

**TOWN OF ELKTON
PLANNING COMMISSION
SEPTEMBER 21, 2020
VIRTUAL MEETING MINUTES**

Present: Dave Wiseman; G. Edward Ginder; Keith Thompson; Rick Keane; Art Blount; William Muller; Lisa Blackson, Esquire; Jeanne Minner, Director of Planning

Absent: None

Mr. Wiseman called the meeting to order at 6:00 p.m. He stated the first item on the agenda was approval of the minutes from the August 17, 2020 meeting and called for a motion.

MOTION: Motion was made by Mr. Ginder to approve the minutes of the August 17, 2020 Planning Commission meeting as written. The motion was seconded by Mr. Keane and unanimously approved by the remaining Commission members.

CASE # 1567 – REQUEST BY STEPHEN ROBINSON, REPRESENTING THE LITTLE DISCIPLES DAY CARE CENTER, FOR A SPECIAL EXCEPTION FOR A DAYCARE SERVING MORE THAN 30 CHILDREN. THIS ACTION CONCERNS PROPERTY LOCATED AT 677 E. PULASKI HIGHWAY, SUITE A, ELKTON, MARYLAND, TAX MAP 033C (316), PARCEL 2245 AND ZONED C-2 (HIGHWAY COMMERCIAL)

Mr. David Strouss of McCrone, Inc. was in attendance to present this request. Mr. Strouss stated the unit the day care will occupy consists of 6,000 sf. It is the existing end unit where the former Kids First Swim School was located. Their intention is to convert the space to the day care, fill in the swimming pool and provide an outdoor recreation area.

Mr. Strouss stated they received the comments from KCI dated 9.9.2020 and will address these at site plan submittal. They are proposing parking lot modifications for drop off and pickup of children.

There was discussion regarding other businesses within the shopping center. Mr. Strouss stated there are three doctors and a hair salon currently. There is one other empty suite and the other unit is the one the daycare is proposing to occupy.

Mr. Wiseman questioned Mr. de Lorimier regarding the KCI comment with respect to steep slopes. Mr. de Lorimier stated they have safety concerns regarding the steep slopes being in the recreation area. Mr. Strouss stated although they have not spoken with KCI or the Town regarding the steep slopes it will be addressed and the grading and fencing will be shown on the Final Site Plan submittal. Mr. Ginder questioned the fact that there are underground facilities in the recreation area. Mr. Strouss stated they would be covering that area in order to protect the children.

Mr. Blount questioned the process of filling in the pool. Mr. Strouss stated they have a structural engineering who will be involved regarding this process.

Mr. Blount asked if this was a second location for the daycare. Mr. Strouss stated it will be their second location. They are currently located on High Street in Elkton. Mr. Wiseman noted that this location will be larger than their existing daycare. Mr. Keane questioned the State requirement for square footage per child. Mr. Strouss answered that he was not aware of what the specific requirements might be but that it would have been looked into by Mr. Robinson, the owner.

Mr. Wiseman inquired if Ms. Minner had any additional comments. She stated her comments were consistent with those of KCI.

Mr. Wiseman opened the floor to the audience for questions or comment. There being no one to speak for or against this submittal he moved on to the next agenda item.

MOTION: Motion was made by Mr. Keane to recommend approval of the Special Exception for the daycare use to the Board of Zoning Appeals contingent upon addressing all comments from KCI; confirmation that the pool has been filled according to structural engineering requirements and that the square footage recommendations per child, for 110 children, have been met in compliance with State regulations. The motion was seconded by Mr. Thompson with the remaining Commission members voting as follows:

Mr. Blount – Aye
Mr. Muller – Aye

Mr. Ginder – Aye
Mr. Wiseman - Aye

REQUEST BY MYERS LAND SURVEY CORPORATION REPRESENTING RONALD A. AND NANCY FETTEROLF AND ALEXANDRA & CHRISTOPHER W. KEVILLE FOR AN ADD-ON SUBDIVISION. THIS ACTION CONCERNS PROPERTY LOCATED AT 100 & 102 ELKTON BOULEVARD, TAX MAP 027D (306), PARCELS 878 & 568 RESPECTIVELY, AND ZONED R-2 (SUBURBAN RESIDENTIAL)

Ms. Jill Myers of Myers Land Survey Corporation was in attendance to address this request. She stated that the request is to combine part of the rear of the adjoining property to the neighboring property. She noted they received the comments from KCI and have no problems making the adjustments and placing the notes which were requested. She stated they are requesting conditional approval with these noted revisions.

