

**TOWN OF ELKTON
PLANNING COMMISSION
MARCH 10, 2008**

PRESENT: David Wiseman, Chairman; Donna Short; Jeffrey Reynolds; Robert Litzenberg; H. Fred Thomas, II; Asma Manejwala; Clara Campbell, Esquire; Commissioner Mary Jo Jablonski, Ex-Officio; Jeanne D. Minner, Director of Planning, Theresa Thomas, Planner; Brenda Humphreys of the Building & Planning Department

ABSENT: None.

Mr. Wiseman called the meeting to order at 7:00 P.M.

ACTION: Motion was made by Ms. Short to approve the minutes of the February 11, 2008 Planning Commission Meeting with corrections as noted. Motion was seconded by Mr. Reynolds and unanimously approved.

FAIR HILL ENGINEERING, LLC REPRESENTING OVERLOOK AT WALNUT HILL, REVISED PRELIMINARY PLAN, TAX MAP 306, PARCEL 2143, ZONED R-2

Mr. John Mascari of Fair Hill Engineering and Mr. Michael Davitt, Sr. Owner/Developer of Overlook at Walnut Hill were introduced to the Board. Mr. Mascari informed the Board that the project is located on the east side of MD 213, north of Rt. 279. It is a proposed eight (8) lot single family subdivision. He noted that it is currently one parcel of 2.6 acres and is adjacent to and part of the Walnut Hill Subdivision. He stated that it will share the Home Owner's Association, open space and amenities of the Walnut Hill Subdivision.

Mr. Mascari reminded the Board that the Preliminary Plat for this subdivision was approved in April of 2006 and there have not been many significant changes since that time. He pointed out that the changes that are proposed are primarily due to storm water management requirements. There are two areas where storm water management areas are required. The April 2006 plan showed a smaller storm water management area where they hoped to place a neighborhood park but they were unable to do so due to the storm water requirements. He stated that they are proposing improvements to the existing recorded neighborhood park, adjacent to the subdivision, and will be working with the Parks & Recreation Department to determine what will be placed. There is a proposed sidewalk that leads back to the open space area and signage will be placed to direct the community to that area. He added that the parks are private and are owned and maintained by the Home Owner's Association. He noted that there is a small drainage swale in that area and a culvert and sidewalk will be placed over the culvert.

Mr. Mascari stated that some of the comments from April 2006 which still need to be addressed dealt with open space, existing trees and stormwater management. He said he has met with the Planning Department to discuss the details of how to address these issues.

One of the details is the open space requirements. He stated that the required open space is fairly small for this portion. They computed what was required for the Village at Elk Ridge, which includes this open space, and for the Overlook at Walnut Hill and determined that they have adequate open space available. He pointed out on the plan the areas of non-tidal wetlands and stated that the fringe areas that do not contain wetlands are being used for open space. He stated

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that the storm water ponds would be dedicated to the Town. He noted that some of the open space would be converted to more usable space as neighborhood parks. He showed the areas where the neighborhood parks currently exist and those proposed as well. He pointed out the proposed tennis court and an existing play structure behind Mike & Vince Drive. The computations for the open space are shown on the plan.

The next item discussed concerns the existing trees. He stated that several of the existing trees are large diameter and the plan shows those trees that are to be saved. The comments concerning the trees will be incorporated into the final forest conservation plan when it is submitted.

An additional comment was regarding the forest conservation, which is separate from the trees previously discussed. He mentioned that this property did not meet the definition of a forest because of the number of trees existing. In order to meet the requirement they proposed additional forest retention adjacent to the existing forest retention that had already been recorded. He confirmed that forest conservation signage would be placed and that protective devices (silt fence and super silt fence) have already been placed.

The remainder of the comments will be addressed in the construction plans and in the final plats prior to submission of final plans for approval.

Mr. Mascari stated that in April of 2006 they had requested a design exception to not place sidewalks on the side of the road opposite the houses. He stated that sidewalk will be placed on the side where the houses are that will lead to the neighborhood park in the open space.

Another design exception they are requesting is elimination of the 5' high berm within the required bufferyard at Route 213 along Lot 1 due to the fact that the area is only 15' wide. He felt that when looking at the grading it is not feasible to place this berm but a 1 ½ foot berm will be placed in the rear yard with the proposed landscaping.

Mr. Wiseman asked if these are the only design waivers being requested. Mr. Mascari confirmed that they were the only waivers needed.

Mr. Wiseman asked Ms. Minner what would need to be done in regard to her comment concerning the open space and neighborhood parks. She stated that the previous plans would have to be amended and the plans would have to be recorded again.

Mr. Wiseman asked about the berm reduction and whether Ms. Minner had any other comment concerning that. She stated that sometimes, depending on the depth, it is difficult to achieve the berm and sometimes the storm water management in an area does not work if a berm is too close but that the goal is to provide adequate screening. She mentioned that the area immediately to the east of the storm water pond is not set for development at this time and she stated that she was unsure what the plan might be for that area. It was determined that the area might be future single lot development, an office or additional lots. Mr. Mascari stated that they may be back again for development of this area.

