

**TOWN OF ELKTON
PLANNING COMMISSION
OCTOBER 10, 2022
MEETING MINUTES**

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

Absent: Mandy Feeney

Mr. Wiseman called the meeting to order at 6:00 p.m. He stated the first item on the agenda is approval of the minutes from the August 8, 2022 meeting. There being no corrections from the Commission members Mr. Wiseman called for a motion.

MOTION: Motion was made by Mr. Ginder to approve the minutes of the August 8, 2022 Planning Commission meeting as written. The motion was seconded by Mr. Muller with the remaining Commission members voting as follows: Mr. Thompson – Aye; Mr. Wiseman – Aye. The motion passed unanimously.

REQUEST OF BOHLER ENGINEERING REPRESENTING SHEETZ, INC., FINAL SITE PLAN, 622 EAST PULASKI HIGHWAY, TAX MAP 033C, PARCEL 2462 AND ZONED C-2 (HIGHWAY COMMERCIAL)

Mr. John Eidberger, Project Manager for Sheetz, Inc. and Ms. Emily Pate of Bohler Engineering were in attendance to address this request. Ms. Pate stated they are requesting Final Site Plan approval for the Sheets to be located at the corner of E. Pulaski Highway & Commerce Center Drive. The parcel is 4.14 forested acres and zoned C-2 (Highway Commercial). They are proposing placement of a 6,138 sf convenience store and a 1,700 sf car wash. Access to the site will be by way of a right in and right out along Pulaski Highway and a full movement access off of Commerce Center Drive.

She noted with regard to parking, 29 parking spaces are required by Town Code and they will be providing 46 spaces. She stated they are meeting requirements by the Town and MDE for the stormwater management and are working through final approval with KCI on some of the stormwater comments received.

Ms. Pate stated they have some minor comments from the Town to address on the Final Site Plan. They have received approval from Singerly Fire Company and conditional approval from Cecil Soil Conservation District and are working through some minor comments with them. They also have GIS approval from SHA and the Town and they have conditional approval on the final SHA access permit plans for the entrance on Pulaski Highway. She mentioned they are addressing some minor comments from KCI on the easement plat and should be submitting the plans for signature in the coming weeks.

Ms. Pate stated the Traffic Impact Study has been submitted and they are awaiting the final approval letter.

Mr. Wiseman asked if Ms. Minner or any Commission members had additional questions. There being no further discussion he called for comments from the audience members.

Ms. Ann Connor of 45 Enfield Road voiced her concern that she did not see a fence on the plans submitted. She noted that in the previous meeting on March 7, 2022 they stated an 8' vinyl privacy fence would be placed on the property line between the store and the residential properties which border the property. Mr. Eidberger confirmed that if the fence is not shown on the plans that they do intend to place

it. Ms. Connor stated she is willing to work with Sheetz to remove trees on her property that might interfere with placement of the fence. Ms. Pate confirmed that the fence is shown on Page 3 of the Sheetz plans which were submitted.

Mr. John Conolly of 66 Sarah Drive voiced his concerns regarding spillover light from the Sheetz onto the residential properties on Alda Drive. He mentioned this regarding the light issues they are currently having with the Logistics warehouse site. Mr. Eidberger pointed out the lighting being used is directional LED lighting and they would be willing to adjust them, should the neighboring properties have concerns once the lighting is in place.

Mr. Conolly talked about the number of convenience stores and car washes being planned or which are currently on Route 40. Mr. Wiseman stated the Commission has heard numerous similar comments but said they cannot keep developers from submitting plans on any particular use that is allowed within Town zoning.

Mr. Wiseman asked for any other comments from the audience. Ms. Amy DiPietro of Morris & Ritchie Associates asked if Sheetz would be offering diesel fuel. Mr. Eidberger stated the diesel they will be offering will be low flow for cars rather than trucks.

There being no additional questions from the audience, Mr. Wiseman moved on to the next agenda item.

MOTION: Motion was made by Mr. Ginder to approve the Final Site Plan for Sheetz, Inc. contingent upon addressing all outstanding comments and provided an eight (8) foot vinyl fence shall be installed on the Sheetz property line bordering any residential properties. The motion was seconded by Mr. Thompson with the remaining Commission members voting as follows: Mr. Muller – Aye; Mr. Wiseman – Aye. The motion passed unanimously.