Mr. Wiseman asked if Ms. Minner had any additional comments. She responded that she did not. Mr. Wiseman noted the addition of property to the rear of 102 Elkton Boulevard would be approximately 2,811 feet. Mr. Ginder asked if this section wasn't owned by 100 Elkton Boulevard in the past. Ms. Myers confirmed that it was.

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

MOTION: Motion was made by Mr. Ginder to approve the Add-On Subdivision for 100 & 102 Elkton Boulevard contingent upon addressing all outstanding comments. The motion was seconded by Mr. Muller with the remaining Commission members voting as follows:

Mr. Blount – Aye
Mr. Muller – Aye

Mr. Keane – Aye
Mr. Wiseman - Aye

The motion passed unanimously.

REQUEST BY MCCRONE REPRESENTING BAKERS HILL LLC FOR A REVISED FINAL MAJOR SUBDIVISION FOR THE RED HILL (HICKORY KNOLL) SUBDIVISION, LOTS 18-

56. THIS ACTION CONCERNS PROPERTY LOCATED OFF OF MARYLAND 281 ON TAX MAP 0271 (312), PARCEL 731 AND ZONED R-3 (URBAN RESIDENTIAL)

Mr. Strouss of McCrone, Inc. was in attendance to address this request. He stated he is representing Baker's Hill, LLC and Alan McCarthy, the managing member. They are requesting a revision to Sheet #1 of the pre-recorded subdivision plan for Red Hill. The reason for the requested change is that the plan was originally recorded in 2008 and in 2013 the Town revised their parking requirements for townhouses and in 2015 they came before the Planning Commission and had the change approved to the plan but failed to record the new sheet. He noted that the owner is under construction now for the last section of the development and at that point they found out that the revised sheet had never been recorded. He stated this is the reason for their appearance this evening.

Mr. Strouss stated they are requesting a change to Note #11 which specifies the Town revised parking requirements which are: 3 parking spaces for 3 bedroom units, 2.5 parking spaces for 2 bedroom units and 2 parking spaces for 1 bedroom units. He noted this change was originally requested in 2015 when the owner had a builder who was interested in building some 2 bedroom townhouse units.

Mr. McCarthy is currently talking to two national builders and this will give the owner some flexibility and will bring the parking up to conformance with Town Code.

Mr. Ginder asked if the original units were supposed to have garages. Mr. Strouss stated they were intended to be 3 bedroom units with a garage being one of those parking spaces. Mr. Ginder asked if the units being constructed would have garages. Mr. Strouss stated this change would allow the builder to have that option. He stated most national builders are building 3 bedroom units with a garage. At this point no builder or building type has been selected.

Mr. Ginder asked if a requirement could be placed that the townhouses have garages. Ms. Minner stated that as long as they are providing the required number of parking spaces per unit then the developer has the flexibility to provide what the consumers want. There was discussion regarding how the parking requirements can be met depending upon the number of bedrooms per unit. Mr. Strouss said there are 29 overflow parking spaces which allow the additional parking requirements to be met. Mr. Strouss noted that if the developer chooses to build only 2 bedroom units then the parking would be more than adequate. Discussion continued regarding options available to the Planning Commission with regard to parking requirements.

At the conclusion of the discussion Mr. Wiseman opened the floor for audience comments.

