

**TOWN OF ELKTON  
PLANNING COMMISSION  
SEPTEMBER 14, 2009**

**PRESENT:** David Wiseman, Chairman; H. Fred Thomas, II; Asma Manejwala; Sue Whitaker; Jeanne D. Minner, Director of Planning; Clara Campbell, Esquire; Theresa Thomas, Planner

**ABSENT:** Donna Short; Brad Carrillo; Commissioner Mary Jo Jablonski, Ex-Officio

Mr. Wiseman called the meeting to order at 6:00 p.m.

**COMPREHENSIVE PLAN MEETING**

Mr. Michael Bayer of Environmental Resources Management presented the draft Transportation Element of the Comprehensive Plan.

**TRANSPORTATION ELEMENT**

Mr. Bayer began by saying that transportation, as well as land use, is one of the key elements of growth in any community. He noted that multi-modal transportation (roads, bus, rail, pedestrian facilities, etc.) provides alternatives for citizens and visitors to make use of the facilities within the community. He pointed out that a number of the areas of congestion are within the Elkton area. Discussion included infrastructure plans for future development, long term view of future road needs, crossing Amtrak, commercial corridor, Route 40 and linking major centers, mixed use opportunities for transportation, senior transportation needs, and bikeway systems.

Mr. Bayer addressed road classifications such as: Interstate, arterial, collector and local roads. He noted that Cecil County is reviewing Frenchtown Road and Muddy Lane for possible widening. Mr. Bayer pointed out that Route 40 and Route 279 near I-95 are two of the most congested roads in the County. He noted that Delancy Road is a main route east and west from I-95 to Route 40 so it is not surprising that traffic would have doubled in the past ten years.

During the Planned Roads discussion Ms. Minner pointed out that there are planned improvements for Delaware Avenue (Route 7). Mr. Bayer noted that the east/west roads were the most congested areas of Town and that the intersection of Route 40 and Route 213 was the worst intersection, with respect to congestion, on the Eastern Shore. The costs of the improvements will be difficult to determine until such time as future growth areas are determined. There was discussion regarding proposed access between Upper Chesapeake Corporate Center south to Maloney Road and possible impacts of the Planned Unit Development project on the roads.

Additional transit oriented development issues discussed included bicycle needs, sidewalks, greenways/pedestrian trails, bus service, commuter/passenger rail service and freight rail and airports.

Policies and action items reviewed included beginning plans for road improvements by looking at areas of alignment; the Town working with the State and other agencies to address the Route 40 and Route 213 intersection; expanded MARC service; promoting ride sharing, and senior transportation.

Ms. Minner stated that she would like to see more detail regarding roads in the Comprehensive Plan similar to what was detailed in the previous Comprehensive Plan, specifically information regarding high accident intersections.

The Board determined that the next meeting regarding the Comprehensive Plan would be at the regularly scheduled Planning Commission meeting on October 12<sup>th</sup> at 6:00 p.m. During that meeting a draft of the whole Comprehensive Plan, with incorporated comments, will be provided for review.

### **PLANNING COMMISSION MEETING**

Mr. Wiseman opened the Planning Commission meeting at 7:00 p.m. and called for a motion regarding the minutes of the August 10, 2009 meeting.

**ACTION:** Motion was made by Ms. Whitaker to approve the minutes of the August 10, 2009 Planning Commission Meeting as written. Motion was seconded by Ms. Manejwala and unanimously approved.

Ms. Clara Campbell informed all applicants that due to the fact that only four members of the Board are at the meeting they may request to be heard at the next scheduled meeting. No applicants requested to be rescheduled.

### **CASE # 1383 – REQUEST OF POWER AMERICA, INC., 503 E. PULASKI HIGHWAY, ELKTON, MARYLAND, FOR A SPECIAL EXCEPTION TO ALLOW OUTSIDE STORAGE OF EQUIPMENT TO BE RENTED AS PART OF THEIR BUSINESS. THIS ACTION CONCERNS PROPERTY LOCATED AT 601 E. PULASKI HIGHWAY, TAX MAP 315, PARCEL 2058, LOTS 9, 10, 11, & 12, ZONED C-2**

Mr. J. L. Calicyo of Power America and Mr. Jason Allison, Esquire were introduced to the Board. Mr. Allison stated that their presentation concerns a special exception request for property located at 601 E. Pulaski Highway, Lots 9-12 and Zoned C-2. The company is a Delaware Corporation registered to do business in the State of Maryland. It is a 2 1/2 year old company which was formally located at 555 Blueball Road with a principal business that sells and rents small construction and lawn equipment such as lifts, excavators, backhoes, etc. The previous use at this property was Advantage Dodge and he does not feel it is much different that that use and would be in harmony with businesses in the area.

