

**TOWN OF ELKTON
PLANNING COMMISSION
DECEMBER 12, 2022
MEETING MINUTES**

Present: Dave Wiseman; G. Edward Ginder; Keith Thompson; Mandy Feeney; Lisa Blackson, Esquire; Jeanne Minner, Director of Planning; Quinn Krenzel, Planner

Absent: William Muller

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 November 7, 2022 meeting. There being no corrections from the Commission members, Mr. Wiseman called for a motion.

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

REQUEST OF BOHLER ENGINEERING REPRESENTING TACO BELL, PRELIMINARY MAJOR SITE, LANDSCAPE AND LIGHTING PLANS, 312 EAST PULASKI HIGHWAY, TAX MAP 033B, PARCEL 2377 AND ZONED C-2 (HIGHWAY COMMERCIAL)

Ms. Emily Pate of Bohler Engineering was in attendance to represent the developer, Summerwood Corporation, regarding this submission. She stated they are proposing placement of a Taco Bell restaurant at 312 East Pulaski Highway. She stated this location had been a Ruby Tuesday restaurant and the property is 1.33 acres with a C-2 (Highway Commercial) zoning designation. She noted that the Ruby Tuesday has been vacant since 2018. She stated a fast food restaurant is allowed by right in the C-2 zone and the drive through is allowed with conditions. She said they have no concerns with the required conditions.

Ms. Pate noted they are proposing to demolish the Ruby Tuesday and reconstructing a 2,722 square foot Taco Bell restaurant. There is proposed parking and landscaping on site with a right in and right out access off of Pulaski Highway and noted there is also access off of Whitehall Road on the other side of the property.

She stated they are required by Town Ordinance to provide 22 parking spaces and they will be providing 29 parking spaces. She noted they will be requesting two design waivers to the parking requirements.

Ms. Pate noted they have received comments from Cecil Soil Conservation District, the Town and Singerly Fire Company and a third party review was made with respect to traffic impact. She does not see any issues in addressing any of these comments. She provided a rendering of the proposed restaurant.

She addressed two design waivers: 1) they are requesting a design waiver not to be required to provide a loading zone; and 2) they are requesting more than seven (7) parking spaces in a row between landscape islands for three nonconforming areas that include two areas with 10 parking spaces and one area with 9 parking spaces. Mr. Wiseman asked if the existing Ruby Tuesday is 5,554 square feet. Ms. Pate stated that he was correct.

Mr. Wiseman noted that the entrance between Olive Garden and the Ruby Tuesday has always been in pretty rough shape and he asked if their intention was to upgrade the entrance. Ms. Pate stated the property line for the Rudy Tuesday is just to the right of that entrance and they will not be encroaching upon that entrance at all.

Mr. Ginder asked if the existing landscape islands were being removed. Ms. Pate stated they will be removing two (2) landscape islands and will replace them with one (1) larger island in order to provide a better entrance area for flow. Mr. Ginder asked if the neighboring property owner had been notified. Ms. Pate stated they have an agreement with the shopping center for parking which she stated she would be glad to provide to the Town. She explained that they are required to provide 172 parking spaces and they are providing 376 spaces.

Mr. Wiseman asked Ms. Minner about how the decrease in size of the building would affect the stormwater calculations for the property. Ms. Minner stated the stormwater calculations would have to be checked. Mr. Fruehstorfer of KCI stated they are currently under review. Ms. Pate stated they are reducing the impervious surface area and are meeting the full MDE and the Town's stormwater requirements.

Mr. Wiseman asked if the current Taco Bell in the Elkton Crossing Shopping Center will be removed. Mr. Joe De Pascale of Summerwood stated the existing Taco Bell would be closed. He stated they recently bought 4-5 stores from this franchisee. Because the site is small and tight they were unable to upgrade it the way they wanted and that is the reason for the move to the new location.

Mr. Wiseman asked if Ms. Minner had any additional questions. She asked if Taco Bell had any issues addressing any of the comments, particularly, the landscaping comments. Ms. Pate stated they have no issues addressing any of the comments. Ms. Minner noted that they would be receiving a revised comment letter for the Preliminary Site Plan which will have two additional minor comments.