Ms. Jill Hagelin of Colonial Ridge stated she has been in her home for 23 years. She stated her understanding from the beginning of this project was that there would be 3 bedroom townhomes with garages and an environmental easement between the two subdivisions. She stated she can't believe after 13 years this is being presented again. She doesn't understand why the Commission couldn't require the developers to place what was agreed upon originally. She noted that if you look at home sales in this area back to April the average price of a home is roughly \$230,000.00. Why wouldn't you make it a requirement to place comparably priced homes in the same area? Mr. Wiseman stated you would want a variety of homes and price levels so different people are able to afford them. Mr. Wiseman stated the Planning Commission is challenged to enforce the existing code which is in place. They can't tell a developer what they are allowed to build if they meet the requirements in the code which are within that zoning.

Ms. Lynn Sheats asked why the developer is not staying with the original plan and why is this development taking so long to be completed. She also noted that the forest retention signs which had been posted previously have been removed. She said the forest retention area is filled with trash. There is supposed to be a thick evergreen forest along the back of the Red Hill Subdivision which backs up to Colonial Ridge.

Mr. Wiseman deferred to Ms. Minner and asked her to address Ms. Sheats questions. Ms. Minner noted that since the subdivision has not been completed. It appears the forest conservation area overlaps with the Bufferyard C which is required in this area adjacent to the Colonial Ridge neighborhood. She stated that if the plantings do not meet the requirements of the Bufferyard C regulations then they will have to provide the trees which are part of those requirements prior to completion of the subdivision. Mr. Strouss stated the forest conservation signs had been placed originally but may have been removed during one of the construction phases. He stated the Town will require that the plantings and signage are in place and meet the criteria prior to completion of the subdivision.

Ms. Judy Wilson stated she lives in the same area as Ms. Hagelin and Ms. Sheats. She has lived there since October of 2005 and can't believe this project is still ongoing 15 years later. She stated she doesn't believe there is much more room for building and her concern is the amount of foot traffic from Gray Mount and other developments from the existing townhouses, kids drop trash and run their mini bikes through her property. She said she has placed fending and has called the police regarding the activity and understands that they have bigger things they need to handle. She is concerned for the safety of herself and others since her house has already been broken into. She stated one of her main draws for buying her house is that it backed up to woods and now that is not the case. She is concerned about the viability of putting more townhouses in this area and the fact there is no bufferyard between the two subdivisions anymore.

Mr. Wiseman noted there are established bufferyards which will need to be maintained. He stated that the only change between what is being presented tonight and the previous approved plans is the parking rationale. Ms. Minner interjected there is a thirty (30) foot bufferyard and forest retention area which is required. Mr. Wiseman said they can go back and look at the original requirements to confirm.

Ms. Sheats asked if it would be possible to place a fence between these two subdivisions. She asked where the children in the community are supposed to play. They are always out playing basketball. Ms. Minner mentioned there are two parks at the front of the subdivision. Ms. Sheats noted they are playgrounds for toddlers and no one uses them and they are very small and filled with trash.

Mr. Ginder asked if any deficiencies are found with regard to the original plans would it be possible to require that to be addressed prior to permits being issued for the new section. Ms. Minner stated that if any forests have been removed which are required they would have to be replaced. It was noted that the forest that existing has been bulldozed. Mr. Wiseman stated they will have the Town code enforcement go out and determine what is going on there. Ms. Wilson stated she would appreciate if they would follow through with that inspection. There were questions about whether the property had changed hands over the years. Mr. Strouss confirmed that the property is still under the ownership of Baker's Hill, LLC and the lots are recorded so they did not have to come back to the Town for any extensions. They did, however, update and extend the erosion and sediment control plan and that is why there are under construction again.

Ms. Sheats mentioned that at one time she had heard that the area where they are bulldozing was toxic and wondered if anyone could speak to that concern. There are old vehicles and trash, etc. back there

where she walks her dog and she wondered if the delays had anything to do with that. Mr. Strauss said the reason for the original delay was the 2008 recession and the slowdown of the sale of homes in Elkton. Now that the market is picking up builders are again interested in development.

