

Cold Spring Planning & Zoning May 9, 2007

The regular meeting of Cold Spring Planning and Zoning Commission was called to order by Chairman Steve Taylor. Pledge to the flag was recited. The roll call showed the following present – Steve Taylor, Jim Drye, Joe Feinauer, Ken Sharp, Karen Stafford and Ken Warden, excused – Roger Bay. Also present were Mike Schwartz, Rita Seger and Brandon Voelker.

The March 14 regular meeting minutes were reviewed by all. Ken Warden requested a correction to the wording in paragraph 8, second sentence “...re-appoint..” should be changed to “..elect..” Ken Warden made a motion for approval with one change, and Jim Drye seconded the motion. All were in favor. Motion carried.

Steve Taylor signed a final plat for Granite Spring, Building 7 and open space parcel “D”. Jim Drye made a motion for approval and Ken Sharp seconded the motion. All were in favor. Motion carried.

The public hearing for a proposed Stage II Development Plan on approximate .5 acre area located at the NE corner of the intersection of Alexandria Pike and Henry Court (Robert Blau) was called to order.

Mike Schwartz of NKAPC reviewed the history, considerations and recommendations of the Staff, per his report of April 27, 2007. The submitted Stage II Development Plan indicates the construction of a handicapped accessible ramp/sidewalk for access to the basement level of the existing office building, relocation of the existing free standing sign, and provision for grading and relocated utilities. Staff has recommended approval of the Stage II Development Plan stating that it meets the minimum requirements of the Cold Spring Zoning Ordinance and the Cold Spring Subdivision Regulations. Mike Schwartz stated that due to questions raised by some of the Board members, Staff looked through all of their documentation and could not locate anything relative to past history on limitations for usage of the building.

Brandon Voelker stated he also researched this and said the main concern was apparently tied to parking. The plat for the next door property does have a parking easement for Mr. Blau’s building, so they probably have ten to fifteen more parking spaces than is necessary. It allows for enough parking for both of the buildings. Mike Schwartz stated that there is a separate requirement for the medical office parking, however based upon the application there is nothing about use of the building, it is for the placement of a handicap ramp and relocation of the sign, and that is what staff evaluated their recommendation upon.

Ken Warden questioned the setbacks for the sign. It is a minimum of five feet.

Joe Kramer of Cardinal Engineering was present on behalf of Cardinal Engineering. They are trying to provide a handicap facility and open the lower level and get some light in it, and move the existing sign with no changes.

Jim Drye is concerned about whether or not the sign can legally be moved, since it is only allowed for three or more tenants in a PO zone and he only sees two tenants on the sign right now. Also he questioned the size of the sign and what area is measured. If it is non-conforming, he doesn’t believe it can be moved. Jim Drye also questioned the height of the wall that is needed at the ramp.

Mike Schwartz replied that an individual use in an office zone is allowed a class eight which is a ground sign, 25 sq. ft. If there are three or more businesses they are allowed a class seven sign which would be a pole sign. Mike Schwartz stated that they measure the area of the sign only, not the structural members. The maximum height for a class seven size is 20 ft. and a maximum overall size of 60 sq. ft. Brandon Voelker stated that we can have staff check to make sure this sign is a conforming or non-conforming however, since the relocation is needed in order to place an ADA ramp and this affects the general welfare of the public, he recommends that we should just defer this relocation because we could get in trouble by not allowing an ADA ramp be built. Mrs. Blau was present and stated that besides the Urgent Care and Law Firm, there is a Title Agency in the lower level.

Joe Kramer of Cardinal Engineering stated that the elevation for the wall around the walkway is about eight to ten feet with a tapered drop. They will have guardrails.

Jim Drye stated that in the Comprehensive Plan we are supposed to put sidewalks in wherever possible, but Henry Court doesn’t have a sidewalk on either side of the street. With the traffic in this building, a sidewalk would be safer for everybody and he would like to see this improvement. Mike Schwartz replied that sidewalks are not a requirement. This is

not a new development. Brandon Voelker replied that this is a Stage II and we can't require sidewalks for just putting in an ADA ramp and relocating a sign.

Ken Sharp motioned to **approve this Stage II Development Plan on approximate .5 acre area located at the NE corner of the intersection of Alexandria Pike and Henry Court (Robert Blau) on the bases of staff recommendation.** Joe Feinauer seconded the motion. Roll call vote showed five yeses and one no – Jim Drye. **Motion carried.**

The second public hearing was opened for a proposed Stage I Development Plan on approximate 5.7 acre area located along the SW side of the AA Highway between Rocky View Drive and E. Low Gap Road, approximately 200 feet SE of Rocky View Drive (Immanuel Baptist Church).

