

NORTH EAST PLANNING COMMISSION

North East Town Hall Meeting Room
106 South Main Street, North East, Maryland 21901
Wednesday, September 3, 2014
7:00 PM

Chairman Brian Morgan called the meeting to order at 7:00 P. M. Present included, members Mark Dobbins, Mike Kline, Commissioner Eric Braley and Ranald Langille. Also present were Melissa Cook-MacKenzie, Town Administrator and Lisa Rhoades, Planning and Zoning Assistant. Betsy Vennell, Director of Planning and Zoning was absent from the meeting due to vacation.

Chairman Morgan called the meeting to order at 7:03 p.m.

-MINUTES-

August 4, 2014 Meeting Minutes.

The Planning Commission accepted the minutes as presented with a minor correction.

-COMMENTS FROM THE PUBLIC-

-NEW BUSINESS-

AutoZone - Final Site Plan

AutoZone Final Site Plan including Landscape and Lighting Plan for a proposed AutoZone located on Lot 2, North East Station Shopping Center. Applicant: AutoZone Development Corporation, 123 Front Street, Memphis, Tennessee. Property Owner: North East Station LLC, KIMCO Realty Corporation, 3333 New Hyde Park Road, New Hyde Park, New York. Also found on Tax Map 31, Parcel 1314. Zoning District: HC-Highway Commercial.

Mike Engel, Civil Engineer, Bergmann Associates stated he would be representing AutoZone in regards to the Final Site Plan.

Mr. Engel reported the proposed building will be a 6,800 square foot auto parts store. Mr. Engel stated they have 98 percent of their agency approvals. He also stated AutoZone has received Sewer and Water approval and a review from the Town Engineer (C.N.A.) recommending conditional final approval.

SHA Sidewalk:

Mr. Engel stated the AutoZone still has one outstanding approval which is the State Highway Administration. After approval of the Preliminary Plan the State Highway requested a portion of sidewalk be added along Route 40 in front of the proposed AutoZone. AutoZone agreed to add the sidewalk and forwarded the revised plan to the

State Highway Administration. However, Bergmann Associates has not received a response from the State Highway Administration (SHA).

Mr. Kline inquired where the sidewalk (the section of sidewalk requested by the SHA) would be located. Mr. Engel stated that it would be located along Route 40, in front of the AutoZone building. SHA had commented that the sidewalk is in the Town's Comprehensive Plan. Mr. Kline stated he was very impressed with Bergmann Associates ability to have all requirements submitted in such a short amount of time.

Chairman Morgan inquired if the addition of the SHA sidewalk impacted the landscape buffers in anyway. Mr. Engel explained that the additional sidewalk would be within the State Highway right of way and the proposed landscaping would be located outside of the SHA right of way. Chairman Morgan also inquired if the SHA gave any recommendation on plantings. Mr. Engel stated because all of the plantings will occur outside of the SHA right of way they had no additional comments.

Mrs. Cook-MacKenzie inquired if the site plan indicating the SHA sidewalk depicted the waterline that runs along Route 40. She stated that the Town of North East would not want the waterline covered by the sidewalk. Mr. Engel stated the waterline was not shown on the site plan.

AutoZone Signs:

Mr. Langille inquired about the AutoZone signs, the size of the signs and the proposed ground sign which is to be located along Route 40. In addition he commented on a letter from Bergmann Associates dated August 18, 2014 in regards to the signs. Mr. Langille expressed his concern in regards to the 6 six proposed signs, (1) on each side of the AutoZone building totaling (4) signs and one (2) sided ground sign. He stated this was too many signs for one building, on one small lot, in a shopping center. In addition, he stated the definition of what their sign consists of needs to be more clear; for instance, does the sign consist of just the large lettering or does it take into account the stripping on the building as well. He also stated that at the Preliminary Site Plan meeting on August 4, 2014, Mr. Greg Ursprung stated that AutoZone was planning to install a sign on the existing North East Plaza marquee post but has now changed to adding a ground sign instead. Mr. Langille expressed that he did not approve of the sign permits being handled independently from the site plan after final approval and would have preferred the permits have been approved prior to the final approval meeting. He also stated he prefers that they did not have a ground sign and did not want to see AutoZone increase the size of any of the signs as he feels there is already too many. However, Mr. Langille also added that the North East Zoning Ordinance Section 7-9 Permitted Signs and Standards for the "LC" and "HC" Districts does state that AutoZone is permitted to have the proposed signs. Mr. Langille wanted his statement to be clear, that as much as he disapproves of the proposed signs, AutoZone is within their rights to put up the proposed signs.