Mr. Travis Mallory agreed with Jill Hagelin's point regarding the value of the homes in the area. He noted that not only will their homes in Colonial Ridge go down but also the current townhouse homeowners in the Red Hill development. He asked how many of the townhomes would be rental units. Mr. Wiseman stated the Commission has no input into whether they will be rental units. Mr. Wiseman stated no decision have been made at this point what is being proposed because a developer hasn't been chosen. Mr. Mallory asked if some type of wall could be placed between the two subdivisions because the noise from the Red Hill subdivision makes it difficult for him to sleep because they are playing basketball or fighting, etc. and he has to get up and go to work. Mr. Keane asked if the Commission will have the opportunity to address the fence issue. Ms. Minner stated we could ask the owner if they would consider placing a fence. Ms. Blackson interjected that since this is a previously recorded plat they can request that the developer place a fence but it can't be required. With respect to the bufferyards, they will have to be planted since they are recorded. She asked Mr. Strauss about the stormwater ponds. Mr. Strauss noted that the two stormwater ponds have been constructed.

Mr. Mallory added that he doesn't feel asking for a fence to be placed is unreasonable since there are changes being made. Mr. Keane asked if the Building Official could look at the bufferyard setback requirements. Ms. Minner stated they will look into this since the area that will be constructed is near the forest conservation area, open space and bufferyard area. She stated that since this is an active construction site the bufferyard may have been disturbed since it is only 30 feet.

Mr. Wiseman stated that code enforcement will look at the 'dump site' which is probably part of Harper's property.

MOTION: Motion was made by Mr. Ginder to approve the Revised Final Major Subdivision Plan for Red Hill contingent upon addressing all outstanding comments, having the Building Department check the concerns about the bufferyard between the Red Hill and Colonial Ridge Subdivisions and checking with the developer regarding placement of a fence between the two subdivisions. The motion was seconded by Mr. Blount with the remaining Commission members voting as follows:

**Mr. Keane – Aye
Mr. Thompson – Aye**

**Mr. Muller – Aye
Mr. Wiseman – Aye**

The motion passed unanimously.

REQUEST OF MORRIS & RITCHIE ASSOCIATES REPRESENTING SOUTHFIELDS OF ELKTON CAPITAL DEVELOPMENT (C/O STONEWALL CAPITAL) FOR A PRELIMINARY MAJOR SUBDIVISION OF TRACTS I THROUGH II, PLATS ONE, TWO, THREE AND FOUR. THIS ACTION CONCERNS THE FOLLOWING PROPERTIES: TAX MAP 033E (320), PARCEL 2390, ZONED PUD (PLANNED UNIT DEVELOPMENT); TAX MAP 033D (319), PARCEL 2450, ZONED PUD (PLANNED UNIT DEVELOPMENT); TAX MAP 033G (323), PARCEL 79, ZONED R-2 (SUBURBAN RESIDENTIAL) AND R-3 (URBAN RESIDENTIAL); TAX MAP 033G (323), PARCEL 454, ZONED RP (RESOURCE PROTECTION); AND TAX MAP 033G (323), PARCEL 91, AND ZONED RP (RESOURCE PROTECTION)

Mr. Sean Davis & Ms. Amy DiPietro of Morris & Ritchie Associates were in attendance to address this request. Mr. Davis stated he has been working with Ms. Minner and Ms. Blackson and have revised the plan to Preliminary Major Subdivision. He stated he has received comments from the Town regarding the plan.

He stated there are five existing parcels and their goal is to legally subdivide the parcels in order for the current owner to transfer the individual parcels to other entities in accordance with prior approvals.

He provided proposed renderings of what the area might look like from different angles. There is a proposed boulevard entrance off of Route 213. It shows a proposed gas and convenience store along with a hotel and the multi-family housing in the background. They will continue to evolve this model as the different parts as put into play.