Mr. Wiseman asked if anyone on the board had any comments or questions. Mr. Thompson questioned why they would demolish an existing building which is in such good condition. Mr. De Pascale stated they like to create their prototype so that the kitchen is the same in all the stores for operational reasons.

There being no additional questions from the board, Mr. Wiseman opened the floor to audience comments.

Ms. Amy DiPietro asked about four parking spaces on the south part of the plan shown on the screen. Ms. Pate stated the striping provides an exit for vehicles that are backing out of parking spaces for safety and traffic flow purposes.

Ms. DiPietro questioned how a customer would enter the drive thru that is closer to the building. Would they circle the entire building? Ms. Pate explained the traffic flow for customers entering that specific drive thru. She explained there is a bypass lane that would allow customers to opt out of the drive thru or for vehicles who are simply leaving the property. Discussion ensued regarding vehicles entering the drive thru by way of different access points on the property.

There being no additional questions from the audience, Mr. Wiseman asked if anyone on Zoom had any questions. There was no one present to speak for or against this request.

MOTION: Motion was made by Mr. Ginder to approve the Preliminary Site, Landscape and Lighting plans for Taco Bell and allowing two design waivers as presented. The motion was seconded by Mr. Thompson with the remaining Commission members voting as follows: Ms. Mandy Feeney – Aye; Mr. David Wiseman – Aye. The motion passed unanimously.

REQUEST OF STEPHENS ENVIRONMENTAL REPRESENTING FREE STATE BUSINESS PARK LIMITED PARTNERSHIP, CONDOMINIUM PLAT, TAX MAP 027C, PARCEL 2102, AND ZONED C-3 (HIGHWAY INTERCHANGE COMMERCIAL)

Mr. Bill Stephens of Stephens Environmental and Mr. Dylan ViaCava representing Shaw Real Estate were in attendance to address this request. Mr. Stephens said they received comments from KCI last week and have addressed those comments. Mr. Wiseman asked if they had any issues with addressing any comments they have received. Mr. Stephens said some of the comments are not part of the condominium requirements or don't apply to the plat.

Mr. Stephens listed the comments, which were not applicable, that included comments 2, 3, 5, 6, 7, 8, 9 & 12. Mr. Stephens stated they have not received a total for submittal fees due for the plat. Ms. Minner stated it is a Minor Subdivision and said she would send him the fees due. Mr. Fruehstorfer stated the plat was reviewed by KCI as a minor subdivision plan. Mr. Wiseman asked if he was comfortable that the comments mentioned do not apply. Mr. Fruehstorfer stated that he was.

Mr. Wiseman asked Mr. Stephens if there were any other comments from the Town or others which he had issues in addressing. Mr. Stephens stated their attorney had addressed the comments from the Town received on 12/5/22. Ms. Minner said she was comfortable with how the comments were addressed.

Mr. Stephens gave a brief overview of the requirements for a land condominium and noted there are only a few in the state. Discussion ensued regarding land condominium requirements. Mr. Stephens explained that there is no construction proposed as part of this subdivision. If there was a decision to do construction in the future they would have to go through the site plan process.

Ms. Minner asked what their purpose was in handling it in this manner. Mr. ViaCava noted they will be building in different phases. The first phase entailed Building 1 consisting of 64,800 square feet. He said they hope to begin Building 2 early next year. He mentioned when they began contacting banks for financing they encountered some difficulties and found this was the best approach to meet all the requirements.

Mr. Thompson asked if the title will be for the land under the building as opposed to the parking areas. Mr. ViaCava stated he was correct. He stated the parking is shared as a ground area element that is managed by the condo association.