REQUEST OF BOHLER ENGINEERING REPRESENTING SHEETZ, INC., FINAL PLAT CONVEYANCE AND VACATION OF EASEMENTS ON LOT 1, 622 EAST PULASKI HIGHWAY, TAX MAP 033C, PARCEL 2462 AND ZONED C-2 (HIGHWAY COMMERCIAL)

Ms. Pate and Mr. Eidberger remained to address this request. Ms. Pate explained they are proposing to vacate assorted easements which were originally platted with the Lidl property.

She stated they received minor comments from KCI which they are addressing and will be completed in a few weeks.

Mr. Wiseman asked Ms. Minner if she had any comments. She noted that the plat was submitted to address the removal of easements which are no longer necessary and therefore she had no concerns.

Mr. Wiseman entertained comments from the audience. There was no one in attendance to speak for or against this request.

MOTION: Motion was made by Mr. Thompson to approve the Final Plat Conveyance and Vacation of Easements of Lot 1 for Sheetz, Inc. contingent upon addressing all outstanding comments. The motion was seconded by Mr. Muller with the remaining Commission members voting as follows: Mr. Ginder – Aye; Mr. Wiseman – Aye. The motion passed unanimously.

REQUEST OF MORRIS & RITCHIE ASSOCIATES REPRESENTING SOUTHFIELDS PARCEL I, PHASE 2, COMMERCE CENTER, FINAL MAJOR SITE PLAN, LANDSCAPE & LIGHTING PLANS, TAX MAP 033C, PARCEL 169, ZONED PUD (PLANNED UNIT DEVELOPMENT) AND TAX MAP 33E, PARCEL 2371, ZONED PUD (PLANNED UNIT DEVELOPMENT)

Ms. Amy DiPietro and Mr. Brad Wieber of Morris & Ritchie Associates and Mr. Tom Rathburn of Trammel Crow Company were in attendance to address this request. They are before the Commission for approval of the Final Major Site, Landscape and Lighting Plans for Southfields Parcel I, Phase 2, Elkton Commerce Center. Ms. DiPietro noted the original parcel was subdivided into three lots, of which this submittal is Lot 2 of the three lots. Lot 2 is approximately 101 acres.

She stated the site plan proposes a 1.1 million square foot e-commerce facility with cross docked truck ports on either side of the long ends of the building and car parking on the end closest to Route 40. Access will be by way of Commerce Center Drive which was built as part of Phase 1. She noted that KCI has reviewed the parking and stormwater management for the site. They are in final review of the plans and comments with KCI and Cecil Soil Conservation District.

Ms. DiPietro stated Trammel Crow tentatively plans to break ground on the project in Spring of 2023 due to ground conditions in the winter. Mr. Wiseman asked if they had run into any unexpected problems during the construction of the first building. Ms. DiPietro stated to the best of her knowledge everything went as planned. Mr. Wiseman asked how things went regarding communication with the neighbors. Mr. Rathburn stated he had meetings with the neighbors and has tried to maintain good communication with them. He stated they have been very tolerant and he has enjoyed working with them.

Mr. Ginder asked whether Ms. Minner's comments regarding noise and access during the construction of the first building have been addressed. Ms. Minner stated she was simply reiterating previous comments. She stated she realizes that the way the plan has been laid out it is difficult to avoid wetland areas.

Ms. DiPietro noted they have received comments from KCI and Town Planning and were unable to address all the comments prior to this meeting. She stated with respect to noise the plans show significant landscaping and berms. Unlike Phase 1, they have more significant offset from existing homes and much of the existing vegetation will be maintained.

Ms. DiPietro noted the southernmost entrance crosses over an existing wetland because it would be too impactful to circulation of the trucks and vehicle traffic to move it closer to Route 40. She noted that MDE has approved the impact to the wetland and they anticipate core approval from them in the near future. Ms. Minner asked for the status of the wetlands permits. Ms. DiPietro stated MDE issued their permit on May 18th and the Army Corp of Engineers permit is pending. They should have the permit within the next few months since it is tied into the onsite mitigation plan for Phase 2. She stated the hatchery pond plan is underway and will be submitted soon.

Mr. Muller questioned what was being done to the hatchery pond. Ms. Minner noted the pond is currently empty and Phase 1 entailed refilling the pond and adding walkways (board walk) for people to enjoy the wetland environment. Ms. DiPietro stated their intention is to maintain a permanent pool in the pond and plantings to function as a wetland.

Mr. Wiseman asked if Ms. DiPietro had concerns with any of the comments they have received. Ms. DiPietro stated there were comments regarding stormwater facilities being outside the wetlands. She noted there are a couple of areas of wetlands which were being impacted in low areas and these sections

will become part of stormwater facilities which will be placed to accommodate where the water naturally wants to flow. She stated MDE has approved these impacts.

