



DRAFT

31 South Summit Avenue
Gaithersburg, Maryland 20877
Telephone: 301-258-6330

MINUTES OF A REGULAR MEETING OF THE PLANNING COMMISSION MAY 6, 2009

Chair John Bauer called the meeting to order at 7:30 p.m. Present at the meeting were Commissioners Matthew Hopkins, Lloyd Kaufman, and Lenny Levy, Alternate Commissioner Geri Lanier, Planning and Code Administration Director Greg Ossont, Planning Director Lauren Pruss, Planners Jacqueline Marsh, Rob Robinson, and Caroline Seiden, Planning Intern William Truong, and Recording Secretary Myriam Gonzalez. Chair Bauer noted Alternate Commissioner Lanier would participate this evening, since not all Commissioners were present. Absent: Vice-Chair Danny Winborne.

I. APPROVAL OF MINUTES

April 15, 2009, Planning Commission Meeting

Commissioner Levy moved, seconded by Commissioner Kaufman, to APPROVE the Minutes of the April 15, 2009, Planning Commission Meeting as submitted.

Vote: 5-0

II. RECOMMENDATIONS TO MAYOR AND COUNCIL

Z-309 -- Jody Kline, Esq., Miller, Miller and Canby, for Keystone Real Estate Investments
Application to rezone 3.6859 acres of land from the R-20 (Medium Density Residential) Zone to the CD (Corridor Development) Zone in accordance with § 24-196 (Map Amendments) and § 24-160G.6 (Procedure for Application and Approval) of the City Code. The property is located at 12-26 South Frederick Avenue, includes Parcels N323 & N271, and is commonly known as Executive Gardens Apartments.

and

SDP-08-005 -- Application for approval of a schematic development plan for the redevelopment of 3.6859 acres of land located at 12-26 South Frederick Avenue, including Parcels N323 & N271, commonly known as Executive Gardens Apartments. The plan proposes a 263-unit multiple-family building with structured parking.

Chair Bauer stated that both applications concerning the Executive Gardens property would be reviewed concurrently.

Planner Marsh stated the above-referenced applications for the rezoning and redevelopment of the property with a multi-family building with structured underground parking were the subject of a joint public hearing before the City Council and Planning Commission on March 16, 2009. She indicated that since that time, the applicant revised the plan to address concerns raised at the public hearing, noting, in particular, that five units were eliminated and the garage

footprint expanded to accommodate 48 spaces, and the vehicular access to George Street was restricted, only to be used by emergency vehicles.

Ms. Marsh voiced staff's recommendation for approval of both applications with conditions as listed in the Staff Analysis, previously furnished to the Commission. She added that the applicant is in agreement with staff's suggested conditions.

In response to Chair Bauer's inquiry about the access-restriction bollards, Ms. Marsh noted that details such as the access restriction design would be reviewed during the final plan review. Chair Bauer also voiced his concern over the view of the proposed development from South Frederick Avenue in relation to the retaining wall/fencing. Commissioner Hopkins shared Chair Bauer's concern and commented that a solution should include dealing with the fence. Ms. Marsh referenced Condition 3, noting the retaining wall/fencing elevation is a work still in progress. Additionally, Commissioner Hopkins voiced his preference for connectivity of pathways/alleys through the City rather than restricting the use of the service road. Commissioner Kaufman called for careful consideration of the pedestrian access in terms of safety and connectivity.

Ms. Marsh showed the pedestrian access to/from Olde Towne on an aerial plan at Commissioner Levy's request. He voiced his support of the plan revision to address the demand for parking.

Commissioner Levy moved, seconded by Commissioner Hopkins, to recommend to the City Council APPROVAL of Zoning Map Amendment Z-309, finding it in compliance with Zoning Ordinance §.24-160G.7(a).

Vote: 5-0

Commissioner Kaufman moved, seconded by Commissioner Hopkins, to recommend to the City Council APPROVAL of Schematic Development Plan SDP-08-005, Executive Gardens Apartments, finding it in compliance with Zoning Ordinance § 24-160G.7(b), with the following conditions:

1. Applicant is to receive all necessary State Highway Administration (SHA) access permits prior to the issuance of site development permits;
2. Applicant shall continue to work with staff and the SHA in order to pursue an easement for land on the northwestern side of the property in order to expand the twenty-foot drive aisle;
3. Applicant shall continue to work with the SHA to provide improvements to the SHA retaining wall, including, but not limited to the removal or replacement of the perimeter chain-link fence and landscape and streetscape enhancements;
4. Applicant shall contribute \$20,000 for Montgomery County Ride-On bus shelter upgrades prior to the recordation of final subdivision plats;
5. Applicant shall obtain storm water management approval prior to final site plan approval;