Mr. Wiseman asked if Ms. Minner or any other members of the board had any additional questions. Ms. Lisa Blackson had a question about how the common elements would be divided and how that will affect signage since that lot is not shown as part of the common elements. Mr. ViaCava said his understanding was that the lot in question was part of the common elements and will be where the signage for the business park will be located. Mr. Stephens interjected that he was asked to create a fourth parcel but wasn't sure what the reasoning was for it to be done that way. He stated it may have been done in order to give them the option to sell off that area in the future. He stated they have no intention of doing that but that may have been their reasoning. Ms. Minner cautioned that if the property is sold in the future that would make any sign on that parcel an offsite sign and they have different regulations which would then need to be met. Ms. Blackson noted that the Town approves signage not the County. Ms. Blackson said she understands land condominiums can be difficult so she will be sure this situation is addressed prior to final approval.

MOTION: Motion was made by Mr. Thompson to approve the Free State Business Park Condominium Plat contingent upon addressing all outstanding comments and provided clarification of

Lot 4 as discussed. The motion was seconded by Ms. Feeney with the remaining Commission members voting as follows: Mr. Ginder – Aye; Mr. Wiseman – Aye. The motion passed unanimously.

CASE # 1618 – REQUEST OF RED LEAF CHESAPEAKE BLVD, LLC REPRESENTING PARATUS PHYSICAL THERAPY FOR A SPECIAL EXCEPTION TO ALLOW A PHYSICAL THERAPY FACILITY. THIS ACTION CONCERNS PROPERTY LOCATED AT 101 CHESAPEAKE BOULEVARD, ELKTON, MARYLAND, TAX MAP 033C, PARCEL 2439 AND ZONED C-2 (HIGHWAY COMMERCIAL)

Mr. William Statkiewicz representing Red Leaf Chesapeake Blvd, LLC and Mr. Paul Cunningham of Paratus Physical Therapy were in attendance to address this request. Mr. Wiseman asked if Mr. Cunningham would give an overview of what they do. He stated Paratus is a private outpatient physical therapy practice which was started last February. He said it is a non-traditional boutique style physical therapy practice which caters to a unique population. Essentially they focus on adults who are active and have difficulty getting to therapy during traditional hours. He explained they are by appointment only and typically evenings and weekends. It is boutique in the sense that it is small (300 sf) which provides the area needed to perform physical therapy. It is a sports kinetic sync orthopedic focus for the weekend warrior trying to stay injury free without medications or surgery.

Mr. Wiseman asked what had been located in this space previously. Mr. Statkiewicz said when he purchased the building it was vacant so he is unsure what was there previously. Mr. Wiseman noted the entire building is 31,000 square feet. Mr. Statkiewicz stated he was correct. Mr. Wiseman asked if the building was separated out when Mr. Statkiewicz purchased it. Mr. Statkiewicz confirmed it was already separated.

Mr. Wiseman asked if an entrance and ADA ramp were existing. Mr. Statkiewicz said there are no steps required when entering the building. Mr. Wiseman asked Ms. Minner if there were existing ADA parking spaces. Ms. Minner stated there are existing ADA spaces outside the building.

Mr. Statkiewicz noted the Planning Commission has previously approved other medical uses for this building such as the Clearway Pain Management and Surgery Center is currently open. There is also a dentist using approximately 6,000 square feet which is currently under construction.

Mr. Statkiewicz noted that the interior of the building has been completely redone and they have addressed all the water issues that existed when the building was initially purchased. They have also redone the parking lot and placed curbing, etc.

Mr. Wiseman confirmed that this will be a recommendation to the Board of Zoning Appeals for their meeting on Thursday, December 22nd. Mr. Wiseman asked if Mr. Cunningham was the sole therapist for this business. Mr. Cunningham confirmed that he is and that he also works full time as an outpatient physical therapist at the VA hospital in Wilmington and therefore he is always on call.

Mr. Wiseman opened the floor to comments or questions from the audience or any Zoom participants. There were no questions. He asked if Ms. Minner had anything additional to add. She stated she did not have any other questions.

MOTION: Motion was made by Mr. Ginder to recommend approval to the Board of Zoning Appeals for the special exception for Paratus Physical Therapy. The motion was seconded by Ms. Feeney with

the remaining Commission members voting as follows: Mr. Thompson – Aye; Mr. Wiseman – Aye. The motion passed unanimously.