Mr. Davis stated they have received the Town and KCI comments and will be incorporating these comments into their next submittal. It was noted that comments were received from the Town dated 9/4/20 and from KCI dated 9/15/20.

Mr. Wiseman questioned how many parcels will be created out of the five existing parcels. Mr. Davis stated he believed it would be approximately 12 parcels.

Mr. Wiseman entertained comments from any Commission members. Mr. Ginder inquired whether all the comments from the Town and KCI would be addressed prior to the November meeting. Mr. Davis stated they would absolutely be addressed. Mr. Keane asked a question with respect to comment # 8, regarding parcel dimensions not meeting Town's Zoning Ordinance requirements. Ms. Minner stated they would have to meet those requirements and the Commission will be reviewing that at the Final submission and then they could be denied.

Ms. DiPietro noted that no development rights will be conveyed with the plats, they are purely for subdivision purposes only. She stated that note and purpose will be shown on the plat. The typical entitlement process will still be followed and they will be back in for re-recording of these parcels establishing easements, right of way, etc.

Mr. Wiseman entertained questions from the audience. There being no questions he moved on to the next case.

MOTION: Motion was made by Mr. Thompson to approve the Preliminary Major Subdivision of Tracts I through II, Plats One, Two, Three and Four for Southfields of Elkton Capital Development contingent upon addressing all outstanding comments. The motion was seconded by Mr. Blount with the remaining Commission members voting as follows:

**Mr. Ginder – Aye
Mr. Keane – Aye**

**Mr. Muller – Aye
Mr. Wiseman - Aye**

The motion passed unanimously.

**WAREHAUS ENGINEERS REPRESENTING BURKENTINE – STONEWALL, LLC,
PRELIMINARY MAJOR SITE PLAN FOR SOUTHFIELDS OF ELKTON MULTI-FAMILY
HOUSING. THIS ACTION CONCERNS PROPERTY LOCATED SOUTH OF WHITEHALL**

ROAD AND WEST OF MD ROUTE 213, TAX MAP 033E (320), PARCEL 2390, AND ZONED PUD (PLANNED UNIT DEVELOPMENT)

Mr. Ed Van Arsdale was in attendance to address this request. He stated they are working on the multi-family parcel of the approved PUD plan. He stated they have made some revisions for the contract purchaser. They are proposing 85 rental three-bedroom units with garages, three 80 unit apartment buildings for a total of 325 total dwelling units. They are also proposing a 3,000 sf clubhouse and community room, there are three 10-unit detached garages which can be used and rented by those who are renting the apartment units. He noted these do not count toward the parking requirements. There is a large green open community space which can be used for any planned community events.

He stated they are providing 587 parking spaces for the apartments of which 576 are required by the Town Code. They are providing 299 parking spaces for the townhomes of which 255 are required by the Town Code. He provided renderings of the project layout and representations of the facades of the buildings.

He went over the outstanding items which included concept stormwater management, erosion and sediment control, the access road design from MD 213, the design of public water and sewer for connection, the wetlands impact study, landscape and forest conservation plans. He stated they are addressing outstanding comments and working on the outstanding items noted

Mr. Wiseman questioned the difference between isolated wetlands and emergent wetlands. Mr. Davis explained that if it is isolated it is not part of a larger contiguous wetland.

Mr. Thompson asked that the original rendering which provided brick or stone on the building facades be adhered to since that is what was presented and approved. Mr. Wiseman said they will look into what the original requirements stated and it will be addressed at the Final Site Plan submittal.

Ms. Minner stated one of her comments was that the applicant needed to state how they met the architectural design standards listed under the PUD regulations. Mr. Keane pointed out that many of Jeanne's comments are regarding requirements of Appendix A which have not been addressed in the submitted plan. He questioned why these things were omitted on the plan. Ms. Minner stated the applicant has been made aware of these requirements and they are aware that the Commission may deny the submittal if they choose to do so. Mr. Van Arsdale noted that this is his first project in the Town and although that is no excuse he assured the Commission members that all the comments would be addressed in the next submittal. He stated if the Commission feels they need to provide a revised plan and come before them again they would be willing to do that. Mr. Ginder also noted there are numerous items required by the State which need to be addressed as well. Mr. Van Arsdale stated the stormwater management will not be ready by the next meeting because they are still waiting for crops to come down in order to do the filtration tests. He stated it will more likely be the November meeting but will turn around the plans as soon as possible for resubmission.

