

**TOWN OF ELKTON
PLANNING COMMISSION
JUNE 9, 2008**

PRESENT: David Wiseman, Chairman; Donna Short; Robert Litzenberg; H. Fred Thomas, II; Asma Manejwala; Sue Whitaker; Clara Campbell, Esquire; Commissioner Mary Jo Jablonski, Ex-Officio; Jeanne D. Minner, Director of Planning, Theresa Thomas, Planner; Brenda Humphreys, 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 May 12, 2008 Planning Commission Meeting with corrections noted. Motion was seconded by Mr. Thomas and unanimously approved.

REQUEST OF JOHN THOMAS, 110 NEWARK AVENUE, ELKTON, MARYLAND FOR AN IN-HOME OCCUPATION. TAX MAP 306, PARCEL 1680, ZONED R-1

Mr. John Thomas was introduced to the Board. Mr. Thomas reviewed the conditions of the in-home occupation with reference to the Town Zoning Ordinance. He noted that only he and his wife will be working in the business. His wife will be handling the paperwork part of the business.

Mr. Wiseman asked for clarification concerning the work to be done. Mr. Thomas stated that he will be repairing forklifts. He mentioned that the office will be located at this residence and that the vehicle (14' box van) he will be using for the business will be parked at this home. Mr. Thomas mentioned that he would be contacting the Building Department regarding any requirements for signage on this box van.

Mr. Wiseman asked if Mr. Thomas' neighbors were aware of his request for the in-home occupation. Mr. Thomas stated that they were aware of the request.

Mr. Wiseman asked if there is any problem staying within the square footage requirement for the in-home occupation. Mr. Thomas stated that they would be using only one room which was the smallest bedroom.

Mr. Litzenberg confirmed that the business would be run out of the van which would be taken to the site where the repairs would be done.

Mr. Wiseman asked if Ms. Minner had any questions. Ms. Minner asked Mr. Thomas if the truck would be used as advertising. Mr. Thomas stated that he would contact Mr. Trostle of the Building Department regarding any requirements for the sign on the truck which has not been placed on the truck currently.

Ms. Minner asked if there would be any repair of equipment at the house, any noise relating to the in-home occupation or equipment being repaired in the driveway. Mr. Thomas stated that there would not.

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

MOTION: Motion was made by Ms. Short to approve the in-home occupation provided the applicant contacts Mr. Trostle regarding any requirements for signage on the business vehicle. Motion was seconded by Mr. Litzenberg and unanimously approved.

REQUEST OF O'CONNELL ENGINEERING, INC. REPRESENTING ARBY'S RESTAURANT GROUP, 103 EAST PULASKI HIGHWAY, ELKTON, MARYLAND, PRELIMINARY MAJOR SITE PLAN, TAX MAP 315, PARCEL 2407, ZONED C-2

Mr. John O'Connell of O'Connell Engineering and Mr. Andrew Daly of Arby's Restaurant Group were introduced to the Board.

Mr. O'Connell stated that a gas station was located on this site and has now been vacant for approximately 4-5 years. A 3,000 square foot Arby's Restaurant is being proposed for this site. He stated that they had received comments from the Town of Elkton and have been given a verbal approval for the entrance from Wilbur King at Maryland State Highway. They will be using the cross access easement through the McDonald's site on the adjacent property. He noted that they would not be adding any new entrances. He stated that they would be adding some sidewalk, landscaping and lighting. There will also be some additional landscaping between the right of way and the sidewalk. He has asked Mr. King of MDSHA to provide a letter of approval for placement of landscaping within the State Highway right of way in order to provide the 10' landscape buffer required by Town Ordinance.

Mr. Wiseman inquired whether Mr. O'Connell had received comments from KCI as well as the Town. Mr. O'Connell stated that he had received comments in May but felt the comments he had were the most recent.

Mr. O'Connell stated that they are requesting five (5) waivers. The first waiver is for relaxation of landscape islands given that two of them have more than seven (7) parking spaces.

The second waiver is a request for relaxation of the loading aisle. Mr. O'Connell stated that Arby's deliveries are made before and after regular business hours. He noted that they use the drive thru lane as a loading aisle prior to start of business. Mr. Litzenberg asked the regular business hours for Arby's Restaurants. Mr. Daly stated that they open at 10:00 a.m. and close at 10:00 p.m. with the drive thru open until midnight. He mentioned that typically deliveries would be made between 7 and 8 a.m.