Brandon Voelker stated that there was discussion on whether this was a conditional use because this is a church. It is of the opinion of the city and attorney that a church is a permitted use in any zone, so it does not infringe upon the first amendment. They do have to adhere to all of the building requirements but do not have to go to the Board of Adjustments for the right to build a church. NKAPC has this listed on their report under consideration 1.B.

Mike Schwartz, NKAPC, presented the review of the Staff report dated April 27, 2007. Staff has recommended approval of this Stage I Development Plan along with seven conditions. Mike Schwartz stated that pursuant to the Cold Spring Zoning Ordinance, tonight's decision is final and does not go to City Council.

Ken Warden stated that the sidewalks coming from up the Rocky View connector and across the driveway over to the building would be five feet wide, but they are connecting to four foot wide sidewalks around the building, and asked if the sidewalks were ADA compatible. Mike Schwartz replied that the five foot wide is what is required in commercial multifamily and industrial zones. The subdivision regulations are silent when it comes to private sidewalks around buildings. Mike Schwartz said the ADA sidewalks would be reviewed as part of the Stage II. Many of the details are shown on this Stage I submittal that staff did not review because they would be reviewed as part of the Stage II.

Joe Feinauer asked if the road that connects to Rocky View was to be a public road until it hits their property. He is concerned that this driveway will be used to service the rest of this future development, which should not be allowed. Mike Schwartz stated that, as it is drawn it is just a private drive. It is not being built to public street standards. It is only twenty feet wide, not big enough for a public road.

Joe Kramer of Cardinal Engineering was present on behalf of Immanuel Baptist Church. They will report all geotechnical progress done on this site. Signage has not yet been determined and they will submit this as part of an amended Stage II. All mechanical equipment will be screened from view. The twenty foot asphalt driveway is designed with the intent that if it does become public they will come back with curbs on both sides to give them twenty-five feet. The church is going forward with their design not knowing what will happen with the rest of the development. Because of this, they would like to forgo putting in the sidewalks, but would provide a direction to the future public street of a future development which would incur more foot traffic and would be a more appropriate time to build the five foot sidewalk. They ask for reconsideration of condition 4 of staff report. All proposed new utilities will be underground. The current overhead electric power line will remain in place. Bumper blocks will be installed because there are no curbs flows to ditches. The seventh agreement, grading offsite and will be provided to staff. The catch basin is designed to incorporate the remaining development. Joe Kramer asked that since this plan submitted this evening has more detail than a typical Stage I, and that what is presented tonight is more or less a Stage II Development Plan, could P &Z consider allowing staff to review this as a Stage II in house rather than bring back the exact plan noting that they will not be including any signage.

Ken Warden asked who was building the off site road. The church will be sharing the cost with Bray and RL Corporation. Jim Drye verified that the intention is that it is a private road and will not require city maintenance.

Brandon Voelker stated that a requirement could be made for future development to make the road different because they will have to be in an adjacent right of way to build. We do not know at this point if there ever will be future development.

Ken Warden stated that at this point we do not know if we can waive the sidewalks because future development may not occur in the near future and we have to provide the safety for people who want to walk from Rocky View up to the church. Joe Kramer stated the safety issue is along Rocky View, a county road which has no sidewalks. Any sidewalk that they put in would encourage Rocky View residents to walk down their road to get to these sidewalks. Joe Feinauer agrees. His problem is with a twenty foot road, built to standards for a private road and then having to widen to a minimum of twenty-five feet should it go public. If sidewalks were in place they would have problems then getting a decent 28 ft. wide road in there. Joe Kramer stated that they could agree that in a future development they would do 28 ft. road with curb and

gutter and sidewalks then. That might be more appropriate. Mike Schwartz stated that the remainder of this development is adjacent to a right of way off of Rocky View or the AA Highway. The way they would have to satisfy this is to build another drive at that point. Since it is all private they could tie into what is in here. The condition would have to be that the off site road/driveway shall be built as indicated but built to a public street design standard and inspected as a public or private street and if there were any future development to access this road it would have to be improved to a twenty eight foot wide public street standard to include curb gutter sidewalk each side.