Chairman Morgan also concurred that AutoZone is staying within the sign size stipulated within the Town's zoning ordinance. He also added although it may be good marketing to have all the signage we also need to take into consideration the overall

look of the North East Plaza shopping center. Mrs. Cook-MacKenzie inquired if Kimco would also need to approve AutoZone's signs.

Mr. Engel stated that Kimco does still need to approve the proposed signs prior to applying for permits from the Town. He also inquired if AutoZone meets the code that would be acceptable because at this time they have no intention of increasing any of the proposed sign sizes. Mr. Langille stated yes it would be acceptable, due to the current North East Zoning Ordinances.

The Planning Commission discussed whether it would be feasible to add a condition to the final approval that the proposed signs must remain within the confines of the North East Zoning Ordinance regulations. However, after further discussion, the Planning Commission decided, if the AutoZone were to apply for a variance, they would make a recommendation to the Board of Appeals against an increase in the size any of the AutoZone signage.

Mr. Kline made a motion for approval of the Final Site Plan for the AutoZone site, with conditions as outlined on the letter from CNA dated August 20, 2014. Mr. Dobbins seconded the motion and the motion was approved with a 4 to 1 vote. Mr. Langille was not in favor of the approval.

Mr. Engel stated he would bring the Town's comments back to AutoZone.

-OLD BUSINESS-

None.

-REPORTS-

Heron Cove:

Mrs. Cook-MacKenzie reported that Heron Cove was back before the Cecil County Technical Advisory Committee this morning. Commissioner Braley inquired if this was a new plan. Mrs. Cook-MacKenzie stated that it was a new plan proposing 100 units which will be townhomes. Mr. Dobbins inquired about a proposed Kayak launch on the new plan. Mrs. Cook-MacKenzie stated there was considerable discussion about the Kayak launch. Chairman Morgan inquired if they still required growth allocation. Mrs. Cook-MacKenzie replied that they are under 3.99 units per acre per the LDA (Limited Development Area) regulation. Commissioner Braley inquired about the number of previously proposed living units. Mrs. Cook-MacKenzie reported that Heron Cove originally proposed 164 units however, they have decreased the amount of units to 100. She added that the proposed Kayak launch is approximately 600 feet from the proposed community to the water. Chairman Morgan inquired if they were originally designated RCA (Resource Conservation Area). Mrs. Cook-MacKenzie stated the property lost the growth allocation and it reverted back to LDA-Limited Development Area. Mrs. MacKenzie stated they were designated LDA because of the current water and sewer availability. In addition, their previous growth allocation was lost because they exceeded the 3.99 units per acre as well as the 15% impervious surface.

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Chairman Morgan stated LDA carries 15 to 20% maximum impervious coverage which because of the size of the parcels still leaves a fair amount of development opportunity.

Mr. Langille inquired if there would be boat access to the water from Heron Cove and would they be installing a pool. Mrs. Cook-MacKenzie stated there would not be boat access and the proposed site plan does not indicate a pool or clubhouse.

Mr. Dobbins inquired if the units were all townhomes with garages underneath. Mrs. Cook-MacKenzie stated that it was not clear on the proposed plan. They did not provide architectural renderings but do state off-street parking will be included.