The third waiver is a request for relaxation of the fifteen (15) foot buffer at the front property line to five (5) feet. He stated that currently there is an existing curb with five (5) feet to the property line. He stated that they would be placing the required number of trees within that five (5) foot buffer as is required in the 15' buffer. He noted that they also have a 15' buffer on the right side of the property. He mentioned that they have requested approval from Maryland State Highway

to use the existing area between the sidewalk and the right of way for landscaping. They have also requested a letter from Maryland State Highway approving them to place the sidewalk within their right of way.

The fourth item he mentioned was regarding the existing sign shown on the site plan. He stated that they would be requesting a variance from the Board of Zoning Appeals to place a sign on the existing pylon. Ms. Minner stated that Mr. O'Connell would need to contact Mr. Craig Trostle regarding the placement of a sign on the property and any grandfathering issues.

The final waiver is regarding where the pavement width of the parking lot exceeds sixty (60) feet, the landscaped area adjacent to the road or public right of way shall be increased by five (5) feet for every additional sixty (60) feet of parking lot width perpendicular to the right of way. It would entail relaxation of the landscape requirement from thirty (30) feet to fifteen (15) feet, ten (10) feet and five (5) feet respectively as shown on the submitted site plan along Route 40. He mentioned that this request is similar to the third waiver.

Mr. O'Connell mentioned a comment they received regarding the need for a traffic impact study. He stated that since they are not adding an entrance they are requesting not to have to provide a traffic impact study unless it is requested by Maryland State Highway. Ms. Minner stated that a traffic impact study is required by the Ordinance for drive-thru restaurants. Mr. O'Connell asked if the traffic study is specific to the interior of the site or the road. Ms. Minner stated that it is the road which is of concern. Mr. Wiseman suggested that the traffic flow has increased and that either a deceleration lane or striping of some kind might be helpful.

Ms. Short asked if Ms. Minner had any issues with the landscape waivers being requested. Ms. Minner stated that the site is small and she does not have any concern with their request.

Mr. Litzenberg inquired about the percentage of asphalt and green areas on the site. Mr. O'Connell stated that the percentage is similar to what exists on the site but that they would be recalculating those percentages. He stated that the site would have to be reviewed by the Critical Area Commission.

Mr. Wiseman asked if there was an issue with a water line at the rear of the site toward the mall. Mr. O'Connell stated that the issue was regarding the building being within the easement for the water line. He noted that this proposed building would not be placed within the easement. He added that Mr. Enrico requested that nail down curb be placed on the site for future maintenance and also that tree pits be placed for trees within the easement.

Mr. Wiseman noted that this is a preliminary submission and there are a number of technicalities which need to be worked out.

Mr. Litzenberg asked the extent of the Critical Bay Area with reference to this lot. Ms. Minner stated the Critical Bay Area is within 1,000 feet of any tributaries of the Chesapeake Bay, which would include this lot, and therefore they would have to abide by the requirements of that area.

Mr. Wiseman inquired about whether the storm water management would be directed toward the mall area or in another direction. Mr. O'Connell stated that there are existing storm water management facilities on this site. He said that they will be making some upgrades to these

facilities. He mentioned that all of the storm water goes into an existing catch basin between the landscaping and the existing parking lot. All the storm water management will be underground and they will be modifying some of the existing at the east property line. He also noted that they will be adding a catch basin at the northwest property line.

Ms. Minner mentioned that the building color should be approved by the Planning Commission.

Mr. Wiseman entertained questions from either the Board or the audience. There were none.

MOTION: Motion was made by Ms. Manejwala to approve the Preliminary Major Site Plan contingent upon addressing all outstanding comments from the Town and KCI and providing a traffic study is done as required by the Town Ordinance. Waivers were approved for relaxation of landscaping islands as requested, relaxation of the loading aisle as requested, and relaxation of the fifteen (15) foot buffer at the front property line to five (5) feet, and relaxation of the landscape requirement from thirty (30) feet to fifteen (15) feet, ten (10) feet and five (5) feet respectively as shown on the submitted site plan along Route 40. The motion was seconded by Ms. Short and unanimously approved.

AMENDMENT TO ARTICLE X, SECTION 8.2, PERMISSIBLE USE TABLE, USE DESCRIPTION 23.000 BUS STATION, TRAIN STATION, PARK AND RIDES

Ms. Minner advised the Board that the Town is working toward the reopening of the train station downtown and therefore the Ordinance needs to be amended to allow this use in the C-1 zone.