Ms. Minner asked that the distances between fire hydrants do not exceed the maximum the Town allows. Ms. DiPietro stated the hydrant locations and distances are addressed on the plans submitted October 5, 2022 and they have spoken with Mr. Fruehstorfer of KCI.

Ms. Minner pointed out that the lighting levels outside the property line on the photometrics plan is difficult to read due to the size of the plan. Ms. DiPietro said they will speak to the electrical engineer, but it is difficult since the building is over 20 acres in size so they may have to break it down and show it in numerous sheets. Ms. Minner stated they need to be sure there is no spillover onto adjacent properties.

Mr. Ginder mentioned there are still a number of comments remaining from KCI's letter dated September 30, 2002 for Parcel I, Phase 2 and he asked where they stand. It was determined the comments are on the stormwater plans and Ms. DiPietro stated they are working with KCI on the comments.

Mr. Muller mentioned the dirt road off of Maloney Road which accesses the property. Ms. DiPietro assured the Commission members that they have no intention of using that road to access the property for residents. She said it is more of a paper right of way. Ms. DiPietro stated they could possibly fence the access if there are concerns with people entering the area by way of the road. Ms. Minner noted that buffer yards and berms would be placed in the area upon completion of the project so it will be difficult for anyone to access the area once those have been placed.

Mr. Thompson asked if they have a tenant for the first building as yet. Mr. Rathburn stated they had hoped to have a tenant at this point but due to the interest rates and the economy, things are not moving as quickly as they had hoped. He stated they do have interest from a technology company and they are still actively pursuing tenants. He stated they will likely not start on Phase 2 until Phase 1 is leased.

Mr. Ginder asked if any waivers, variances or special exceptions might be required. Ms. DiPietro stated they have applied for and received a special exception for the warehouse uses for Parcel I.

Mr. Muller asked if they are still working on other parts of the PUD. Ms. Minner noted they are working on the engineering for the Road & Storm Drain and Water & Sewer for other sections of the PUD.

Ms. Minner stated they need to be sure all the construction drawings, especially the stormwater management and sediment and erosion control plans, anywhere there will be forest easements have protective devices in place as well as signage prior to the construction work beginning so that large trucks don't damage those areas while accessing the property. Ms. DiPietro confirmed the protective devices and signage will be placed prior to construction beginning.

Mr. Wiseman asked if any Commission members had any other comments or questions. No one had additional comments.

Mr. Wiseman opened the floor for audience comments.

Mr. John Conolly complimented Mr. Rathburn for his response to their concerns as adjacent property owners. He stated there were some issues with mowing of the area but those have been resolved. The only concerns they still have are lighting issues. He noted the issues with spillover light on to neighboring properties. He said he has had discussions regarding the possibility of changing the color of the buildings so that the building doesn't reflect so much light toward the residential properties. Mr.

Rathburn had stated he did not wish to make any change to the building colors. Mr. Conolly invited anyone to drive along Sarah Drive around 9:30 at night to see how much light can be seen from the warehouse property.

Mr. Conolly's second item of concern was with the issue of noise during the construction process, specifically, the concrete plant that is positioned on site near residential properties. He mentioned an elderly resident who moved their bedroom to the other side of the house because of the noise. Mr. Ginder mentioned that the Town Charter & Code addresses construction noise which should not begin before specific hours in the a.m. Mr. Conolly stated that Mr. Rathburn explained that due to the temperature requirements of concrete they had to begin early in order to stay within those limits and in order for the concrete to cure properly. Mr. Conolly stated his concerns that one of the tenants, which would have a 24/7 operation, will be making noise in the middle of the night when the noise level should be the lowest. He asked that if a concrete plant would be needed for Building 2 that it be moved as far away from the residential properties as possible to the southwest corner of that lot.

Mr. Conolly's third item concerned the dust from the concrete plant. He stated that dust was a constant issue during the construction of Building 1 and therefore they are concerned about this continuing as Building 2 begins construction. He stated they had to keep their windows closed all through the summer, they were unable to put laundry out on the line and the dust got everywhere. He said they were effectively denied use of their own property and they need to do a better job of addressing this in the next phase.

Mr. Wiseman noted that some things are unavoidable but some are controllable and those that are controllable needed to be addressed. Mr. Rathburn stated he hears Mr. Conolly's concerns and will speak with the architect about the lighting issues and if using a different fixture might be able to address the problem. He noted the specific issue is reflected light off the building which makes it difficult to mitigate. Mr. Conolly pointed out that the light poles are well above the height of the berm and said he hoped they could find a solution to this problem.