Mr. Dobbins inquired about comment #40 on the proposed plan. Mrs. MacKenzie stated comment #40:

An assessment of the existing forest located on the site is included in the Critical Area Environmental Assessment Division 3 prepared by CNA, Inc. dated August 2006. An extension of the approval of the Environmental Assessment was granted July 22, 2014.

Mrs. Cook-Mackenzie stated Mrs. Vennell had contacted Cecil County for clarification.

Mr. Dobbins read a letter from Amanda Paioli of the Forestation Department of Cecil County: "Dear Ms. DiPietro (Morris and Ritchie Associates), Thank you for your request for an extension of validity for the Environmental Assessment of the Heron Cove project site. Your request is hereby granted for 5 years. The Environmental Assessment will now expire on July 22, 2019."

Chairman Morgan stated this is strictly the environmental assessment for the critical area for the county. Mr. Dobbins added that Mrs. Vennell previously stated in an email to him that the Chesapeake Bay Critical Area has not yet reviewed the new plan and the extension granted was not by the Chesapeake Bay Critical Area Commission.

Mrs. Mackenzie reported that in 1988 when we were still under the interim guidelines they were designated as RCA (Resource Conservation Area) and this was recorded approximately 6 days prior to a change in law. Due to the availability of the water and sewer the designation was changed to LDA.

Chairman Morgan inquired what impact did the changes in the floodplain regulations have on that parcel.

Mrs. Cook-MacKenzie stated it had quite a bit of impact as the majority of the parcel was in the floodplain.

Mrs. Cook-MacKenzie read the comments from Dan Speakman, McCone Engineering (who was hired by the Town to review the proposed plans for Heron Cove) in a letter dated September 2, 2014:

1. The Plan proposes a very substantial amount of fill in the confluence of two floodway's (see definition under 802.15). This fill appears to have the potential to result in an increase in water surface elevations above or adjacent to the floodway. Per 805.6: "Any development in the floodway which may result in any increase in water surface elevations or change to the floodway must be submitted to FEMA for a Conditional Letter of Map Revision. Hydrologic and hydraulic analysis based on existing floodway models and performed in accordance with standard engineering practices and certified by a registered professional engineer must be submitted. Failure to receive this Conditional Letter shall be grounds for denial of the permit." The project will not be in conformance with the regulations until the CLOMR is approved by FEMA. The regulation also states that "Proposed New Development shall not be permitted in the floodway where alternatives exist elsewhere or if any increase in water surface elevations will result from the 100 year flood."
2. The Concept Plan does not provide adequate detail to demonstrate that a building site for each lot is outside of the 100 year floodplain.
3. The applicant must agree to secure all other required permits for development in a floodplain, including but not limited to: MDE/Corps of Engineers permitting, Critical Area Site Plan approval, Elevation Certificate, Flood Proofing Certificate, FEMA Map Amendments/Revisions, Etc...
4. It would appear that the site will require substantially more fill than the 600 cubic yards permitted per parcel, which is prohibited by section 805.3, except by variance to demonstrate "that the amount of fill used will not affect the flood storage capacity or increase flooding onto neighboring properties."

Mrs. Cook-MacKenzie stated Mr. Speakman has indicated that Heron Cove needs to do a flood study and that flood study would be submitted to Maryland Department of the Environment (MDE). Also Ms. DiPietro, from Morris & Ritchie Associates, reported that the SHA denied the proposed emergency access/exit from Heron Cove onto Route 7 but she did state that it may not have been clear that this was to be used only as an emergency entrance/exit. Chairman Morgan inquired who the developer was and Mrs. Cook-Mackenzie stated Manuel Lozaro.

Mrs. Cook-MacKenzie reported that Ms. DiPietro stated they will probably not submit to the Planning Commission until the beginning of next year.

-MISCELLANEOUS:

None.

-ADJOURNMENT-

With no further business, Mr. Kline made a motion to adjourn at 8: 12 p.m. Commissioner Braley seconded the motion and the motion was approved by all.

Respectfully submitted:

Attest:

Lisa Rhoades
Planning and Zoning Assistant

Brian Morgan
Chairman