

**TOWN OF ELKTON
PLANNING COMMISSION
OCTOBER 6, 2014**

PRESENT: Asma Manejwala, G. Edward Ginder; David Fordyce; Rick Keane; Keith Thompson; Steve Leonard; Commissioner Mary Jo Jablonski; Cameron Brown, Esquire; Jeanne D. Minner, Director of Planning

ABSENT: None

Ms. Manejwala called the meeting to order at 7:00 p.m.

ACTION: Motion was made by Mr. Ginder to approve the minutes from the August 11, 2014 Planning Commission meeting. The motion was seconded by Mr. Fordyce. Mr. Thompson requested a correction be made to the minutes for this meeting to reflect his request to be recused from the discussion and vote regarding the Elkton Memorial Post #8175. Mr. Ginder amended his motion to reflect that change. Mr. Fordyce seconded the motion and the motion passed unanimously.

CASE # 1469 – REQUEST OF MELISSA CATALANO, SPECIAL EXCEPTION TO PLACE AN ADULT DAYCARE FACILITY IN THE C-2 ZONE, 677 E. PULASKI HIGHWAY, TAX MAP 316, PARCEL 2245, ZONED C-2

Mrs. Patricia Catalano was in attendance to represent her daughter, Melissa Catalano for the special exception. Mrs. Catalano stated that when her daughter came to the Town she was told that she needed to apply for a special exception for the adult daycare at this location. It was mentioned that one of the conditions was that the use was to be located within an end unit and therefore that is the reasoning for their request.

Mrs. Catalano shared information provided by her daughter concerning her reasoning for this location which included the following: the location off of Route 40 provides easy access to both Maryland and Delaware residents; it is in a quiet location and is not surrounded by many other businesses; provides main accessibility to the front door which allows a short walk for clients and is especially helpful for anyone who might have handicapped needs; the overhang in front of the door provides protection from the outdoor elements; the van setup will not disrupt the parking lot use of the other two businesses; the adult is beneficial to the community at this location will not be disruptive of the other businesses; she feels the daycare will provide independence for older adults that would ordinarily not be able to leave their homes during the day due to provision of transportation. She believes clients will have an enjoyable day with activities and social interaction with other adults. The center will also give loved ones and care givers a deserved break.

There was discussion regarding the exact location of the facility within the shopping center. Mrs. Catalano stated they will be in the middle of the shopping center with other businesses on either side. The facility will be taking one of the open units with the possibility of expanding in the future to include another unit in the shopping center.

Ms. Manejwala asked what the hours of operation would be for the facility. Mrs. Catalano stated the facility would be open Monday through Friday between 8:00 a.m. and 4:00 p.m. It was noted that they would have three vans that would be used to transport clients to and from the facility.

Discussion ensued regarding the actual entrance to the facility with respect to what was marked on the submittal. It was determined that the label 'Drop off Area' on the plan submitted was the actual entrance. Mrs. Catalano confirmed the location of the entrance.

There were additional questions with regard to the previous tenant of this unit, trash pickup, funding, licensing requirements and the number of clients proposed. The previous tenant was a medical clinic and therefore the space is well suited for the adult daycare. Trash pickup is contracted by the property owner, funding will be through grants and loans and zoning approval is required prior to licensing being issued. The facility will not be for the use of seniors only but for some disabled individuals also. Mrs. Catalano noted that a Registered Nurse (RN) would be on staff at the facility.

Mr. Keane asked if there were other similar uses in the C-2 Zone in Town. Ms. Minner stated that there have been other submittals to place daycares in the C-2 Zone but none of them have followed through and placed a daycare.

There were questions regarding the special exception language in the Ordinance and the Board's authority to enforce it. Mr. Brown explained that the term 'special exception' can be confusing. It is presumptively valid if the applicants are able to meet the conditions that are placed by the Zoning Ordinance.

Discussion ensued over where the three vans would be parked overnight when not in use. It was determined that they would be parked at the shopping center but toward the rear of the property. Ms. Manejwala asked if family members or others would be allowed to drop clients off. Mrs. Catalano stated that they are welcome to drop clients off at the facility.

Mr. Ginder asked if the number of clients at the facility would be part of the State licensing approval. Mrs. Catalano stated she believed that it was part of the approval process.

Ms. Manejwala entertained questions from the audience. There were none.

Mr. Fordyce excused himself from the meeting prior to this motion being called.

MOTION: Motion was made by Mr. Ginder to recommend approval to the Board of Zoning Appeals for the special exception to allow an adult daycare to be placed at 677 East Pulaski Highway with a two year restriction and review at the end of that time. The motion was seconded by Mr. Thompson and unanimously approved.

JOHN MASCARI OF FAIRHILL ENGINEERING REPRESENTING SUMMIT AT WALNUT HILL 2, EXTENSION OF PRELIMINARY MAJOR SUBDIVISION PLAT, SINGERLY ROAD & KATIE LANE, TAX MAP 306, PARCELS 2162 & P/O 2435, ZONED RO

Mr. John Mascari of Fairhill Engineering was in attendance to address this submittal. He stated that he is representing the owner/developer, Capri Property Management. He gave an overview of the Summit at Walnut Hill II Subdivision which will include 21 townhouses. He noted there are two entrances off Route 213 into the subdivision by way of Katie Lane and Bonnie Marie Lane. He discussed open space, neighborhood parks and stormwater management for the area and showed an early rendering with Section I included. He noted that there is a different owner for each phase and that they could be developed individually.

Summit at Walnut Hill II will have townhouses with garages. These will be located on the north side of the subdivision and on the south side will be a park that will be available to all residents in Walnut Hill. He noted that the stormwater management area will be fenced and there will be screening between it and the neighborhood park.