Mr. Wiseman asked if the photos submitted are of 601 E. Pulaski Highway. He was informed that they were pictures of 555 Blueball Road.

Mr. Calicyo stated that his business is mainly geared toward contractors and homeowners and that along with the small equipment and lawn mowers they also sell power tools and clothing (Carhart, etc.) He stated that they normally receive 10 to 30 customers a day who arrive by motor vehicle. He stated that they have had no zoning infractions with their business and the other business in the area are Ramsey Ford, Advantage Jeep, Sutton Motel and the Batting Cages and

Golf Ranges across Route 40. He stated that their business will not create issues in the area with regard to noise. The only changes to the exterior of the building will be signage placement. He noted that a fence currently exists and the building has Town water and sewer. The only changes to the interior of the building will be to upgrade the carpet, paint and trim. The current retail floor area will be used for presentation of their retail clothing and small equipment. There is existing office space at the rear of the showroom with three restrooms which will continue to be used for the business. The items to be stored within the building are those which would be affected by the weather.

Mr. Allison inquired the number of entrances available at the location. Mr. Calicyo stated that there are five areas for entrance and exit. Two of the entrances are off Route 40 with parking along that road and directional arrows will be placed for customers to pick up material at the rear of the building. There will be no change in the existing traffic pattern. Mr. Calicyo stated that if the special exception is granted the business will conform to the district in which it is located.

Mr. Wiseman asked if the business services the equipment it sells and/or rents. Mr. Calicyo stated that they do and that they will be taking advantage of the existing mechanical bays and fuel oil containment.

Ms. Minner asked if the equipment will be parked only on the asphalted areas. Mr. Calicyo stated that they will not park any equipment on the grassy areas. She wondered if there would be fuel oil storage on the site. Mr. Calicyo stated that there is an above ground storage tank for diesel fuel on site which they will be utilizing.

Ms. Minner pointed out that she noticed that some of the equipment has the name of the business on it and that the Town Zoning Ordinance considers it a sign and therefore they cannot be placed along Route 40. Mr. Calicyo stated that only one of the cranes has their name on it due to the available area. Ms. Minner stated that he would be subject to the permit requirements for signage.

Mr. Wiseman entertained questions from the audience. There were none.

**Motion: Motion was made by Ms. Manejwala to recommend approval to the Board of Zoning Appeals for the special exception to allow outside storage of their equipment for use with their business. The motion was seconded by Mr. Thomas and unanimously approved.**

**MCBRIDE & ZIEGLER, INC. REPRESENTING U TRI C 5, LLC, 2009 OGLETOWN ROAD, NEWARK, DELAWARE, CONCEPT SUBDIVISION PLAN, TAX MAP 316, PARCEL 2443, ZONED BI**

Jeff & Giff Nowland of Nowland Associates & Mark Ziegler of McBride & Ziegler were introduced to the Board. Mr. Ziegler stated that the plans submitted are regarding property located between the Cecil County Government building and PTFE Corporation. The property is approximately 15 acres and their proposal is for a subdivision within a subdivision. Unlike most of the other buildings within the corporate center which are large block warehouses consisting of 70-80,000 square feet. Their buildings are planned to be between 10-30,000 square feet. The owners believe that this is where the market need is currently. There will be a loop road to access

the buildings. The master plan was presented so that the Town and Planning Commission would have a general idea of how the project might look. He pointed out that each building will be presented separately as they are developed but they would like to have the infrastructure in place prior to other development.

Mr. Jeff Nowland stated that his family's core business has been toward smaller manufacturing businesses such as PTFE Compounds (17,000 sf) manufacturing facility. They believe this proposal will allow them flexibility to quickly turn around site development plans for clients as they develop. This would allow them to have the background components for development already in place.

Mr. Wiseman asked if they have received comments from the Town and KCI. Mr. Nowland stated that they have received the comments. Mr. Wiseman asked Ms. Minner if this proposal presented any roadblocks. Ms. Minner stated that the applicant will be requesting a deviation from the Town road standards with regard to curbs and sidewalks. Mr. Wiseman asked if those deviations will be shown at the next submittal. Ms. Minner stated that they would.

Mr. Wiseman asked if there were any issues with the comments as received. Mr. Ziegler stated that he does not anticipate any problems. He did mention some issues with the connector road to Frenchtown Road. Ms. Minner added that this was mentioned during the Comprehensive plan transportation element with a plan for a road south through the corporate center.

Mr. Greg Swiff of McBride & Ziegler voiced concerns for the residential areas having traffic come through their area from the corporate center. Ms. Minner pointed out that they were looking to restrict it to passenger cars for employees only. Mr. Swiff stated that once the road is built it will be difficult to keep the trucks to the corporate center from using the road as well. Ms. Minner responded that they need to consider that as they develop these building they may experience a failing situation at the intersection due to the increase in traffic. This may require them to make improvements to the intersection at the corporate center. Mr. Swiff stated that a traffic impact study was done within the past two years that indicated the intersection was functioning properly. Ms. Minner asked if that was after the improvements by Aldi. Mr. Swiff stated that it was after the improvements. Ms. Minner stated that in order for them to be able to use that traffic study she would have to defer to their engineers upon the submission of the traffic information.