Mr. Litzenberg inquired about the number of Home Owners Associations that are affiliated with this subdivision. Mr. Mascari stated that there will be one Home Owner's Association over the existing villages as well as this proposed project and that it is currently in place.

Mr. Reynolds asked how the 2006 sidewalk variance read. Ms. Minner read the April 10, 2006 approval letter and there was no mention of the sidewalk. Mr. Mascari stated that the sidewalk was requested at that time and he stated that it was approved. Ms. Minner said that she would research the previous minutes regarding the sidewalk waiver.

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

MOTION: Motion was made by Ms. Short to approve the Revised Preliminary Plan for Overlook at Walnut Hill contingent upon addressing all outstanding comments from the Town and KCI and allowing two designs waivers requested for elimination of the sidewalk opposite the houses and the required berm along Lot 1 on Route 213. The motion was seconded by Mr. Litzenberg and unanimously approved.

Amendments to the Elkton Zoning Ordinance:

Article X, Section 8.2, Permissible Use Table

Use Description 5.300 Libraries, museums, art galleries/centers (defined as having an occupancy of greater than fifty (50) persons), art centers, and similar uses (including associated educational and instructional activities)

Use Description 5.500 Art or cultural center and art classes (See Article XII, Section 6) Permitted with conditions in the RO and C-1 Zones

Article XII Supplementary Use Regulations

Section 6. Art or Cultural Centers (5.500)

An ~~non-commercial~~ art or cultural center may be allowed ~~as a Special Exception by the Board of Appeals in R-O, C-1 Districts and shall be permitted in the C-2, in the R-O, C-1, C-2, C-3 and B-P Districts upon a finding that the proposed use will not constitute a nuisance because of traffic, noise, number of person, or physical activity and that the proposed use is operated by a non-profit organization not organized or operated for the purpose of carrying on a trade or business, no part of the net earnings of which inures to the benefit of any member of such organization or individual.~~ Such use may consist of one or more buildings or structures ~~which the Board or Planning Commission shall find~~ that will be devoted entirely to the furtherance of the arts or culture, including, but not limited to, a theater, museum, classrooms, or any combination thereof, and may provide for a restaurant or snack bar designed solely for service of food or refreshments to people using the facilities of the proposed center. ~~The lot, parcel, or tract of land upon which the proposed Center is to be located shall have a minimum area of two (2) acres.~~

Ms. Minner advised the Board that upon her review of the Ordinance she noted that art galleries and museums currently require a special exception. She said the section failed to address art classes and did not call out any size allowance for specific uses. She discussed this section with the Zoning Administrator and put together the submitted recommendations. She read the

proposed recommendations and mentioned that there is now a designated Arts & Entertainment District. She stated that Commissioner Jablonski was instrumental in obtaining this designation through the State and it carries with it tax incentives for businesses that contain arts.

Ms. Minner added that under Section 6 there would be conditions for these areas but a number of the current conditions would be eliminated, specifically the need for a special exception. Ms. Minner noted other requirements she is recommending be eliminated. She stated that it will be allowed in the R-O, C-1, C-2, C-3 and BP zones. The requirement that it not constitute a nuisance will remain.

Use Description 6.110 Bowling alleys, skating rinks, indoor tennis and squash courts, billiard and pool halls, rifle and pistol ranges, indoor athletic and exercise facilities and similar uses.

Permitted by special exception in the BI Zone

Ms. Minner addressed the indoor recreation section which the Board had discussed at a previous meeting.

Use Description 12.400 Dog & cat grooming salon

Permitted in the C-1 and C-2 Zones.

Ms. Minner informed the Board that she had received a request for the Board to address businesses other than kennels providing this service. She stated that since this use is not addressed in the Ordinance she is suggesting that the use be added and permitted in the C-1 and C-2 zones.

MOTION: Motion was made by Mr. Reynolds to recommend approval to the Mayor & Commissioners of all three amendments as written. The motion was seconded by Ms. Short and unanimously approved.

Old Business

There was discussion regarding the Comprehensive Plan review. Ms. Minner informed the Board that five RFP's had been received and will be reviewed for consultant support in addressing changes to the Plan. Ms. Short inquired about the timeframe being considered and whether it would again be reviewed page by page. She noted that an incredible amount of time was required when the previous review was done. Ms. Minner stated that she will look at the proposals and take into account the time requirement. She stated that she gave a suggested completion date of 9 months to the companies making application for the consulting support. She mentioned that WILMAPCO will be providing the majority of the monies for this proposal. There was discussion regarding continuity with the County while revising the Comprehensive Plan.