Ms. Connor agreed with Mr. Conolly with regard to both the lighting issues and noise issues. She stated it comes down to the matter of quality of life. She had concerns about the wetlands and how it will affect drainage issues with respect to neighboring properties. Ms. DiPietro stated they are required to show net water runoff onto neighboring properties as part of the approval process. Ms. Connor asked who residents should contact if drainage issues begin. Ms. Minner told her to contact the Town and they will have KCI or DPW determine the origin and cause of the drainage issues, should any occur.

Ms. Connor suggested that a gate be placed at the paper street off of Maloney Road in order to keep trucks or other vehicles from using it for access. There was a suggestion that either a gate or signage be placed in order to address this concern. Ms. DiPietro stated they will review the situation to determine the best way to address it.

Mr. Ginder asked about the forest retention plan. Ms. Minner stated a forest conservation plan was reviewed and recorded for this site when the project first came before the Town. One of her comments was to clearly call out the protected area in a recorded easement on the construction plans. She also noted that signage is required to show this area.

Mr. Ginder mentioned that the Patriot's Landing subdivision is looking for lots where trees can be planted for their forest retention plan and wondered if they could cooperate in order for that to happen. Ms. Minner explained the requirements for Patriot's Landing are more complicated than simply sharing forested areas. She said they have to meet their forest conservation either onsite or offsite. If it is met

offsite they either have to pay a fee in lieu or purchase into an existing forest bank at a two to one ratio. She said unfortunately no new forest banks are being permitted.

Mr. Wiseman asked if anyone online had any questions. There was no one to speak for or against this project.

MOTION: Motion was made by Mr. Ginder to approve the Final Major Site, Landscape & Lighting Plans contingent upon addressing all outstanding comments, providing more specific information on the lighting plan with regard to photometrics and its effect on neighboring properties, keeping an open line of communication with owners of residential property that borders this project and addressing any future lighting issues regarding Building 1. The motion was seconded by Mr. Thompson with the remaining Commission members voting as follows: Mr. Muller – Aye; Mr. Wiseman – Aye. The motion passed unanimously.

PUBLIC HEARING – ORDINANCE 5-2022 AMENDMENT TO TOWN OF ELKTON ZONING ORDINANCE, ARTICLE X PERMISSIBLE USES, SECTION 7.2 PERMISSIBLE USES TABLE, ARTICLE XII SUPPLEMENTARY USE REGULATIONS, SECTION 35. LIGHT MANUFACTURING (4.100)

Ms. Minner stated the Town was approached by a potential buyer for an industrial building in a Highway Commercial Zone and we found that the way the Ordinance was written, it allowed research but not manufacturing related to that research use. She stated that she and Mr. Bromwell, the Zoning Administrator, looked at the zoning regulations and discussed modifying the regulations to allow light manufacturing associated with research and development. They came up with language in order to address businesses with these specific requirements.

Ms. Minner read the language which included eight specific items which relate to these specific needs. (See language and conditions attached). Ms. Minner stated this language was discussed before the Mayor & Commissioners at a workshop. It is before the Commission for their recommendation to either approve or deny it as an amendment to the Zoning Ordinance. Ms. Minner stated these conditions would apply to any business seeking to move into the C-2 Zone.

Ms. Minner stated a company is interested in the old Aluminum Fabricators building and she noted the representatives of the company were in attendance and willing to share their product presentation with the Commission.

Mr. Rohan Jain, President of Human BioSciences and Mr. M. K. Thakkar were in attendance to address this request. Mr. Jain stated they are a global biotechnology company based in Montgomery County, Gaithersburg, Maryland. Mr. Jain stated they reproduce a collagen molecule which is used for wound care. He stated that 60% of the human body's dry body weight is composed of collagen which is a very important protein.

He stated the molecule they made is just the same as the protein in the human body. When a person is injured (cuts, burns, etc.), their product can be used and the body doesn't have to replace it and therefore the body will heal much quicker.

Mr. Wiseman asked if the product is used by doctors or by the public. Mr. Jain said it is currently a prescription product for doctors, nursing homes, burn case center, etc. but they will be releasing an over the counter version for public use soon.

Mr. Jain went on to explain their facility in Gaithersburg, MD is ISO Certified and all their products are approved by the FDA. Their company has been around for the past 30 years and their product is the first of this type ever to be approved by the FDA. He said all of their products are Medicare reimbursable and are well established in the market. They currently sell to more than 6,000 hospitals, nursing homes, and doctor's offices throughout the country.