Mr. Wiseman entertained any additional questions from the Board and the audience. There were none.

**MOTION: Motion was made by Ms. Manejwala to approve the Concept Plan contingent upon addressing all outstanding comments from the Town and KCI and based upon inclusion of a connector road to Frenchtown Road as noted in recommendations from the Town & KCI. The motion was seconded by Mr. Thomas and unanimously approved.**

**MCBRIDE & ZIEGLER, INC. REPRESENTING U TRI C 5, LLC, 2009 OGLETOWN ROAD, NEWARK, DELAWARE, PRELIMINARY MAJOR SITE PLAN, TAX MAP 316, PARCEL 2443, ZONED BI**

Mr. Mark Ziegler stated that everything shown on the Preliminary Major Site Plan is essentially the same as the Concept Plan. Their only request is regarding the buffer along the rear property line which they believe has a significant tree line asked that they would not be required to place the buffer along the rear property line until such time that the subsequent parcels are developed. Ms. Minner agreed with their request since the buffer yard is not really required at this time.

Mr. Nowland stated that they would appreciate the Board's consideration in allowing them to develop the infrastructure as the project develops rather than in its entirety with the initial development. He noted that their intent for this development will depend upon their clients. They are not planning office space but would consider that should a client desire that use. The floor plans presented are a representation of possible uses.

Mr. Wiseman entertained questions from the audience. There were none.

**MOTION: Motion was made by Mr. Thomas to approve the Preliminary Site Plan contingent upon addressing all comments from the Town & KCI. The motion was seconded by Ms. Whitaker and unanimously approved.**

**OLD BUSINESS –**

Ms. Campbell pointed out that no additional testimony would be taken at this time as both of the items under Old Business have already been heard by the Planning Commission and were tabled until such time as additional information was provided to Ms. Jeanne Minner, Director of Planning. She stated that the information requested had been provided and therefore the Board would only be voting on these two items.

**1) REQUEST OF THE WILLIAM M. SINGERLY STEAM FIRE ENGINE AND HOOK LADDER CO. NO. 1 OF ELKTON FOR REZONING OF TAX MAP 306, PARCEL 1852, LOT 4, NORTH SIDE OF NEWARK AVENUE, GILPIN HEIGHTS FROM R-1 (RESIDENTIAL ESTATE) TO C-2 (GENERAL COMMERCIAL)**

Ms. Minner stated that the additional information requested was with regard to expansion on a nonconforming lot. She stated that this particular parcel is zoned for residential use and expansion for a use such as the fire department would be considered nonconforming. She asked the Building Official if he would issue a permit to expand a commercial or non-residential use and he stated that he would not because he does not consider it grandfathered due to the fact that there are no other uses by the fire department on that lot. The lot was purchased a number of years ago with the intent to use it at some point in the future.

Mr. Wiseman asked if Mr. Thomas was satisfied with the additional information provided. Mr. Thomas stated that the additional information answered his questions. Mr. Wiseman inquired of Ms. Minner as to how the property could be used if it was rezoned as C-2. Ms. Minner stated that anything permitted in the C-2 zone could be placed on that parcel.

Mr. Wiseman mentioned a concern as to whether the access road would be too close to the intersection or would it have to be presented before the Planning Commission. Ms. Minner stated that it would have to be reviewed by the Planning Commission due to the possible impacts on the intersection.

Mr. Wiseman pointed out that both Ms. Manejwala and Ms. Whitaker confirmed their review of the DVD from the meeting of August 10<sup>th</sup> and stated that they are familiar with both cases which needed to be voted on during this meeting. Mr. Wiseman asked if either member had any additional questions prior to voting. They stated that they did not have any additional questions. Ms. Minner pointed out that the Board's decision must be based on two criteria, either change in the character of the neighborhood or mistake in the original zoning.

**MOTION: Motion was made by Mr. Thomas to recommend denial of the rezoning request for Parcel 1852. The motion was seconded by Ms. Manejwala and unanimously approved.**

**2) REQUEST OF JAY C. EMREY, III, ESQUIRE REPRESENTING RED HILL SUBDIVISION TO REQUEST A WAIVER OF THE SIDEWALK REQUIREMENT ALONG RED HILL ROAD**

Ms. Minner stated that there were question regarding jurisdiction with respect to the requirement of the sidewalk in this area. She noted that in 2005 State Highway Administration provided a comment in their letter dated 2/14/05 which stated "Sidewalks will be required along the entire length of the acceleration and deceleration lanes". Additionally, in their letter to Mr. David Strouss dated 7/26/05 they provided additional criteria regarding the sidewalks which stated "Sidewalk along MD 281 needs to be 5' wide. Please show details on the plans."

