

**TOWN OF ELKTON
PLANNING COMMISSION
AUGUST 6, 2018
MINUTES**

Present: G. Edward Ginder; David Fordyce; Keith Thompson; William Muller; James Hutchinson; Lisa M. Hamilton Blackson, Esquire; Jeanne D. Minner, Director of Planning,

Absent: Rick Keane

Mr. Wiseman called the meeting to order at 7:00 PM. He introduced Mr. James Hutchinson as the newest the Planning Commission Board member as of August 1, 2018. Mr. Hutchinson was welcomed by all.

MOTION: A motion was made by Mr. Ginder to approve the minutes of the July 16, 2018 Planning Commission meeting. The motion was seconded by Mr. Thompson and unanimously approved.

JOHN MASCARI OF KARINS & ASSOCIATES 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 (RESIDENTIAL OFFICE)

John Mascari of Karins & Associates and Ms. Marie Davitt, owner of the property were in attendance to address this request. He stated they are requesting an extension of the preliminary plan for the project which consists of 21 single family attached townhouse dwellings within a cul-de-sac. It is located at the intersection of Katie Lane and Maryland 213. They are requesting a two year extension due to the fact that over the past few years the economy and house building have been stagnant. He noted that the project still needs to go through final plat submission and approval. This project has been ready to go to final but due to the lack of sales and interest it has been put on hold.

He explained that Ms. Davitt inherited this property as the result of a divorce and she has never been a developer. They are optimistic that they would be able to move through the final plat approval. He noted that most of the comments have been carried over from the previous meetings and they do not see any issues with most of the comments that would stop the process of seeking final approval.

Mr. Wiseman asked Ms. Minner if there were any contingencies with regard to this project. Ms. Minner stated that this project was part of the larger project of Walnut Hill and there are still some outstanding issues with the rest of the Walnut Hill park land which have not been addressed.

Mr. Mascari located the area where the 'dog park' was to be located for this project. He stated his understanding is that the plans for the dog park have been prepared and that there has been discussion with the HOA who were in favor of the dog park replacing tennis courts which were initially proposed for this project.

Mr. Wiseman questioned the ownership and relationship of this project to the rest of Walnut Hill. Mr. Mascari stated this project is now under separate ownership and will be a separate deed restricted community with its own open space and stormwater management. He stated he was not aware that the

dog park was specific to Summit. He thought the tennis courts were specific to Quail Ridge. This project will have its own neighborhood park within the subdivision.

He stated that in order to record Section 1, they created a separate park plan on one of the office lots in the interim prior to Section 2 being built. This interim park would be replaced upon completion of Section 2.

Mr. Wiseman asked if Ms. Minner had any other requirements that needed to be discussed. She stated she included a note that a stormwater management plan that complies with the current stormwater management ordinance is required because the grandfathering period of time for this project has expired.

Mr. Mascari stated that his understanding is that the State may make additional changes to the current stormwater management plan so that the original plans may be satisfactory by the time this project is ready to be developed. Mr. DeLorimier of KCI stated he also heard that changes may be made but that what is currently proposed does not meet the current criteria.

A question arose about construction plans being submitted for review by Mr. DeLorimier. Mr. Mascari agreed to provide him with copies of the correspondence regarding this project.

Discussion ensued regarding the length of time the Walnut Hill Subdivision has been under construction, the park areas, (specifically the dog park or tennis courts) and who will be responsible for the build outs of the park. Ms. Minner stated she believed that the build out of the park was tied to Section 1 of Quail Ridge and needed to be built out as part of the completion of that section.

Mr. Wiseman added that it has always been difficult to determine who is responsible for the different sections and villages and now there are different owners of different sections. If asked if there were any legalities with extending a project which had previously been owned by another party. Ms. Blackson interjected that if sections were recorded then whoever owned them at that time would be responsible to complete the development. Mr. Wiseman's concerns were that the developer had made promises about meeting with the HOA and to his knowledge he was not aware than any of the promises has been met.

Ms. Davitt was asked if any developers are currently interested in the project. Mr. Mascari noted that Gemcraft Homes is purchasing lots and building homes in Walnut Hill and may be interested in building in this project as well.

Mr. Ginder gave an example of another project in Delaware which had a similar situation and the town told them that no additional permits would be issued until the amenities were completed. He asked if there was anything to Town could do legally to force their hand to complete the work associated with the Walnut Hill Subdivision. Ms. Blackson stated they could look into that possibility with the projects that are already in the development process.