REQUEST OF MORRIS & RITCHIE ASSOCIATES REPRESENTING TC MIDATLANTIC DEVELOPMENT II, INC., ELKTON COMMERCE CENTER PHASE 4 FOR A VARIANCE FOR THE REMOVAL OF SPECIMEN TREES AND IMPACTS TO PRIORITY FORESTS. THIS ACTION CONCERNS PROPERTY LOCATED ON TAX MAP 033B, PARCEL 2462, LOT 3 AND ZONED C-2 (HIGHWAY COMMERCIAL)

Ms. Amy DiPietro of Morris & Ritchie Associates was in attendance to address this request. She stated they are requesting a variance for removal of specimen trees and also to impact forest on this property. She stated this request is specifically for Lot 3 which is approximately 19.714 acres. She noted they received preliminary site plan approval in November. A forest stand delineation was completed by Eco Science identifying 22.5 acres on the Williams Property parcel. She stated on Lot 3 they are proposing to clear approximately 15.39 acres and about 1.64 acres is priority forest. They are also proposing to remove four (4) specimen trees which have been graded at poor or fair condition.

Mr. Wiseman asked if these trees would need to be replaced offsite. Ms. Minner stated the trees would not have to be replaced. Mr. Wiseman asked for clarification regarding the amount of forest being removed. Ms. DiPietro noted that only the areas shown in blue or green is existing forest and the areas in between are currently not considered forested in the existing conditions. Ms. Minner clarified that this is only a request for Lot 3, if any other forest in Lots 1 or 2 needed to be cleared they would be required to come back before the Commission for an additional variance.

Mr. Wiseman asked about one of the trees that is encroaching on Lot 2. Ms. DiPietro stated that tree is in an area which will be developed as part of the common entrance. Mr. Wiseman asked if Ms. Minner had been out to look at the trees they are requesting to remove. She stated she did see the trees. He asked what type of trees were being removed. Ms. DiPietro stated there is one Norway Maple and three Black Walnut.

Mr. Wiseman entertained questions from the Commission members. There were no questions. He asked if anyone in the audience or online had any questions. There was no one in attendance to speak for or against this request.

MOTION: Motion was made by Mr. Ginder to approve the variance for removal of four (4) specimen trees as noted and impacts to priority forests as discussed. The motion was seconded by Ms. Feeney with the remaining Commission members voting as follows: Mr. Thompson – Aye; Mr. Wiseman – Aye. The motion passed unanimously.

OLD BUSINESS: Ms. Minner noted they will begin working on the Comprehensive Plan update and Mr. George is checking to see if ARPA funds can be used to hire a consultant to assist with that work.

She said there is a firm that is interested in doing the work. She needs to forward them a copy of the Town's procurement policy and she stated it needs to be posted in the paper in order to get different quotes before they make a decision. She mentioned that the consultant, Michael Bayer who worked on the last comprehensive plan is working for the company that reached out to her.

She mentioned they are working on some grant applications currently to try to address the nuisance flooding. They are working with Underwood Associates, a company who has done work in Havre de Grace. The flooding issues that will be looked at encompass numerous areas in Town such as Elkton Road stream bank erosion all the way to siltation of the water treatment plant on Delaware Avenue, the flooding on Howard Street and Bridge Street, and the bulkheads that are being lost and eroded in Marina Park. There are many projects which need to be addressed with respect to flooding issues. It will likely need to be done in phases with different work in specific areas.

NEW BUSINESS: Ms. Minner mentioned they have a lot of new projects coming in to Town which will keep them very busy.

Mr. Thompson asked about a question that was raised regarding advertisements for rental townhouses and apartments in the Southfields project. Ms. Minner said the rental townhouses were owned by one entity, which would make it easier for the Zoning Administrator to address issues as opposed to what is happening currently where townhouses are being rented by individual owners which complicated addressing issues since there is no way to know who currently resides in any individual townhouse being rented.

Mr. Wiseman stated the next meeting of the Planning Commission will be January 9th. There being no additional items to discuss Mr. Wiseman adjourned the meeting.

Respectfully submitted,

Brie Humphreys