There were additional comments as to whether the Town could require something in the County. Ms. Minner stated that she spoke to both Scott Flanagan and Tim Whitey at Cecil County Department of Public Works and they stated that Route 281 was not under their jurisdiction, since it is in the State Highway right of way, but that if they were asked to make a decision regarding what was required they would support whatever the Town wanted to see in that area.

Mr. Wiseman asked if the Board's questions had been addressed sufficiently. He added that at that time both parties had agreed to placement of the sidewalk.

Ms. Minner provided excerpts from other correspondence from State Highway as noted:

State Highway Administration – August 10, 2009:

"Thank you for your inquiry concerning The State Highway Administration's (SHA) requirements for the roadway improvements along MD 281 for the Red Hill Subdivision. You inquired specifically about our position in reference to the eliminating of the proposed sidewalk along the property frontage.

While the SHA strongly supports the inclusion of sidewalks along state highways wherever possible and practical, constructability on this project has become an issue due to unforeseen field conditions. We have consulted with our field inspectors and our Innovation Contracting Division and have concluded that eliminating the sidewalk would be an acceptable and practical solution in this specific situation. In light of the fact that there are no immediate pedestrian connections to the proposed development, we have determined that requiring the developer to grade for future sidewalk would be in satisfactory compliance with SHA's Accessibility Policy and Guidelines for Pedestrian Facilities Along State Highways." Signed Steve D. Foster, Chief, Engineering Access Permits Division

After Ms. Minner received this letter she e-mailed Mr. Davis where she explained that SHA had originally required the developer to install sidewalks. Steven Foster, Chief, Engineering Access Permits Division (under Steve Mandras signature), had sent a letter to David Strouss, of McCrone, Inc. on February 14, 2005 that included the following statement: "*Sidewalks will also be required along the entire length of the acceleration and deceleration lanes.*" On July 26, 2005 Steven Foster, under Butch King's signature, sent a letter to David Strouss that included the following statement: "*Sidewalk along MD 281 needs to be 5' wide. Please show details on the plans.*" She then explained that pedestrians currently walk along this roadway on the shoulder of the road and asked if SHA would be installing sidewalks in the future.

Mr. Davis' response via e-mail to Ms. Minner's questions follows:

"Our 'Accessibility Policy & Guidelines for Pedestrian Facilities along State Highways' which is accessible on our internet website (shown in e-mail) on page 3 says:

"All projects, regardless of who is administering the contract, shall accommodate and provide accessibility for persons with disabilities where it is *reasonable, feasible and appropriate to do so* as described herein. This includes utility relocations, access permits and reimbursement projects. *Providing accommodations is especially important where the existing and/or proposed land use supports pedestrians.*"

The original intention for the Red Hill project was to provide pedestrian facilities where it is 'reasonable, feasible and appropriate to do so' regardless of the lack of existing pedestrian connections and support and regardless of the fact that none of the other along their road frontages. Additionally, MD 281 has 10' shoulders which are considered to be a provision for pedestrian traffic. The recent, unforeseen field conditions encountered during construction have made the sidewalks a bit less reasonable and feasible to construct. We have been working with the developer to find reasonable solutions to some of the issues. The developer has agreed to additional paving that has become necessary and the sidewalk was deemed negotiable on our part. Although our position is that the sidewalk is expendable, SHA would still prefer to have it constructed. However, we will defer to the Town's decision.

SHA does not currently have plans for sidewalks or any other roadway improvements for MD 281 listed in the Highway Needs Inventory, our long range planning document, and

none listed in the current CTP. It is not likely, if current economic conditions persist, that any SHA project will be funded in the near future.

I hope this information is helpful, Gary"

Mr. Wiseman entertained any questions from the Board. Mr. Thomas asked if there were sidewalks coming from the development out to the road. Ms. Minner stated that sidewalks will be provided from the development out to the road.

**MOTION: Motion was made by Mr. Thomas to deny the request for a waiver of the sidewalk along MD 281. The motion was seconded by Ms. Manejwala and unanimously approved.**

**NEW BUSINESS –**

Ms. Minner informed the Board that WILMAPCO has a proposal, by request of the Mayor, to do a signage study due to truck traffic being directed through Town on roads that are appropriate for this type of traffic. She had provided a copy of the draft scope to the Board and entertained questions.

It was determined that the Board would e-mail Ms. Minner with any comments they may have.

There being no further items for discussion Mr. Wiseman adjourned the meeting at 8:07 p.m.

Respectfully submitted,

Brenda Humphreys