseman – Aye. The motion passed unanimously.**

**REQUEST OF FREDERICK WARD ASSOCIATES REPRESENTING PATRIOTS LANDING, CONCEPT PLAN, 32, 80, 180 MUDDY LANE, TAX MAP 27F, PARCELS 117, 118 & 1107 AND ZONED R-2 (SUBURBAN RESIDENTIAL)**

Mr. Tom Miner of Frederick Ward Associates was in attendance to address this request. He stated they are before the Commission requesting Concept Plan approval. He stated this will be a 100 unit subdivision of single family homes.

He noted the entrance to the subdivision will be off of Muddy Lane. The plan is similar to the plan submitted in 2007/2008 which stopped during the recession in 2008. They are proposing to pull water off of Muddy Lane and sewer will be accessed through the Patriots Glen Subdivision. They will have both off site and on site forest conservation.

Mr. Miner stated they have received comments from the Town, KCI and Singerly Fire Company. They have submitted plans to State Highway and have submitted their traffic impact study to Cecil County but have not received comments regarding either of these plans as yet.

Mr. Wiseman asked if they are proposing only one entrance and exit. Mr. Miner confirmed there would be one entrance and exit. Mr. Ginder asked if they are proposing basements for the homes and whether the homes would be sprinklered. Mr. Miner stated the homes would have basements and noted that Maryland State Law requires sprinklers. There was discussion regarding whether the 60' right of way would be sufficient for access if vehicles are parking on the road, particularly emergency vehicles. Ms. Minner noted that the 60' right of way came from the Town standards and reflects the current road width requirements. She stated the Town engineers would have informed the Town of the need for a change if the standards needed to be updated.

Mr. Ginder asked if there were any items grandfathered for this subdivision. Mr. Miner stated the only thing which might be considered grandfathered would be the fact that sewer capacity was set aside for these units when they came in initially. Mr. Miner stated that with respect to parking, there is a pretty wide setback from the building to the right of way. He also stated that typically most products today have garages provided for each unit. Commissioner Broomell asked if these units have garages. Mr. Miner stated he believes they are provided but he cannot say for certain.

Mr. Ginder asked if all these homes would be built to current standards. Ms. Minner stated the project would not be approved if they were not being built to current standards. Mr. Wiseman asked the size of the Bufferyard provided for the residential lots along Muddy Lane. Mr. Miner questioned whether buffer yards are required between residential properties. He noted that the provided lots are deeper than the minimum lot requirements so if a buffer is needed they would have room to place one.

Mr. Wiseman asked about the traffic impact study. Mr. Miner stated they have submitted it to State Highway and Cecil County but haven't received any comments as yet. Mr. Miner stated improvements would be made with regard to the ditches on each side of Muddy Lane. Ms. Minner stated that Cecil County will require improvements. There was discussion about the location of the mailboxes along Muddy Lane and residents needing to cross that road to get their mail.

Mr. Wiseman asked if a bus stop would be provided within the community. Mr. Miner stated he thought the bus would simply drive through the community to pick up students.

Mr. Muller mentioned the placement of power lines on the site plan are actually located on the other side of the street. Mr. Miner stated he would check the site plan and make any changes necessary.

Ms. Minner inquired about the steep slopes on the property. Mr. Miner stated there is only one area on the property with steep slopes. He stated he felt that area might have been a logging road at one time. He said they would be working with the adjoining property owner/s to flatten and fill in that area. Mr. Miner confirmed that the area was not a stream.

Mr. Thompson asked where the open space and any amenities for children might be located. Mr. Miner pointed out the location near Lots 70 & 71. Discussion ensued regarding how much open space is

required for the subdivision. Ms. Minner stated one of her comments was to clearly note the acreage of open space, exclusive of the non-tidal wetlands or stormwater facilities. Mr. Miner stated they would recalculate the open space totals. Mr. Thompson asked about the grass swales between the properties and Mr. Miner stated they are for storm water treatment. Ms. Minner asked if they would just be grass or would they be placing anything else within them. Mr. Miner stated they would prefer to leave them as grass swales to keep it from being an obstruction to the residents.

