

**Worcester County Planning Commission
Meeting Minutes**

Meeting Date: December 7, 2017

Time: 1:00 P.M.

Location: Worcester County Government Office Building, Room 1102

Attendance:

Planning Commission

Mike Diffendal, Chair

Jay Knerr, Vice Chair

Marlene Ott

Betty Smith

Jerry Barbierri

Brooks Clayville

Rick Wells

Staff

Ed Tudor, Director, DDRP

Phyllis Wimbrow, Deputy Director, DDRP

Jennifer Keener, Zoning Administrator

I. Call to Order

II. Administrative Matters

- A. Review and approval of minutes, October 5, 2017**— As the first item of business, the Planning Commission reviewed the minutes of the October 5, 2017 meeting. Following the discussion it was moved by Mr. Barbierri, seconded by Mr. Knerr and carried unanimously to approve the minutes as submitted. Mr. Clayville abstained from the review.
- B. Review and approval of minutes, November 2, 2017**— As the next item of business, the Planning Commission reviewed the minutes of the November 2, 2017 meeting. Following the discussion it was moved by Ms. Ott, seconded by Mr. Clayville and carried unanimously to approve the minutes as amended. Mr. Diffendal, Mr. Wells and Ms. Smith abstained from the review.
- C. Board of Zoning Appeals agenda, December 14, 2017** — As the next item of business, the Planning Commission reviewed the agenda for the Board of Zoning Appeals meeting scheduled for December 14, 2017. Mrs. Keener was present for the review to answer questions and address concerns of the Planning Commission. No comments were forwarded to the Board.

III. §ZS 1-325 Site Plan Review - Waiver Request, Casino at Ocean Downs

As the next item of business, the Planning Commission reviewed a waiver request associated with the Casino at Ocean Downs, located on the easterly side of MD Route 589 (Racetrack Road), north of US Route 50 (Ocean Gateway), Tax Map 21, Parcel 99, Tax District 3, A-2 Agricultural District. Bobbi Sample, General Manager, was present for the review. Ms. Sample is requesting a waiver to the requirement for a pedestrian sidewalk along Racetrack Road, and connecting easterly into the existing parking lot. The requirement for a sidewalk is outlined in the *Design Guidelines and Standards for Commercial Uses*. Ms. Sample stated that they had liability concerns since there were no adjacent sidewalks in the area, and theirs would be the only safe pathway. She felt that it would then encourage more pedestrians and bikes to travel along the shoulder of Racetrack Road. She also stated that the location of the proposed path was where the sewer line was also proposed to be located that will connect Ocean Pines with the Crabs to

Go property (at the intersection of US Route 50 and Grays Corner Road). While she understood that there were no approvals in place for the widening of Racetrack Road and the inclusion of a bike path, there had been discussion in the past. Mrs. Wimbrow stated that you have to start somewhere in order to get the connectivity in the future. Mr. Knerr agreed, and stated that he currently sees large numbers of pedestrians and bikers along the shoulder of Racetrack Road now, and a path would make it much safer. Mr. Barbierri agreed, and believed that the sidewalk would actually reduce liability. Ms. Sample asked that if the Planning Commission wished to have the sidewalk, whether they would consider delaying its installation until the spring? She claimed that she wasn't notified of the requirement for a sidewalk until it was too late to install it (although it had been shown on the 2013 approved site plans per Mrs. Keener). Mr. Tudor stated that the Department could hold a construction agreement and bond the cost of the sidewalk at 125% with a set time limit.

Following the discussion, a motion was made by Mr. Barbierri, seconded by Ms. Ott, and carried unanimously to deny the requested waiver. Mr. Tudor asked that the Planning Commission give consideration to what time limit they felt would be suitable, to give staff some direction. The majority agreed by consensus that 6 months (180 days) was satisfactory.

IV. Text Amendment

As the next item of business, the Planning Commission reviewed a text amendment for the proposed cottage courts in the R-4 General Residential District. Hugh Cropper, IV, Esquire, Mark Odachowski, applicant, and Bob Hand, land planner, were present for the review. Mr. Cropper explained that his original proposal was for a cottage court use in the R-4 District. While staff wasn't in full agreement with the proposal, they worked with Mr. Cropper and the applicant to develop language for what is now defined as Seasonal Resort Developments. Mr. Cropper explained that they are mostly in agreement with the staff version, but they have four areas of disagreement. He stated that the Seasonal Resort Development use is only proposed within the R-4 General Residential District, of which the vast majority is in West Ocean City and is already developed.