New Business -

Discussion – Zoning Ordinance change regarding daycare centers being allowed in the B-I zone

Ms. Minner addressed the Board regarding a change in the Ordinance with reference to daycare centers which was being requested by Montgomery Brothers, Inc. Mr. Jeff Sellers of Montgomery Brothers and Ms. Carrie Ferguson were introduced to the Board.

Mr. Sellers stated that he had received a few inquiries regarding placement of daycare centers within the Town limits. He noted that C-1 & C-2 properties, where this use is allowed, are high cost which causes daycare centers to shy away from these zones. He stated that they would like to build a very nice building on the property at 801 Elkton Boulevard in the vicinity of the water tower. They are considering an approximately 10,000 square foot building to accommodate a daycare center.

Ms. Ferguson addressed the Board and stated that daycare is allowed in the B-I zones in the County but not within Town limits. She stated that she has been a teacher in the County for seven years and she currently teaches at Thomson Estates. She said she is also the president of the PTO at the school and has discussed the need for daycare with many of the parents. She currently has at least seven people interested in staffing the daycare which could accommodate employees at such businesses as the hospital, Thomson Estates and Gilpin Manor, Terumo or other local businesses.

Mr. Wiseman asked the ages of the children for the proposed daycare. Ms. Ferguson stated that it would be all ages. Mr. Wiseman asked what the current ordinance addresses regarding the B-I zone. Ms. Minner stated that it is currently not permitted in the B-I zone.

Ms. Short asked if the location falls within the requirements of the ordinance for distance from Four Corners Tavern. Ms. Minner stated that Four Corners is located catty-corner from the proposed location. There was discussion regarding what the actual distance was and what the ordinance required.

Ms. Minner pointed out that the County has both a business intensive zone and an industrial zone whereas the Town has a combined business-industrial zone.

Mr. Wiseman inquired where the B-I zones are in Town. Ms. Minner stated that there are a few areas of B-I within the Town limits.

Mr. Wiseman asked Ms. Ferguson if she has spoken to the State regarding requirements for a daycare. She stated that she has addressed numerous issues with the State. Mr. Sellers stated that they can accommodate a two-story structure at this site and would consider placing only a one-story structure if the Town opposes a two-story. They would like to provide the maximum square footage possible. Ms. Ferguson stated that initially she would like to have approximately 4,000 square feet and 100 children. Commissioner Jablonski asked the number of staff required for the different age groups. Ms. Ferguson stated that for ages under 2 that a 1 to 2 ratio is required, for ages 2-5 that a 6 to 1 ratio is required, and then for school age children the ratio would be 15 to 1.

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Mr. Wiseman asked the process through the Planning Commission. Ms. Minner stated that this use falls within the category of elderly and childcare centers and conditions are in place. She mentioned outdoor play area, distance from liquor stores, location of play areas and drop off areas as well as others.

Mr. Wiseman noted that the safety of the children is the main concern. He suggested that they put together a concept and meet with Ms. Minner in order to work through the initial requirements and then come before the Board again. Ms. Jablonski noted that there will be additional requirements from the State, etc.

It was noted that the area is enclosed by a fence and Mr. Sellers stated that there would be defined entrances for each use at that property.

There was a general consensus from the Board that if this use is allowed in the B-I zone it should be by special exception with the conditions that currently exist for this use in other zones.

Mr. Wiseman addressed the concrete blocks which have been placed at the Whitehall entrance to the Old Walmart site and between this site and the Ruby Tuesday Restaurant out parcel. Mr. Wiseman suggested that someone assess this situation so that it does not cause any potential safety issues.

Ms. Minner addressed a request from Mr. Mike Davitt for discussion concerning the height restriction for mini warehouses. There was discussion regarding a new type of public storage product that is being considered for placement within Town limits but would not currently be allowed due to those height restrictions. It is an attractive 3-story indoor storage facility that would fit into the commercial areas in Town.

She stated that she has no problem with this type of product but would recommend that strict design standards be applied. She proposed material such as brick, stone or stucco with window wall on 33% of the building. She suggested that architectural features for these building require approval by the Planning Commission.

She added that the buildings would be climate controlled and that these type buildings are becoming more in demand for business storage for archived files, etc.

She noted that another part of the amendment that was suggested would be the addition of a ridged roof feature. Currently the ordinance does not allow mini warehouses over ten feet in height.

Ms. Short suggested that the HARC (Historic & Architectural Review Committee) have input in updates to the Comprehensive Plan. She also felt they should be allowed to review amendments to the Ordinance that impact the Historical Overlay District.

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Election of Vice Chair

Mr. Wiseman stated that the Board needed to elect a new Vice Chair due to Ms. Voigt no longer being seated on the Board.

MOTION: Motion was made by Ms. Short to nominate Mr. Reynolds as the new Vice Chair of the Planning Commission. The motion was seconded by Mr. Litzenberg and unanimously approved.

There being no further items for discussion Mr. Wiseman adjourned the meeting at 8:13 p.m.

Respectfully submitted,

Brenda Humphreys