Discussion ensued regarding whether elevations are required. Ms. Minner stated that is under the purview of the Building Department. She stated she believes the developer is required to provide as-builts. Mr. Miner stated that ordinarily an as-built is done for the entire subdivision not just the stormwater, etc.

Mr. Thompson asked if there will be a Homeowner's Association. Mr. Miner confirmed there would be an HOA.

Commissioner Broomell asked the distance from Lot 1 to Muddy Lane. Mr. Miner stated it is approximately 60' which is based on Town standards. She asked if there would be a monument sign at the entrance to the subdivision. Mr. Miner stated they would be amenable to placing one if the Town would like them to.

Mr. Thompson questioned whether these homes would be owner occupied or rentals. There was discussion about placing a deed restriction to prohibit rentals. Mr. Miner stated in his experience single family homes don't usually have concerns about rentals but he would ask the developer about the possibility of placing that type of deed restriction.

Mr. Wiseman asked if Mr. Miner had any concerns about any KCI comments. Mr. Miner stated he needed to speak with Ardalan Faghri about whether some of his comments were specific to preliminary plans. Ms. Minner stated that if the comments are specific to concept stormwater plans then those comments might need to be addressed prior to their Preliminary Plan submittal. Mr. Miner stated he didn't see any concerns with comments he has received thus far.

Mr. Muller voiced his concern regarding the ingress and egress along Muddy Lane due to the space limitations. He will be interested to see the County's comments. Mr. Miner stated they would be working with the parties responsible for the roads to address any concerns they may have. He stated they were reluctant to show the ingress and egress before receiving those comments.

Mr. Wiseman entertained additional questions or comments from the Commission members. There were no further questions.

Mr. Wiseman asked if anyone in the audience had any questions regarding the Patriots Landing Site Plan.

Ms. Lydia Klukewicz of 260 Muddy Lane stated they have significant issues with flooding and is concerned that when construction begins on the development where the drainage will be directed. She also voiced her concern regarding the additional traffic along Muddy Lane. She said it is already difficult with the current traffic load to cross the road to get to their mailbox. She stated they have also lost electricity when cars have hit the power lines along Muddy Lane. Mr. Wiseman stated the Town received detailed stormwater plans and he would suggest she be vigilant in seeking answers to her questions. It was noted the plans for each meeting can be found on the Town's website.

Mr. Peter Drake of Plymouth Drive in Newark, Delaware stated he owns property to the east of the development. He voiced his concern for the wells and septic systems in the area and how they might be affected by the development. Mr. Wiseman stated they could provide Mr. Drake with a copy of the plan.

Mr. Douglas Rash of 108 Muddy Lane voiced he concern that their wells are shallow and how the development might affect the wells and their septic systems. He asked if they would be able to tie in to the public water & sewer system of the development. Ms. Minner stated they would have to annex into the Town in order to have access to Town water & sewer. Mr. Rash noted that their septic fields run toward the grass swales of the Patriots Landing development, west of Lot 47. Mr. Miner stated the stormwater should stay within the swale but he would be willing to work with Mr. Rash to mitigate his concerns. Mr. Rash mentioned that he wanted to build another house on his lot but was declined because of the soil in the area. He wondered how this development would be able to put in basements due to the underground water table.

Mr. Rash also mentioned the amount of traffic along Muddy Lane and the fact that the ditches are wearing away. He stated there are accidents along this road all the time, in fact there were two on Sunday. Mr. Rash asked about buffering between his lot and the residential lots in this development. Mr. Miner stated a buffer is not required between two residential lots but if it was a concern for him they would work with him regarding some type of buffer.

Mr. Wiseman stated Mr. Rash would be able to have access to the plans in the Town office. He could contact Ms. Minner and she would be glad to answer any questions he may have. Mr. Wiseman stated that all the Commission members are residents of the Town also and they travel Muddy Lane also. He stated he would keep on top of their concerns and strive to be sure the development is done according to the standards required and if there are any problems that they will be mitigated. Mr. Wiseman noted that all the comments made by the Town, KCI and other entities are contingent upon the developer addressing them to the satisfaction of the Town.