Mr. Wiseman said he would like to see a scope of work and what is pending with regard to Walnut Hill. Mr. Ginder stated he is not opposed to development but wants to see things completed for the sake of the homeowners who are currently living in the subdivision.

Ms. Minner asked if the Board would like her to ask Mr. Davitt to come to the next meeting to address these issues. Mayor Alt stated that he would direct the Building and Planning not to issue any additional permits for Walnut Hill until the dog park is built. Mr. Wiseman noted that there are also road and drainage issues as well.

Mr. Wiseman asked Mr. Mascari when the current extension expires. He stated that it expires on September 12, 2018. Mr. Wiseman asked if this decision could be tabled until the next meeting in order to gather additional information with regard to the issues mentioned.

Mr. Wiseman opened the floor for any questions or comments from the audience.

Ms. Laurie Humphries, 120 Mike Court, introduced herself as one of the directors of the Homeowners Association. She noted that all the villages in Walnut Hill are under the umbrella of one homeowners association. She stated there are currently seven different sets of declarations of restrictions for each part of the subdivision. She asked, as a member of the HOA, if any additional sections are approved, that the HOA be included in development of any future declaration of restrictions in order for them to get things as complete as the possible.

She went on to say that they have some concerns about the plans being reviewed currently, specifically how close the park near the intersection of Katie Lane and Nathan Lane is to MD 213. They are concerned for the safety of children coming and going from the park due to the speed of vehicles coming off MD 213 into the development. She also questioned the proximity of the retention pond to the neighborhood park. She noted that the HOA maintains the insurance for all the common areas and are unsure whether they would be able to be insured with the pond in that location.

Another concern is that the retention pond would be the first thing you see when you enter the subdivision. She said they understand that generally new construction would increase the value of the neighborhood however they are currently at a 44% rental rate and new construction of rental properties has been known to devalue the homes of those who are owner occupied.

She said she doesn't know, with regard to Section 1, what additional properties may be deeded over to the HOA and she thanked the Board for addressing the ownership of the different sections of the subdivision. They are having a difficult time determining what they are responsible to mow and/or maintain. They have looked into having the property surveyed in order to make that determination.

She added that there is no vote on record of the HOA approving a dog park to replace the tennis courts which were originally proposed. She said the HOA would love to open up discussion with the developers in order to determine what could be done to improve the neighborhood, property values and to decrease the number of calls to the Elkton Police Department.

Mr. Michael Alexander of 72 Jesse Boyd Circle presented the Board with 30 residents within the community with regards to the approval of this plan. He stated that many of those who signed the paper were not able to attend the meeting but wanted their voices to be heard. He said he agrees with concerns that have already been voiced and feels one of the other main concerns is the removal of the trees in order to place this project. He said for the residents on Mike Court and Mike Drive these trees provide them with privacy and relaxation. He voiced concerns for the wildlife that lives within these wooded areas.

He noted that there is still a lot of land which needs to be developed in Walnut Hill off of Bonnie Marie Lane. He noted that he was involved in clearing some of this land when the construction began years ago. He also noted that with more people there will likely be more calls to law enforcement and the response time will be decreased unless the police force is expanded.

Mr. Wiseman explained that since the plan is an extension of preliminary that there will be other meetings held for people to voice their concerns.

Ms. Jessica Fincham of 214 Mike Drive stated she came to the meeting in 2014 when Michael Davitt requested an extension for one of his projects. She stated Mr. Davitt told her she should have known better when she purchased her house since the property was posted. She provided a copy of a picture she took in 2014 of the sign which was faded and overgrown with bushes/trees. She stated that the main reason she bought her house in 2014 was that her house backed up to the woods. If she had been told the trees would be removed for development she would probably not have purchased her home. She stated she was told by the realtor that nothing would be developed behind her home. She found out three months after she bought her home about the development.

She voiced her opposition to the extension because of the number of times it has already been given extensions. She wondered how long these extensions would be allowed to continue. She mentioned that there are lots still not developed and roads which have never been completed. She mentioned the number of rental units and foreclosures on Mike Court and Mike Drive which affects their property values. She knows that the HOA has met with Mike Davitt to try to address some of these issues but no one was aware that the development was taking place in order to address it with him.

Mr. Richard Guerin of 107 Bonnie Marie Lane stated when they purchased their home 12 years ago they were told there would be no rentals and a tot lot would be built. His son is now 17 years old. He main concern are the property values and the lots that have been cleared but waiting to be developed. He feels the empty lots should be developed first before anything else is approved.

There being no other comments Mr. Wiseman closed the discussion regarding this project.