Mr. Wiseman asked if this would affect the bus stops. Ms. Minner noted that they would not be considered a bus station.

Mr. Wiseman entertained comments from the Board or the audience regarding this amendment. There were none.

MOTION: Motion was made by Ms. Short to recommend approval of the amendment as written. The motion was seconded by Mr. Thomas and unanimously approved.

AMENDMENT TO ARTICLE X, SECTION 8.2, PERMISSIBLE USE TABLE, USE DESCRIPTION 21.000 NURSERY SCHOOLS; DAY CARE CENTERS WITH MORE THAN 30 CHILDREN

Ms. Minner stated that this item is already covered under Use Description 1.423 and conflicts with that part of the Ordinance. The recommendation is to delete Use Description 21.000.

Mr. Wiseman entertained comments from the Board or the audience regarding this amendment. There were none.

MOTION: Motion was made by Ms. Manejwala to recommend approval of the amendment as written. The motion was seconded by Mr. Litzenberg and unanimously approved.

AMENDMENT TO ARTICLE XVII, SECTION 2.5 TABLE OF MINIMUM PARKING REQUIREMENTS

Ms. Minner stated that Union Hospital had requested a waiver to eliminate a number of parking spaces for their proposed medical office building and the requirements of the ordinance were questioned at that time. She and Mr. Trostle have met with representatives of the Hospital since that time regarding their parking situation. She pointed out the requirements of the Ordinance prior to 1994 were one parking space per 800 square feet which was probably too little parking. The current ordinance requires either one parking space per every two beds or one parking space per every 150 square feet, whichever is greater, which is a significant amount of parking. Ms. Minner noted that in reviewing other ordinances there is a wide variety of ways that parking is determined from number of doctors to number of beds as well as other criteria. She suggested that four parking spaces per every 1000 square feet is reasonable and the hospital is requesting that the ordinance be amended. Mr. Wiseman stated that he recalled from the previous meeting that the ratio was more the concern than the total number of spaces. Ms. Minner stated that it is hard to predict the best criteria to use but they could try this approach and see how it fits.

Mr. Litzenberg asked if nursing homes would be included under this amendment change. She stated that nursing homes are based on one parking space per two beds. Mr. Litzenberg pointed out that other buildings have been required to abide by the ordinance and he believes the hospital should as well.

Mr. Wiseman entertained additional comment from the Board or the audience.

Ms. Deborah Storke read a letter which stated that she is in opposition to this amendment. (*A copy is attached to these minutes.*)

Mr. David Gipson, Chief Operating Office of Union Hospital, spoke in favor of the amendment. He stated that the basis for their amendment request is that the table of parking requirements, per the ordinance, is to be administered flexibly. The actual use and parking have been looked at since that meeting. He noted that nothing has changed regarding the parking situation at the hospital. They continue to have 400 empty parking spaces during the day and have received no complaints from patients or employees regarding adequate parking.

Mr. Gipson provided an example of what he feels is a disparity in the current zoning ordinance. Ex. The criteria for hospitals states that either one space/150 sf or one space/two beds, whichever is greater. If the criteria used to determine parking for the hospital is one space per every 150 square feet they would be required to provide 2,120 spaces. If the criteria used to determine parking for the hospital is one space for every two beds they would be required to provide 298 spaces. He stated that he did not believe anyone would look at these criteria and say that this part of the ordinance makes sense. The first criteria would require them to provide 1,000 more spaces than they are currently providing although there are 400 empty parking spaces already.

Mr. Gipson again noted that he understands that the Town has parking problems but that the Hospital is not the cause of these problems. He stated that the hospital has met their obligation over the past four years for their projects and he feels it would be irresponsible for the hospital to pave over more of Elkton to provide parking spaces that will never be used. He asked that the Board consider this information when making their decision.

Ms. Short stated that she sees nothing aesthetically pleasing regarding parking lots and cannot see requiring more than are needed. She mentioned that maybe the criteria needs to be reviewed in order to make the parking more evenhanded. She wondered if a timeframe would be reasonable.

Mr. Gipson stated that the Hospital would be delighted to enter into an agreement with the Town, with or without the ordinance amendment, specifying what their plan would be to provide additional parking should some threshold number of spaces were to be reached.

Mr. Gipson stated that they are a community hospital and despite the perception of some they are not for profit. He mentioned that people receive care at the hospital whether they are insured or not. It does no one any good if there is an insufficient number of parking spaces.