Mr. Rash had questions about a property which is part of this development that is currently up for sale. Mr. Miner stated that they have the property in question under contract.

**MOTION: Motion was made by Mr. Thompson to approve the Concept Site Plan for Patriots Landing contingent upon addressing all outstanding comments. The motion was seconded by Mr. Muller with the remaining Commission members voting as follows: Mr. Ginder – Aye, Mr. Wiseman – Aye. The motion passed unanimously.**

**CASE # 1605 – REQUEST OF MICHAEL MARINE REPRESENTING WALMART SUPERCENTER FOR A SPECIAL EXCEPTION FOR STORAGE TRAILERS. THIS ACTION CONCERNS PROPERTY LOCATED AT 1000 EAST PULASKI HIGHWAY, ELKTON, MARYLAND, TAX MAP 033C, PARCEL 0493 AND ZONED C-2 (HIGHWAY COMMERCIAL)**

Mr. Michael Marine and Mr. Lou Bah were in attendance to represent Walmart in this request. Mr. Marine said he is sure everyone knows Walmart uses trailers during the holiday season each year. Recently the warehouses are getting too full and Walmart contacted the stores to let them know an increased amount of freight would be delivered to stores. He stated they have been unable to store this amount of freight in their building and do not want to place additional freight in the store aisles. He said normally they will receive 1-2 trucks per night and now they will be going to four 2-truck nights. He stated they are proposing to place 5 – 20' trailers behind the store near the Auto Care Center and 12 – 20' trailers in front of the Lawn & Garden Center entrance.

Mr. Wiseman stated they are requesting the additional trailers between 3.23.22 and 6.10.22. Mr. Wiseman asked if this will be a recurring event or just a one-time event. Mr. Bah stated they do not anticipate it being a long term situation. There was discussion as to whether this was due to the shipping situation around Christmas.

Mr. Marine explained that the trailers will keep their back room area more open and easier for employees to operate in. They will also keep the aisles from being packed with merchandise so the store will be safe for customers.

Commissioner Broomell asked if this would be happening at all the Walmart stores. Mr. Marine stated each one is different but the warehouses for the North East store, Dover & Middletown are all overflowing right now. He explained that they are now getting the same amount of freight in one day that they normally would get in two weeks.

Mr. Muller mentioned a recent fire at a Home Depot where the aisles were filled with merchandise and how quickly the fire consumed the building.

Mr. Wiseman entertained questions from the audience. There were no questions.

**MOTION: Motion was made by Mr. Ginder to recommend approval of the special exception request by Walmart for additional storage trailers for excess merchandise to be placed from March 23<sup>rd</sup> to June 10<sup>th</sup>. The motion was seconded by Mr. Thompson with the remaining Commission members voting as follows: Mr. Muller – Aye; Mr. Wiseman – Aye. The motion passed unanimously.**

#### **DISCUSSION – REQUEST OF RAY JACKSON OF STONEWALL CAPITAL REGARDING PROPOSED AMENDMENTS TO THE TOWN ZONING ORDINANCE, ARTICLE XI PLANNED DEVELOPMENTS**

Mr. Ray Jackson and Mr. Ryan Humphrey of Stonewall Capital and Mr. Dwight Thomey, legal counsel were in attendance to address this request. Mr. Thomey stated they wished to speak to the board concerning the challenges they are running into regarding the open space requirements in the PUD language because there are two conflicting sets of criteria in the Town Ordinance, one for the Planned Unit Development and the other for regular residential requirements. They are seeking clarification prior to initiating the single family development.

Mr. Thomey introduced Mr. Humphrey in order to address their areas of concern. Mr. Humphrey provided a handout comparing the requirements for the PUD under Article XI and those for regular residential development under Articles XII, XIII, & XIV (see attachment). He noted that the PUD has specific requirements called out in Article XI but the PUD would also be required to provide the requirements for the open space, neighborhood parks and recreational facilities called out in Articles XII, XIII, & XIV.

Mr. Humphrey stated they are here specifically to address the recreational space and neighborhood park requirements. He stated they feel the difference between what would be required under Article XIV for multi-family housing and the requirements under the PUD for multi-family housing are significant.