6. Applicant shall obtain final forest conservation plan and landscape plan approval prior to the issuance of site development permits;
7. Applicant shall coordinate with staff and the Art in Public Places (AIPP) Committee to establish an AIPP project prior to the issuance of site development permits;
8. Applicant shall coordinate with the Department of Public Works (DPW) and the Planning and Code Administration staff to develop an infrastructure improvement plan including, but not limited to, off-street improvements to George Street and Cedar Avenue prior to final site plan approval;
9. Applicant shall continue to work with City staff on the final architectural elevations with emphasis given to the northern corner adjacent to the South Frederick Avenue/SHA service ramp intersection, to be reviewed and approved by the Planning Commission at final site plan;
10. Applicant shall receive a parking waiver of no more than 10 spaces by the Mayor and City Council at schematic development plan. The final number of parking spaces waived shall be granted by the Planning Commission at the time of final site plan; and
11. Applicant shall receive final approval of the sign package by the Planning Commission at the time of final site plan approval.

Vote: 5-0

- Z-311 -- Jody Kline, Esq., Miller, Miller and Canby, for Dr. Robert J. Wilson Application to rezone 1.2 acres of land from the R-90 (Medium Density Residential) Zone to the CD (Corridor Development) Zone in accordance with § 24-160G.6.(a) (Procedure for Application and Approval) of the City Code. The properties are located at or near 11 and 13 DeSillum Avenue, (Parcels 387, 388 & 442).

and

- CSP-09-001 -- Application for approval of a concept site plan for the redevelopment of 2.71 acres of land, currently known as Parcels 368, 387, 388, 390, and 442 located at the intersection of Md. Rte. 355 and DeSillum Avenue in the City of Gaithersburg. The proposed plan includes the construction of a two-story office building and the conversion of two buildings from residential to office uses.

Chair Bauer stated that both applications concerning the Wilson Property would be reviewed concurrently. Commissioner Levy noted that although he was absent at the public hearing, he had watched the proceedings on television and read the evidence and transcript of the testimony and felt competent to vote this evening.

Planner Robinson referenced the Staff Analysis of these applications, which included applicable findings and approval conditions, and noted the Commission's public hearing records closed on April 27, 2007. He referenced the issues that were raised at the public hearing, noting they had been addressed by the applicant, as discussed in the Staff Analysis. In response to Chair

Bauer, Mr. Robinson indicated that issues relating to the conceptually proposed staging of the project would be finalized at final plan review, noting that some historic preservation processes would have to occur following the subject process.

At Commissioner Kaufman's request, Mr. Robinson discussed the parallel review processing of the Historic Preservation Advisory Committee on the existing buildings and of the rezoning/concept development review presently under consideration. Chair Bauer noted that the historic aspect of this proposal is not under the Planning Commission's consideration this evening, adding that the Commission's purview is based on the merits of the site plan. Commissioner Levy inquired about the architectural compatibility of the proposed building with that of the existing historically-designated structure. Mr. Robinson noted the new office building architectural design would follow the Frederick Avenue Corridor Design Guidelines and the Master Plan for a residential townhouse row appearance to achieve architectural compatibility with the existing building, adding they would not have matching materials, which he briefly cited.

Pointing out the level of detail of the subject concept plan and the small scale of this project, Mr. Robinson voiced staff's recommendation for proceeding to a preliminary/final site plan review process rather than requiring a schematic development plan, should the City Council approve the applications under consideration this evening. Mr. Robinson referenced Planning and Code Administration Director Ossont's May 1, 2009, memorandum to the Commission relating to this issue. Chair Bauer favored proceeding to a preliminary plan review rather than a combined preliminary/final review. Commissioner Hopkins was in favor of recommending to the City Council proceeding to the site development process, given the increased screening to buffer the adjacent properties, the dedication of the central parcel as a forest conservation district, and the relocation of the dumpster from the original submission.

In response to Commissioner Levy's comment on the basis for granting the rezoning request as recommended in the Staff Analysis, Mr. Robinson discussed the reasons staff's recommendation on the basis that a "mistake" was made in the 2000 Frederick Avenue Corridor Master Plan, since its recommendations did not include "floating zones." The Commission agreed with staff's findings and recognized and acknowledged their appreciation of historic preservation and its value to the City, noting, however, their review is exclusive of historic preservation processes and their recommendation is based solely upon the concept plan presented. The Commission then made the following motions:

Commissioner Kaufman moved, seconded by Alternate Commissioner Lanier, to recommend to the City Council APPROVAL of Zoning Map Amendment Z-311, finding it in compliance with Zoning Ordinance 24-160G.7(a).