Mr. Wiseman noted that any type of agreement would fall back to the Mayor & Commissioners in the same way that this amendment would. He pointed out that there is a difference between nursing homes and hospitals due to the fact that they are a controlled entity and the number of beds are predetermined. He noted that hospitals are broken out into a separate group in the parking rationale due to the fact that they are high volume employers and high volume of business. He stated that he does not see another hospital coming to the Town of Elkton any time in the near future.

Mr. Litzenberg inquired about how this will affect medical centers if the hospital parking rationale is changed since they both require the same amount of parking. Ms. Minner pointed out that the hospital and medical office buildings have the same parking rationale. She noted that currently hospitals have the two criteria previously mentioned whereas medical office buildings have one space for every 250 square feet.

Mr. Wiseman stated that with regards to the hospital parking rationale they are making recommendation to the Mayor & Commissioners regarding a change from the current rationale to one space per every 250 square feet.

MOTION: Motion was made by Ms. Short to recommend approval of the parking rationale change for hospitals to one space per every 250 square feet as written. The motion was seconded by Mr. Thomas with the remaining members voting as follows: Mr. Wiseman – Aye; Mr. Litzenberg – Nay; Ms. Manejwala – Aye; and Ms. Whitaker – Aye.

DISCUSSION ITEM – JEFF SELLERS – REGARDING PROPOSED AMENDMENTS TO THE TOWN ORDINANCE

Mr. Jeff Sellers was introduced to the Board. Mr. Sellers referred to his letter of June 3rd and stated that he is before the Board at Mr. Trostle's recommendation to amend the uses at 801 Elkton Boulevard. He stated that they appreciated the Boards recommendation of approval for changes to the Ordinance regarding recreation. He mentioned that during a meeting with Mr. Trostle the previous week certain uses were not specified in that recommendation. Some commonly associated uses which are normally held in gymnasiums and recreation centers were not specified in that use earlier such as banquets, expos, etc. were not captured under that recommendation. Therefore, they would like to request an amendment to allow those associated uses in section 6.110 under sections 5.3, 5.4 and 5.5. He added that they have received numerous

Planning Commission Meeting

6.9.08

Page 7 of 7

requests for the west end of their building for uses such as the Festival of Trees, Cecil County Business Expo, Citizen of the Year banquet, Chamber of Commerce, musical recitals, recording studios, small trades show exhibits, local school proms and public hearings.

Mr. Wiseman clarified that their intent was to allow all uses under 5.3, 5.4 and 5.5 to be allowed within the B-I zone. Mr. Wiseman inquired what other areas of Town would be B-I that this amendment would affect. Ms. Minner stated that the Upper Chesapeake Corporate Center, Vantage Point on west side of Route 213, property behind RMR on Bridge Street, North of Route 279 on Route 213 across from Walnut Hill and the Dwyer Property are all zoned B-I.

Mr. Wiseman asked if Ms. Minner had spoken with Mr. Trostle regarding these proposed changes. Ms. Minner stated that she has not spoken with Mr. Trostle. She offered that she would consider these uses more in the commercial zoning and wondered if rezoning would not be a better option rather than deal with the possible incompatibility of some of the proposed uses within an industrial zone. She stated that her main concern was that if these uses are allowed in the B-I zone that they might interfere with existing industrial uses. She added that with anticipated BRAC moves the Town may see more industrial uses and therefore we need to think about cohabiting uses.

Mr. Sellers replied that they are open to the possibility of requesting a rezoning. He stated that when they purchased this property the intention was not to keep the industrial uses. Ms. Minner interjected that with the rezoning they would need to prove change or mistake.

Mr. Litzenberg asked how the sports center is doing. Mr. Seller stated that it is doing well. Discussion ensued regarding the amendment request and the rezoning possibility.

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

OLD BUSINESS: Ms. Minner stated that the Mayor requested that the Board receive a copy of Article 66B on the Annotated Code of Maryland with reference to Zoning and Planning.

Ms. Minner stated that they are delayed regarding the Comprehensive Plan reviews. The Mayor has asked that the Department Heads meet with the Mayor & Commissioners first prior to them meeting with the consultant.

It was pointed out that the Article 66B needed to be provided to Ms. Whitaker and Commissioner Jablonski.

Mr. Wiseman stated that the next meeting of the Planning Commission would be July 14th, 2008.

There being no further items for discussion Mr. Wiseman adjourned the meeting at 8:10 p.m.

Respectfully submitted,

Brenda Humphreys