Terry Welch, Immanuel Baptist Church was present. He stated that they will agree to whatever it takes to do this. His problem is that there is very little room to make a turn from AA Highway to Rocky View Drive which is in the county. If anything needs to be widened it is Rocky View. That road is only twenty feet wide. Joe Feinauer suggested that they ask the state to widen it. It is a problem. If this is ever done it would be in the best interest of everyone to widen that entrance.

Joe Feinauer asked if it is a requirement that they have a five foot sidewalk with this plan. Mike Schwartz replied that it is not a requirement, because none of these roads are public roads, but staff was trying to make this condition on the bases that the zoning code states there should be a reasonable pedestrian circulation and to provide a way to get from the site to the outer section. It is up to this board to determine.

Discussions followed on possible wording supplied by Mike Schwartz for revisions to condition #4 and adding conditions #8 and #9.

Joe Feinauer made a **motion to approve the Stage I Development Plan for Immanuel Baptist Church, based on staff recommendations including the conditions listed, to include modifications to condition #4 and the two additional conditions of #8 and #9 as follows: 1.) that a geotechnical subsurface investigation be performed on those portions of the site that have a slope of twenty (20) percent or greater and that such information be submitted either as part of a Stage II Development Plan submittal or a zoning/building permit submittal; 2) that the location, height, and type of all signage be submitted as part of a Stage II Development Plan submittal; 3) that all mechanical equipment, whether ground or roof mounted, be screened from view; 4) that a sidewalk, having a minimum width of five (5) feet, be provided from the proposed sidewalk indicated around the proposed building to the off site road/ driveway; 5) that all utilities be underground; 6) that a protective wall and/or bumper blocks be provided around the perimeter of the proposed off-street parking area; 7) that documentation be provided as part of the Stage II Development Plan submittal pertaining to the ownership of where the proposed off-site road/driveway, connecting to Rocky View Drive, is to be located and their willingness to have this road/driveway constructed; 8) that the proposed twenty (20) ft. wide off-site road/driveway be constructed and inspected to a private street depth standard, therefore Staff is inspecting it so that should it become public it could be; 9) that the off-site road/driveway be designed, constructed, and inspected to the minimum twenty-eight (28) ft. wide public street standard, at such time as the adjoining area is further developed.** Ken Sharp seconded the motion. Roll call vote showed five yeses and one no – Ken Warden. **Motion carried.**

Joe Kramer of Cardinal Engineering requested that, since this Stage I submittal tonight already included information needed for if the Stage II Development Plan, this Board forgo presentation of this same plan at a Stage II meeting, and just let Staff evaluate it. Joe Feinauer asked if there will be anything different that wasn't discussed this evening. Mike Schwartz did not see many differences at all. Joe Feinauer made a **motion to waive Immanuel Baptist having to come back to this P & Z Board for a Stage II since plans reviewed tonight are basically Stage II and with Staff conditions the Stage II will be satisfied. In the event that there is a significant change to that plan based on the actions tonight, then it would have to come back to this P & Z Board if not deemed approved by professional Staff.** Ken Sharp seconded the motion. Roll call vote showed all in favor. **Motion carried.**

Steve Taylor stated that a proposal had been made at the previous Planning & Zoning Commission meeting to limit public hearings to no more than three for any one P & Z meeting. This topic had been tabled until research had been done on whether this was allowed. Mike Schwartz stated that he could not find any statute regarding this. Brandon Voelker stated that the issue is whether someone needs to bring something before this board with time limitations. Steve Taylor stated that a special hearing could always be made. Mike Schwartz replied that notification problems would then arise. Brandon Voelker suggested that the meetings be streamlined to limit the amount of time allowed for discussions or public comment. By delaying a hearing, it could cost time and money for another applicant. Mike Schwartz stated that the by-laws already give a time limitation. We have the right to table the meeting and at that point we have an option to reschedule it as a special meeting but would not have to post the property. Mike Schwartz related that Kenton County basically does a time limit and but has written in the by-laws a specific day of the week that a meeting will be held if a meeting is tabled because of the lateness of the hours. This has never really been a problem at the City of Cold Spring. Brandon Voelker said we should just keep it the way it is, stand by our ten o'clock rule and just recess until another night. Ken Warden agrees that this way we are not bound by what is in the by-laws. It gives us more flexibility. No changes will be made.

Per House Bill 55, Karen Stafford attended three hours and Steve Taylor attended four and a half hours of continuing education. Board of Adjustment members Ed Rieckhoff attended six hours and Dave Thiem attended seven and one half hours of continuing education. Joe Feinauer made a motion for approval and Ken Warden seconded the motion. All were in favor. Motion carried.