Mr. Muller stated that at this time he doesn't have any dissent with what has not been provided since they are just at Preliminary and doesn't feel they should be disqualified for approval.

Mr. Wiseman opened the floor to audience comments.

Bev & Al Thomason questioned how close this project will be to the Kensington Courts Subdivision. Mr. Davis provided a copy of the plat and pointed out where they each were located. Ms. Thomason asked

how many bedrooms would be provided in the multi-family homes being presented. Mr. Van Arsdale stated there are 84 – 1 bedroom apartments; 120 – 2 bedroom apartments and 36 – 3 bedroom apartments. The parking area for these apartments exceeds the number required by the Town Ordinance.

Ms. Thomason asked when construction is proposed to begin. Mr. Van Arsdale stated they do not have a start date at this point. The total acreage for the multi-family section is 23 acres whereas the entire PUD encompasses over 350 acres. Ms. Thomason asked if Route 213 would be expanded. Mr. Davis stated there are areas of Route 213 which will be improved. They are currently working with State Highway on the details of the improvements.

Ms. Ann Connor stated she agreed with the comments made by Mr. Keane regarding the number of comments which were not addressed on the plan. She pointed out that the letter from Singerly Fire Company has not been addressed and they have a number of comments regarding their ability to handle this number of additional residential properties. Mr. Wiseman noted that it is likely that with this number of additional homes being built that there will be new volunteers among those new homeowners, as well as additional funding. Mr. Muller stated he can assure Ms. Connor based on his knowledge as a fireman and police officer in the area that there is no lack of protection when needed particularly because of the pulling of shared resources and mutual aid from Newark, Chesapeake City and North East when there is an emergency. He stated he believed that the road designs can alleviate accidents, etc.

There being no further items to discuss, Mr. Wiseman called for a motion.

MOTION: Motion was made by Mr. Keane to approve the Preliminary Major Site Plan of Tracts I through II, Plats One, Two, Three and Four for Southfields of Elkton (Capital Development) contingent upon addressing; and submitting a preliminary plan which addresses all requirements of Appendix A, and is reviewed and found satisfactory by the Town Planning Department and KCI prior to submittal of the Final Major Site Plan. The motion was seconded by Mr. Thompson with the remaining Commission members voting as follows:

Mr. Ginder – Aye
Mr. Blount – Aye

Mr. Muller – Aye
Mr. Wiseman – Aye

The motion passed unanimously.

PUBLIC HEARING: AMENDMENT TO SOUTHFIELDS PLANNED UNIT DEVELOPMENT – REQUEST OF MORRIS & RITCHIE ASSOCIATES, INC. REPRESENTING SOUTHFIELDS OF ELKTON CAPITAL DEVELOPMENT (C/O STONEWALL CAPITAL) FOR A REQUEST TO WAIVE THE REQUIREMENT THAT 20% OF PROPOSED RESIDENTIAL LOTS ARE RECORDED PRIOR TO PERMITS ISSUED FOR NON-RESIDENTIAL USES, AS PROVIDED FOR IN THE ELKTON ZONING ORDINANCE, ARTICLE XI, PLANNED DEVELOPMENTS, SECTION 1.13.C. THIS ACTION CONCERNS THE SOUTHFIELDS PLANNED UNIT DEVELOPMENT ZONED PROPERTY LOCATED ON THE FOLLOWING PARCELS: PARCEL I, LOTS 1, 2 & 3, IDENTIFIED AS: TAX MAP 033C (316), PARCEL 169, CONSISTING OF 54.953 ACRES, LOCATED ON THE WEST SIDE OF MALONEY ROAD, OWNER: SOUTHSIDE LLC; TAX MAP 033E (320), PARCEL 2371, CONSISTING OF 244.0779 ACRES, LOCATED ON THE NORTH SIDE OF