He pointed out that the total neighborhood park acreage required under Article XIV is 7.18 and the acreage required under the PUD is 17.4 which is a difference of 10.2 acres. He noted that the PUD

includes 568 acres and under the current code 217 acres would be required for open space (not including Parcel F) and the parks & recreation areas would require approximately 65 acres under the current code for the PUD.

Mr. Humphrey stated they are requesting Section 15(c) In Article XI be stricken from the Ordinance which specifies the need for .02 acres of parks & recreational space is required per dwelling. He noted that even with this section removed the remaining requirements under this section call out the requirements which are specified in Article XIV which still provides a large amount of recreational space.

Ms. Minner interjected the overall open space required in the industrial park is not something that benefits residents in the area since it is unlikely they would use the open space on that particular lot. She asked how Mr. Humphrey can assure they would meet the regulations for residential open space adjacent to the residential areas. Mr. Thomey stated they would still be required to meet the regulations under Article XIV. Discussion ensued regarding how the open space requirements would specifically be met.

Ms. Broomell asked for clarification as to what is not working for the developer in the current requirements of the PUD part of the Zoning Ordinance. Mr. Jackson and Mr. Humphrey explained that Parcel D is 25 acres. Gray Star, the developer for the multi-family homes, will be providing a club house, pool, indoor exercise facility with rental space for parties, etc. Normally that would require approximately 2 acres of property. Mr. Jackson stated their issue is that they are being held under two different standards, the PUD standard and the underlying zoning standard. He said that if they were to adhere to the underlying zoning standard they would be required to provide 1.73 acres. He compared that to the PUD regulations which require 7.1 acres.

Ms. Blackson clarified that the idea with regard to the .02 open space regulations for multi-family housing was that the large Parcel I without the PUD overlay would have otherwise been zoned for residential homes and would have provided some kind of open active space. The Town's reasoning in placing the .02 was that industrial space takes away from open active space when placed within a PUD. Ms. Minner pointed out that the calculations are similar whether within the PUD or regular residential zoning. Ms. Blackson suggested leaving the parks & recreation space requirements at .02 for apartments and maybe looking at increasing the percentage of open space from 25% to possibly 26 or 27%. She stated she and Ms. Minner have discussed this request and have had meetings with Mr. Jackson but they wanted the Planning Commission to have the opportunity to have input in the requirements as well.

Mr. Wiseman stated that if the Town is able to eliminate some of the possibilities of the downfall surrounding multi-family housing to make it successful rather than see code violation issues later then it needs to be addressed now. Discussion ensued regarding where changes could be made to be equitable to both the developer and the Town. Ms. Blackson suggested increasing the percentage of open space to 28% which would put the required neighborhood parks at 1.94 acres. Ms. Minner noted that more density is allowed in the PUD so that was part of the reasoning for increasing the parks & recreation and open space.

Mr. Jackson stated he believes the Town and the Commission members will be very satisfied when they see what the developer is proposing, which will be state of the art.

Mr. Wiseman inquired of Ms. Minner how it was best to proceed. Ms. Minner stated she and Ms. Blackson will draft the language for the amendment and provide copies to the Planning Commission members for a public hearing. There was consensus from the Commission members to handle it that way. Mr. Thomey asked if the draft could be forwarded to himself and Mr. Jackson when completed. Ms. Minner stated she will forward a copy to them prior to advertising it in the paper.

There were questions whether the other sections were going to be discussed. Ms. Minner stated that only the highlighted sections, which have been discussed will be addressed this evening.

**OLD BUSINESS:** Ms. Minner stated she and Ms. Blackson would work on the language for the amendments to the Zoning Ordinance to be presented at the next Planning Commission meeting.

**NEW BUSINESS:** Mr. Wiseman noted that Mr. Keane had resigned from the Commission for personal reasons. There was discussion of other options to allow Commission members to attend the meeting in a way other than in person.

There being no further items to discuss Mr. Wiseman stated the next meeting of the Planning Commission will be on May 9, 2022 and adjourned the meeting at 8:00 p.m.

Respectfully submitted,

Brie Humphreys