Brandon Voelker stated that he was approached Jim Dailey who represents Jack Morris, Hiland Pancake, regarding a bond in the amount of \$15,000 which they gave us as part of our approval process for a final top coat on Plaza Drive, which was a private street. They assumed there was no need for a permit. The contractor went in and paved it and then discovered that they needed to have it inspected, which was not done. Geotechnical core samples could be taken but would just put holes in the road. They want their money from their bond back. Brandon Voelker stated that the contractor and owner agree that the road is guaranteed by the contractor, but once the developer is out they may approach that the city take it over. It is suggested that a condition be placed on it that they do not approach the city about turning this into a public street. It should be tenant maintained.

Discussion followed on exactly which portion of this is the private road. Mike Schwartz stated that Plaza Drive itself is a public right of way. This discussion was tabled until more clarification is received on exactly which portion of this is the private drive and which is the public street.

Drew Banks, new owner of the Cold Spring Roadhouse was present and addressed P & Z. He wanted to introduce himself and presented his plans for the future remodeling project of the building, both inside and out, to freshen it up with many repairs and renovations. They are following all of the processes and more than anything they want to get a dialog started with council, P & Z, and residents on what they want while they are renovating. They are looking at a three to five year project of development.

Jim Drye replied that Granite Spring had discussed placing monument / neighborhood sign off of the Cold Spring Roadhouse right of way. Drew Banks says he has no plans for allowing Fisher to put up signs unless this board told him he had to.

Steve Taylor stated that at one time a second entranceway was granted to the Roadhouse for a curb cut on Buning lane. Drew Banks stated he has paperwork that a hearing was held and the curb cut was granted. They would at some time like to use that curb cut.

Further discussions were about the traffic light at Buning Lane, a new entranceway, the possibility of tying up with the old drive-in property by way of a service road, and repairs needed to be done to the lake. Drew Banks stated that they will absolutely allow Cold Spring to use the lake for the annual Fishing Derby. He thanked the Board for their time.

Brandon Voelker stated that Ken Perry bought the Quickee Lube property and wishes to erect a building behind it. Mike Schwartz stated that when the zone change went through it was in the county, it was annexed and part of a zone change. The development plan showed Quickee Lube on the left and a convenience store on the right hand side. When the property was vacant the property owner at the time wanted to switch Quickee Lube to the right and convenient store to the left, which this Board did approve. More recently we have an approved car wash in that area. Mike Schwartz asked whether this Board would consider the addition of a second building behind the oil lube facility as a major or minor change. As regulations state, this board has the authority to grant minor changes and can also determine what is major or minor change. If a minor change is determined the applicant comes in with a Stage II Development Plan. If major change is determined, than it has to go back through an entire public hearing process where this Board makes a recommendation and city council makes the final decision to approve that major change and if approved they come through with a Stage II.

Ken Perry was present and stated that this is actually a third building. He said that they have an acre and a third. They are not asking for an additional lot. They are just asking for an additional building to add additional footage to the existing use that they have now. Right now they have a 10,000 sq. ft. building with 5,000 on one floor and 5,000 on the lower level. The second building behind the Quickee Lube would be 3,600 sq. ft. They have more than enough room and meet all of the requirements, with less than a forty percent addition. The purpose of this building is to store his construction materials, trucks, tractors etc. The building will not be attached to the Quickee Lube – one lot, one ownership. Mike Schwartz stated that it is this Board's decision and Staff has no recommendations.

Ken Warden made a **motion to view this addition behind the Quickee Lube as a minor change to the development plan** and Jim Drye seconded the motion. Jim Drye asked if the other building was more of an accessory use.

Ken Perry does not want to imply that. He may decide to do something different in the future. Brandon Voelker asked if he wanted more signage. Ken Perry said in the future he may ask if allowed by the code, but not at this time. Ken

Warden stated that they could still control the signage when it came back to this body. Steve Taylor verified that use of building is for construction equipment only. Ken Perry said there may be an office space but just for construction crew. The building will be of similar construction and material as that used in the Quickee Lube and Car Wash. Roll call vote showed all were in favor. **Motion carried.**

Ken Warden made a motion to adjourn and Karen Stafford seconded the motion. All were in favor Motion carried.

Respectfully submitted,

Rita Seger, Assistant City Clerk

NEXT MEETING – JUNE 13th