FRENCHTOWN ROAD, OWNER: SOUTHSIDE LLC; TAX MAP 033D (319), PARCEL 2450, CONSISTING OF 101.6347 ACRES, OWNER: GRAY'S HILL DEVELOPMENT COMPANY; TAX MAP 033E (320), PARCEL 2390, CONSISTING OF 46.5725 ACRES, OWNER: SOUTHSIDE LLC; TAX MAP 033E (320), PARCEL 2369, CONSISTING OF 59.67 ACRES, OWNER: SOUTHSIDE LLC; A PORTION OF TAX MAP 033G (323), PARCEL 79, LOCATED OUTSIDE OF THE CHESAPEAKE BAY CRITICAL AREA, OWNER: SOUTHSIDE LLC; TAX MAP 033H (324), PARCEL 2394, CONSISTING OF 39.01 ACRES, OWNER: SOUTHSIDE LLC

Ms. Minner stated this is an application for an amendment to the Southfields Planned Unit Development. It is regarding the requirement to recording 20% of the residential lots prior to permits being issued for non-residential uses. The PUD ordinance allows an applicant for a PUD to request a waiver of this requirement. The applicant did not ask for that at the time and therefore they are requesting that at this time.

Mr. Davis stated that at the time of the PUD submission they did not believe they needed to submit a waiver but since that time the non-residential portions have moved much more quickly. The non-residential portions are much more streamlined because they are not as complicated and detailed as it is for the residential portions. He stated he believes this request is justified since they have diligently been moving forward with the non-residential uses. He noted that in his experience he has noticed that in most mixed use ordinances there is a similar concurrency requirement but it is exactly the opposite of this ordinance. This is unique in the industry and therefore they felt they would be ok without requesting the waiver in the beginning.

Mr. Wiseman asked Mr. Davis what percentage of the residential properties is the multi-family housing which was presented tonight. Mr. Davis stated it is approximately 35% of the residential units for the entire project. Ms. Minner noted that the issue was that there was some confusion between lots and parcels. The Zoning Ordinance states 'lots' and that would regard the multi-family submission as one lot. Again, Mr. Davis pointed out that there is a good deal more detail with regard to pump stations, force mains, etc. with the residential properties than with the non-residential but they are working as fast as possible to accomplish both.

Mr. Keane asked if the Commission makes a recommendation to the Mayor & Commissioners can a timeframe be placed at that time. Mr. Davis stated that due to the amount of infrastructure that has to be placed for the residential lots, specifically the apartments, it would be detrimental to them not to go ahead and place the 150 single family units considering how much it will cost to complete the necessary infrastructure.

Mr. Muller agreed with Mr. Keane that he has some reservations in approving this amendment with the volatility of real estate and not knowing what might happen in the future. Mr. Blount also voiced his agreement with Mr. Muller and Mr. Keane's concerns. If the real estate bubble bursts there is no guarantee that the residential units will be built out. Mr. Davis stated that the requirement is for 20% of the residential to be platted, not built out. There is no requirement for building permits. He noted it will cost millions of dollars to build the infrastructure and if they only build the multi-family part they will have wasted a great deal of money.

Mr. Thompson asked if there is some type of performance bond which can be required to assure that the residential lots will be platted. Mr. Wiseman stated the Commission is making a recommendation to the Mayor & Commissioners but they don't have to follow that recommendation. Ms. Blackson stated the bonding issue will be dealt with at the time of the construction of each residential section.

Mr. Wiseman opened the floor for audience comments. He asked that their comments be concise so everyone has a chance to speak.