During the discussion of this project it was determined that the Mayor, Ms. Minner and possibly Mr. Wiseman would try to meet with Mr. Davitt in order to the issues which had been discussed at the meeting and specifically the park area which has never been built.

MOTION: Motion was made by Mr. Hutchinson to table the extension of Preliminary Major Subdivision Plat for Summit at Walnut Hill 2 until such time as a plan of completion of the development (Walnut Hill Subdivision) is presented to the Board. The motion was seconded by Mr. Thompson and unanimously approved.

**MARK ZIEGLER OF MCBRIDE & ZIEGLER REPRESENTING SHIPYARD CENTER, LLC,
MINOR SUBDIVISION PLAN FOR DELANCY PLAZA, TAX MAP 316, PARCEL 2336, ZONED
C-2 (HIGHWAY COMMERCIAL)**

Mr. Mark Zeigler of McBride and Ziegler was in attendance to address this request. Ms. Minner informed the Board and the applicant that there may be an issue with this project. Ms. Minner stated she understood that not all of the property owners adjacent to this project had been able to be notified of the meeting. She stated that the Town was notified that two of the letters had been returned due to insufficient postage and inquired who from their office had called the Town. Ms. Humphreys stated she had spoken with Brooke from McBride and Ziegler and said two letters had been returned. She was trying to contact the property owners to inform them but was unable to find any contact information. Ms. Humphreys stated the two property owners were Route 40 Venture and Fasano and Ferguson.

Ms. Minner stated the concern was that proper notification was not given. She informed Mr. Ziegler that if notification was not made properly that the project could be challenged. Mr. Ziegler stated that he was in a meeting later in the day and had not been told by his staff that there were any issues with letters being returned.

Ms. Blackson stated that since they were unable to determine that all the property owners were notified properly it would probably be safer for everyone to table this submittal to the next meeting to ensure that everyone has been notified.

Ms. Blackson informed them that the next meeting would be held on Monday, September 10th. Discussion ensued regarding how best to proceed. Ms. Blackson asked if they were able to confirm if all parties had been notified properly. Mr. Ziegler stated this was the first he had heard there were issues with notification. Ms. Blackson stated the Board would have to vote on whether the project should be tabled.

MOTION: Motion was made by Mr. Ginder to table the minor subdivision plan for Shipyard Center, LLC until the September 10, 2018 meeting in order for proper notification to be made to all adjacent property owners. The motion was seconded by Mr. Muller and unanimously approved.

NEW BUSINESS: Ms. Minner spoke with the Board concerning the Town's pending acquisition of the remaining lands of South Stream.

She explained that under the forest conservation ordinance and the critical area ordinance, if a person is building and they don't have enough room to provide forest requirements on the lot they can buy into a forest bank or pay a fee in lieu.

The monies which are collected by the town can be used only to plant trees or preserve forest. She said the town has had money in both of these funds and recently was made aware of property in the South Stream subdivision which was available. Some developers have looked at the property but never followed through with purchasing it.

Jeanne spoke with Holly in the police department who said they had to have the area cleaned up recently and she suggested the Town purchase the property. Jeanne did some research of the property and found it is a targeted ecological area and she thought it would be a great use for those monies. It is a beautiful forested area of approximately 46 acres which she is recommending be deed restricted in the low lying and sensitive areas and providing parks or trails through some of the remaining lands. The trees would not be able to be removed but paths and parks could be developed.

Discussion ensued regarding ways the area might be used and developed.

Mr. Ginder suggested ratifying the Charter & Code and Zoning Ordinance regarding persons who wish to appear before the Planning Commission or Board of Zoning Appeals, and are found

to have delinquent taxes, be denied a hearing until such time as the monies owed have been paid to the Town. He noted that the City of Newark began this policy and it is working out very well. He also suggested that any developer whose project is not in compliance with their public works agreement would be denied building permits until they are in compliance. Mr. Ginder stated he also felt homeowners who have liens on their property which are owed to the Town of Elkton then permits should not be issued until those bills have been paid.

Mayor Alt felt this might be a good policy. He noted that recently when bids have been supplied to the Town for work they have found that some of the companies are not in good standing.

Mr. Thompson asked if there was any update on the Maryland Brewing Company and when they might be open. The Mayor stated he heard it may be within the next month.

The next meeting of the Planning Commission is Monday, September 10, 2018.

There being no further items to discuss Mr. Wiseman adjourned the meeting at 8:34 p.m.

Respectfully submitted,

Brie Humphreys