Mr. Cropper went through the four areas of disagreement. First, the size limitation on the overall unit does not include the decks or porches within Mr. Cropper's version. He claims that the staff's argument is that the porches will eventually be enclosed. He noted that the property is very visible, and that staff shouldn't draft language within the zoning code due to the possibility of future violations. Mr. Cropper said that the modern trend is larger units to accommodate whole families, and the applicant wants porches around three sides of these cottages. The second issue is the proposed density. The applicant is requesting ten (10) units per net acre, while the staff recommended eight (8) units per net acre (which is consistent with the zoning classification's density for residential units). Mr. Cropper said that they are proposing to develop a hybrid use, not a residential use. He believes that ten (10) units per acre is a compromise, since a hotel/motel use in the commercial district allows one unit per 1,000 square feet of lot area. Mr. Cropper said that they cannot support a manager's office, swimming pool, and other amenities if they can only get 30 to 40 units on Mr. Odachowski's property.

The third area of disagreement is the proposed the side yard setback. Mr. Cropper proposed 15 feet, staff recommended 50 feet. Mr. Cropper referenced the setbacks in manufactured home parks, townhouses, and other similar uses with side yard setbacks of six feet. He claims that a seasonal resort development use will be more attractive than a manufactured home park. The fourth item was the parking calculation. Mr. Cropper said that the units would mostly be one big sleeping room, not multiple rooms. Most families would be traveling in one car from out of town, unless they had kids that were old enough to drive. Therefore, he felt that if only half the tenants bring an extra car, the calculation at 1.5 spaces per unit would cover the extra vehicle. He noted that this was a quasi-commercial use, and therefore they should have the flexibility with parking as opposed to requiring two spaces per unit as a residential dwelling requires. Overall, Mr. Cropper concluded that the proposed development would have a large amount of open space and recreational areas required otherwise no one would want to stay there, hence the request for an increase in density.

While an application cannot be based on a site plan for a particular property, the applicant did present the Planning Commission with their proposal based on the proposed language at the request of several members. Mrs. Wimbrow reiterated that this text amendment applies to every R-4 zoned property, and individual site plans should not be considered during the review. Relative to the parking issue, Mr. Knerr said that many times, families are coming from different areas and are bringing several vehicles. Mr. Tudor stated that it is also not only vehicles, but boats, jet skis, and the trailers associated with those that were of concern to staff.

Ms. Ott asked how staff would feel about a compromise in the side yard setback somewhere between 15' and 50'. Staff believed that there could be some compromise, but that depended on other factors, such as the density provisions. Mr. Clayville stated that he had concerns with a 600 square foot unit, a porch of unlimited size and a 15' side yard setback. He felt that there needed to be some limitations on the request. There was discussion regarding limiting the decks/covered porches to one at 200 square feet total, to which Mr. Cropper agreed. There was additional discussion on various side yard setbacks, but the applicant's said they would have to consider their proposal and what the various setbacks could do to their density request before agreeing to any compromises.

The Planning Commission evaluated each of the four points item by item to get some form of consensus on what they were comfortable with recommending. With respect to the decks/covered porches, a 200 square foot per unit limitation was felt to be adequate. With respect to the density, Mr. Clayville said if they get the side yard setback correct, then the density may not be an issue. Mr. Cropper said that if they don't get the parking and the setback that they requested, then the density is a huge issue.

Overall, a motion was made by Mr. Wells, seconded by Ms. Smith, and carried unanimously to postpone the request until the January 2018 meeting.

V. Sectional Map Amendment

As the next item of business, the Planning Commission reviewed a proposed sectional rezoning of the MD Route 611 (Stephen Decatur Highway)/ South Point Road Corridor. Mr. Diffendal

stated that the Planning Commission is not making a recommendation today; staff will explain what the process is, and the Planning Commission will advise what additional information they would like to review and consider as part of the process.