Vote: 5-0

Commissioner Levy moved, seconded by Commissioner Hopkins, to recommend CSP-09-001, Wilson Property, for CONCEPT PLAN APPROVAL to the Mayor and City Council, finding it in compliance with Zoning Ordinance § 24-160G.7(b), with the following conditions:

1. Applicant is to apply for and receive a determination on demolition permits for 206 South Frederick Avenue and 11 DeSillum Avenue prior to the subsequent submission of either a schematic development plan or preliminary/ final site plan;

that approval of the proposal would result in the elimination of the need for parking waiver requests and would also allow approvals at the staff level.

Commissioner Hopkins commented favorably on the proposal, and suggested monitoring the parking situation on the site and asked that a status report be provided in a year.

There was no testimony from the public.

Planner Seiden voiced staff's recommendation for approval, as the plan is in compliance with the approval criteria of the Zoning Ordinance, subject to conditions as listed in the Staff Comments.

Following some clarifications requested of staff, the Commission moved as follows:

Commissioner Kaufman moved, seconded by Alternate Commissioner Lanier, to grant AFP-09-010 - Girard Business Center, AMENDMENT TO FINAL PLAN APPROVAL, finding it in compliance with Zoning Ordinance §§ 24-170 and 24-171, with the following conditions:

1. Applicant is to receive a waiver of § 24-219(c)(1) from the Planning Commission; and
2. All previously-approved parking waivers granted for this site are rescinded.

Vote: 5-0

Commissioner Levy moved, seconded by Alternate Commissioner Lanier, to grant AFP-09-0010 – Girard Business Center, a WAIVER of Zoning Ordinance § 24-219(c)(1).

Vote: 5-0

AFP-09-009 -- Intercell USA Pilot Plant Upgrade E-1 Zone
20 Firstfield Road
Expansion of Utility Enclosure & Parking Revision
AMENDMENT TO FINAL PLAN REVIEW

Planning Director Pruss located the property and the site under consideration on an aerial photograph. She noted the applicant seeks approval to expand an existing brick/metal utility enclosure, which would require the elimination of seven parking spaces for a new total of 176 spaces on the site. Ms. Pruss indicated the plan includes a parking waiver request of seven spaces.

Engineer for the applicant, Mervyn Hamar, Supply Chain Management Engineering for Intercell USA, briefly discussed the use of the property and nature of the business. He explained the reason for the proposed expansion, noting the need for an additional generator and chiller. He answered questions of Commissioner Levy regarding business growth on site, hours of operations and employee shifts.

Commissioner Kaufman expressed he had no objections to the proposal.

There were no speakers from the public.

Planning Director Pruss voiced staff's recommendation for approval as the plan complies with the approval criteria of the City Code with conditions as listed in the Staff Comments. Chair Bauer suggested a language addition to Condition 2 and the Commission moved as follows:

Alternate Commissioner Lanier moved, seconded by Commissioner Kaufman, to grant AFP-09-009 – 20 Firstfield USA Pilot Plant Upgrade, AMENDMENT TO FINAL PLAN APPROVAL, finding it in compliance with Zoning Ordinance § 24-222A, with the following conditions:

1. Applicant is to receive a waiver of seven parking spaces from the Planning Commission; and
2. Upon discontinuation of the existing use, the enclosure and equipment shall be removed from the property, the parking waiver abandoned, and the parking spaces restored.

Vote: 5-0

Commissioner Levy moved, seconded by Alternate Commissioner Lanier, to grant AFP-09-009 – 20 Firstfield USA Pilot Plant Upgrade, a WAIVER of seven parking spaces.

Vote: 5-0

IV. FROM THE COMMISSION

Commissioner Kaufman

Complimented Planner Robinson on his presentation of the rezoning and redevelopment proposal for the Wilson Property.

Commissioner Levy

Complimented the City staff for the organization of the State of the City Dinner.

Commissioner Hopkins

Provided a brief report on the American Planning Association National Conference in Minneapolis, Minnesota, which he attended in April.

V. FROM STAFF

Planning Director Pruss

Stated the next regular meeting of the Planning Commission will take place on May 20.

VI. ADJOURNMENT

There being no further business to come before this session, the meeting was duly adjourned at 8:45 p.m.

Respectfully submitted,

M. Gonzalez
Recording Secretary