Mr. Jain stated their products come in three forms: Sheet, powder and gel. The products are mostly used for diabetic foot injuries, burns, bed sores and pressure ulcers.

He noted their production is a very clean process. They don't use any hazardous chemicals because the product goes right into your body. It is a medical product and highly regulated. The water consumption is closely monitored and they use approximately 12,000 gallons per month. They use all purified water and have their own water purification system to make sure their products remain clean. He stated the product is produced in a certified clean room where all the air is filtered and changed to assure there are no particles which could be harmful.

Mr. Jain provided videos showing their facility and processes. He is aware of concerns for noise levels in the community and the video was able to give sound levels within the facility. He noted that ear protection is not required for their employees due to the sound levels produced by their equipment.

Mr. Wiseman asked how many employees they have currently. Mr. Jain stated they have between 50 - 100 employees but run multiple shifts so not every employee would be on site at any given time. Mr. Wiseman asked what types of trucks would frequent the facility. Mr. Jain stated they use box trucks which come about three times a week. Mr. Wiseman asked what size facility they have. Mr. Jain said their facility in Gaithersburg is 25,000 sf but the one they are proposing for Elkton is approximately 70,000 square feet.

Ms. Minner asked their reason for moving. Mr. Jain stated they are currently renting their facility which is not large enough for their needs so they are looking for property they can purchase in order to better serve their customers. Mr. Thakkar, also with BioSciences, informed the Commission there is no hazardous waste produced by this operation and they recycle the majority of products that enter the facility, including cardboard packaging.

Mr. Thakkar provided a Google location for the property west of American Home & Hardware and located off of Mackall Street. Ms. Minner stated being able to repurpose an existing structure like this is one of the reasons they are looking into making the changes to the Ordinance.

Mr. Wiseman asked if there were other areas in Town which would meet the requirements for light manufacturing. Ms. Minner stated other sites which would fit this use are actually zoned BI.

Ms. Connor wondered if she could ask a question. Mr. Wiseman opened the floor to audience comments or questions. She asked about comments 4 & 5 which address noise. She asked if the Town has any way to measure the sound level. Ms. Minner stated that the Town does not have the ability to measure sound levels but with each application they can ask for sound levels to be provided. Ms. Connor asked if there are any standards which would be provided to applicants. Ms. Minner said there is a general description but that is something they could look at during the next Comprehensive Plan and Zoning Ordinance update.

Mr. Conolly said he felt the sound level wording seems subjective and hard to enforce without standards to balance them against. Mr. Muller stated with input from residents, the use of common sense and accepted practice within the industry seems the best way to handle subjective concerns.

Mr. Wiseman asked if Ms. Minner had any additional comments. She did not. Mr. Wiseman closed the public hearing.

MOTION: Motion was made by Mr. Ginder to recommend approval to the Mayor & Commissioners for Ordinance 5-2022 to amend Article X Permissible Uses and Article XII Supplementary Use Regulations, Section 35. Light Manufacturing (4.100) with the addition of the word 'Air' on condition # 6. The motion was seconded by Mr. Muller with the remaining Commission members voting as follows: Mr. Thompson – Aye; Mr. Wiseman – Aye. The motion passed unanimously.

OLD BUSINESS: Ms. Minner stated Nick Cannistraci moved to Ohio for a position in transportation planning. She stated we will have a new planner joining the department on Monday, October 17, 2022, Ms. Quinn Krenzel. She is from Cecil County and graduated in 2021 with a degree in Geography and Environmental Planning.

Mr. Thomas Fruehstorfer of KCI Technologies, Inc. is new to the Town. He had been a planner with the City of Newark, DE for the past seven years.

NEW BUSINESS: Ms. Minner stated there will be an annexation before the Commission for the November meeting depending on the decision of the Cecil County Council to allow the change in zoning.

Ms. Minner stated there is a submittal for the ModWash and a special exception for the Brady property off of Blue Ball Road for outdoor storage of automobiles, including RV's and boats.

Mr. Wiseman noted there is still a vacancy on the Planning Commission. Ms. Minner stated we also need two (2) members on the Historic District Commission. She said if the members are aware of anyone who would like to be on the Commission to please have them fill out the application on the Town's website.

Discussion ensued regarding annexations into Town limits and the development of the 7-Eleven along Route 40 and Maloney Road.

Mr. Wiseman stated the next meeting of the Planning Commission will be November 7th. There being no additional items to discuss he adjourned the meeting at 7:43 p.m.

Respectfully submitted,

Brie Humphreys