Mr. Tudor gave the Planning Commission the history on how this sectional rezoning request came about. Despite the information that has been distributed, the Planning Commission had made a recommendation in July 2017 as part of their review of four individual rezoning cases that the County Commissioners should consider a sectional rezoning of this area. The Commissioners agreed to have the Planning Commission consider their request, and both boards directed staff to prepare maps of the area. The County Commissioners did not say that they would rezone it, simply that they would consider the Planning Commission's recommendation. Staff is not rushing anything along, despite claims to the contrary. It has been pointed out that the Comprehensive Plan recommends the elimination of the E-1 Estate District by the next comprehensive rezoning. Mrs. Wimbrow stated that the current Comprehensive Plan dates from 2006, so it should have been eliminated in 2009. There were a number of areas that were zoned E-1 Estate District and were rezoned to R-1 Rural Residential District. Staff's recommendation in 2009 was to change this particular area to the R-1 District.

Another claim is that the County is responsible for proving a change in the character of the neighborhood, or a mistake in the original zoning. Mr. Tudor explained that sectional or comprehensive rezonings do not have the same standards that an individual rezoning request must justify. Any statements made to the contrary are false. The four individual cases that were presented in July 2017 had to prove either the change or mistake argument. There is also a claim that this proposed sectional rezoning constitutes an illegal spot zoning. If anything, an example of spot zoning was the four previously approved cases in July. A sectional rezoning looks at an entire area, not an individual parcel.


Another claim made was that if approved, the rezoning would result in an upzoning of 5,000 acres for development. The entire acreage of South Point may reach that amount (including wetlands, currently RP Resource Protection District zoned lands, etc.), but that is basing the assumption that every acre is available for further development. For many individuals, they would have to build a sewage treatment plant. Mr. Tudor stated that people need to understand that because the septic tiers were not mapped by the County Commissioners, we cannot permit any major subdivisions without a public sewer treatment system, which is costly for an individual to build. Mr. Tudor offered to the public that they come in and discuss any matter that they may be unclear on, and he would provide them with the information as stated in the law, and asked that they not rely on statements falsely made. He reiterated how the current sectional rezoning request came to be, and Mr. Diffendal and Mr. Clayville supported the statements that it was at the Planning Commission's request. Mr. Clayville added that a sectional rezoning may be the best option for South Point, as it focuses all of the attention on the area and what is best for them, as opposed to a comprehensive rezoning, where they are just one facet of the County being reviewed. He strongly encouraged the public to attend these meetings and the public hearing with the Commissioners, as he noted that when the Comprehensive Rezoning took place in 2009, we didn't have nearly half the attendance for those occasions as was present at this meeting.

Mr. Diffendal clarified that the four applicants in July 2017 made application to protect themselves from the potential redevelopment of the Burbage property. While conducting that review, the Planning Commission considered recommending a sectional rezoning. He reiterated that this is the first step in the process, and there is still a lot of information that will be reviewed and considered before a recommendation by the Planning Commission can even be made. Mr. Diffendal said that their process is open and transparent, and he asked that the public not jump to conclusions.


There was a discussion on how the E-1 Estate District was developed, and what sorts of development projects triggered the creation of those regulations. Mrs. Wimbrow noted that the intent when it was developed was to reduce the density, but instead it created sprawl. She added that what most people don't understand is that much of South Point was developed under the original R-1, R-1A or R-3 District regulations, before Critical Area laws, septic tier maps, and they didn't develop to the density that was allowed. Mr. Tudor noted that the density under those regulations were 4 to 17 times higher than the current R-1 District regulations, and that doesn't take into account the other regulations that may limit zoning density. Mrs. Wimbrow stated that the residents need to consider what zoning they would want if not the E-1 District.

Mr. Tudor then addressed the Planning Commission regarding the scheduling of meetings to discuss this topic, and asked that they let staff know of any regulations in addition to Critical Area and the septic tier bill that they may want to consider as part of their review. Mr. Diffendal said that he and other board members will formulate questions and go from there.

VI. Adjourn – The Planning Commission adjourned at 2:19 P.M.



Betty Smith, Secretary



Jennifer K. Keener