Ms. Bev Tomlinson asked if at any time during the construction would the developers entertain government monies to either subsidize or receive rental income. Mr. Davis stated that they would not. She asked if there will be group homes or subsidized rentals at any time. Again, Mr. Davis stated there would not.

Ms. Ann Connor stated that if it is only 20% which has to be platted and this project is moving forward at a good speed why there is a hang-up regarding this waiver. She felt things need to be kept in place as the ordinance was written and they need to be held accountable if they don't meet the criteria of the ordinance.

Mr. John Connolly voiced his agreement, with respect to the 20% waiver, with Ms. Connor, Mr. Muller and Mr. Keane. He feels these were safeguards which were placed and they need to adhere to them. He also pointed out that this waiver was supposed to be requested at the time of the application for a PUD Floating Zone. He pointed out the fact that the buildings which were placed for North East Commons have no tenant and has been sitting vacant since July. He asked that the Commission decline the waiver request at this time. Mr. Davis noted that they are not asking to side step or obviate the regulations. He stated they did not ask for the waiver at the time of the PUD floating zone application because everything was in line. As what often happens in development some things move quicker than other things and therefore they are asking for the waiver. He stated that residential takes much longer than non-residential. He stated they have an excellent developer who would not be moving forward if they didn't have 100% assurances that what they build will be leased. Mr. Connolly respectfully disagreed with Mr. Davis.

Discussion ensued regarding whether they are requesting a waiver. Mr. Davis stated that they are requesting a waiver. Ms. Minner read the language of the Ordinance which states "If it is determined that good cause exists to do so, the Mayor & Commissioners may waive or relax this requirement upon a request made by the applicant at the time of the application for a PUD Floating Zone."

Mr. Wiseman asked for any other comments from the audience. Mr. Peter Kline said he wanted to support Ms. Connor and Mr. Connolly when they mentioned that MRA helped to write substantially all of the PUD language and he feels they should be held accountable.

Ms. Bev Tomlinson asked about whether the wildlife, which currently lives on this property, has been taken into consideration. Mr. Davis stated that as part of the approval process they are

bound by federal, state and local regulations which they have to abide by. These regulations cover natural resources. Mr. Wiseman stated there will be a substantial amount of acreage and wetlands left untouched which will remain habitat for animals.

MOTION: Motion was made by Mr. Ginder to recommend approval to the Mayor & Commissioners of the amendment to waive the requirement that 20% of the proposed residential lots are recorded prior to permits issued for non-residential uses according to Article XI, Planned Developments, Section 1.14.c. The motion was seconded by Mr. Keane with the remaining Commission members voting as follows:

Mr. Blount – Aye

Mr. Muller – Aye

Mr. Thompson – Aye

Mr. Wiseman – Aye

The motion passed unanimously.

Old Business – Mr. de Lorimier announced that he would be retiring and thanked everyone for the opportunity to work with the Town and staff. He introduced Mr. Scott Koenig who will be taking over his position. He noted that Mr. Koenig has worked for the Town of Dover for 30 years in different departments and moved up to Town Manager before retiring.

New Business: Ms. Minner stated there will be revised plans for older subdivisions that will be coming before the Board at the October meeting. There is a rezoning and an annexation coming up as well.

Ms. Minner notified the Commission that a new planner has been hired to fill Ms. Thomas' position. He will be starting soon. His name is Nick Cannistraci and he is coming from Kentucky.

Mr. Keane asked Ms. DiPietro about the request made to check which other sites in the County which had similar percentages of trees removed. Ms. DiPietro stated she is waiting for the client to allow the release of that information.

Ms. Blackson state the legal opinion for the variance for the specimen trees and priority forests is being reviewed by Town staff and when completed she will forward copies to the Commission members for their review. Ms. Minner stated the finalized opinion will then be forwarded to the Maryland Department of Natural Resources.

The next meeting of the Planning Commission will be on Monday, October 12, 2020.

There being no additional items for discussion, Mr. Wiseman adjourned the meeting at 8:38 p.m.

Respectfully submitted,

Brie Humphreys