Mr. Mascari disclosed that the reason for the extension was primarily the economy and that the developer has not had an interested builder.

Discussion ensued regarding specific comments from the Town and KCI and several Board members voiced their concern regarding the number of comments that were 'not addressed'. Ms. Minner explained that the Town, KCI and DPW have all reviewed the submittals and the majority of comments have actually been addressed. Mr. Frey concurred and stated that the reason for the 'not addressed' comments on KCI's letter is that they wanted the developer to be aware of the comments prior to the final submittal. Ms. Minner added that all KCI comments are either addressed or will be addressed at Final. Mr. Mascari pointed out that plans have been forwarded to State Highway regarding the right of way and they will need to receive approval from SHA prior to recording the subdivision plat.

Ms. Manejwala entertained additional questions from the Board. Mr. Fordyce questioned what would happen if the extension were denied. Ms. Minner stated that the stormwater management could be affected since they are under the old stormwater management ordinance. Mr. Fordyce asked Ms. Minner whether the Town has any issue with any comments regarding this submittal. Ms. Minner identified a rear access easement on the lots and the Ordinance states that the access easement should not be on the lots. She stated that when this was laid out the easement was included and due to the way the site was laid out they did not have enough depth in order to place the easement off the lots.

Discussion ensued regarding specific comments and Ms. Minner noted that she would forward Mr. Mascari's response to the October 1st comment letter to the Board since she was unable to do so because of recent issues with her e-mail. She added that there is a 'safety' comment included within this that encompasses all comments which states that all comments from previous letters must be addressed prior to final subdivision approval.

Ms. Manejwala inquired how the open space would be maintained. Mr. Mascari stated that it is likely that a professional management company would be hired by the Homeowner's Association to take care of the open space. Ms. Manejwala had a question about forest delineation. Mr. Mascari clarified that these

were two different sections and he knew that the information had been given to the developer and Aspen was supposed to address this concern. Ms. Minner added that it has been 22 years since the project was initially begun but she stated that the forest conservation was up to date. Ms. Manejwala asked if the wetlands had changed. Mr. Mascari stated he was not sure why that comment was listed. Ms. Minner stated that it may have been overlooked.

There was a question regarding the number of units that still needed to be built. Mr. Mascari determined that there were a little fewer than 100 units to be built out of the potential 400 proposed.

Ms. Manejwala entertained question or comment from the audience.

Ms. Tommie Mae Byers of 20 Kina Court voiced her (and other homeowners) concerns regarding the number of rental units in the subdivision. She stated that rental units bring down the property values for homeowners and initially when she purchased her home she was informed that the properties could not be rented unless they were properties owned by either Mr. Davitt or someone related to him. She stated that this is not the case now and although she likes her home the environment now is not the best. There are numerous absentee landlords and she commended Aspen Property Management for helping with this issue. He noted that some of the vacant townhouses were damaged by renters and that has caused issues with resale of these homes. Ms. Manejwala stated that the Planning Commission has no control over ownership once the homes are built. Ms. Byers was frustrated that the developer and the Homeowner's Association leadership are one in the same and therefore the other property owners have no power to make any changes. Mr. Brown stated that there would need to have been deed restrictions recorded prior to sale of the properties in order to be able to enforce renting of homes. Discussion of this issue ensued and Ms. Byers was encouraged to attend a Mayor & Commissioners meeting to voice her concerns.

Mr. Marty Kahn of 12 Kina Court agreed with Ms. Byers and also voiced his concerns that the previous sections have not been completed and wondered if they could require them to complete the other sections prior to beginning on this new section. He also voiced safety concerns about the number of people living in any specific unit in the subdivision. Ms. Minner said she would inform the Building Official to see if that could be addressed. Mr. Kahn was also frustrated that one of the parks had been damaged and the equipment removed and nothing has been done to replace it. He also stated he was not aware of open space areas that could be used for recreation. Mr. Mascari pointed out those areas on the plan for Mr. Kahn.

Mr. Mascari indicated that the owner of the subdivision was also concerned and intended to provide units that would create a high class neighborhood in order to draw owners as opposed to renters. He also mentioned that a declaration of restriction had been recorded and that Mr. Davitt's family members who own homes in the subdivision have been trying to sell their units. He stated that some owners could be breaking the declaration of restrictions and that this would be something that Aspen Property Management could address. Mr. Brown stated that enforcement of this issue would have to be done by the Homeowner's Association or developer.

There were no additional questions or comments.

Mr. Fordyce excused himself from the meeting prior to motion being called.

MOTION: Motion was made by Mr. Keane to approve the two year extension for Summit at Walnut Hill 2. The motion was seconded Mr. Thompson and unanimously approved.

OLD BUSINESS: Ms. Minner noted that there has been no movement on the Wawa since their previous appearance before the Board.

Ms. Manejwala asked about the status of the PUD language. Ms. Minner stated she and Ms. Thomas met with the developer as well as his attorney and engineer regarding changes to the PUD language. She stated that these changes/suggestions would be shown when submitted to the Planning Commission and changes could be made at that time. Ms. Manejwala asked that the changes be received at least a week before the meeting.

NEW BUSINESS: Mr. Ginder suggested that the Town might enclose the dumpsters in the parking lot of the municipal building.

Ms. Minner stated that the only item for the November meeting so far would be the annexation for the YMCA.

Mr. Thompson informed the Board that he would not be available for the November meeting.

There being no further business Ms. Manejwala adjourned the meeting at 8:37 p.m.

Respectfully submitted,

Brenda Humphreys