

Cold Spring Planning & Zoning Special Meeting August 18, 2008

The special meeting of Cold Spring Planning and Zoning Commission, as advertised, was called to order by Chairman Steve Taylor. Pledge to the flag was recited. The roll call showed the following present – Roger Bay, Donna Schmidt, Ken Sharp, Vince Sticklen, Steve Taylor and Ken Warden – excused was Alan McCullough. Also present were Rita Seger, Brandon Voelker and Andy Videkovitch.

Steve Taylor pointed out the exits from the building, per Fire Department regulations.

The June 11th regular meeting minutes were reviewed by all. Vince Sticklen made a motion for approval. Ken Sharp seconded the motion. All were in favor. Motion carried.

A final plat for Granite Spring, Section 16, and an identification plat for a land addition of a 1,270.19 sq. ft. parcel in the name of Christopher A. Fettig were signed by Steve Taylor. Ken Warden made a motion to approve this signing and Ken Sharp seconded the motion. All were in favor. Motion carried.

Steve Taylor opened the scheduled public hearing for a **proposed map amendment on an approximate 6.7 acre area located along the north side of the AA Highway at the terminus of Plaza Drive, changing the described area from NC to R-1DD; to seek conditional use permit for a congregate housing facility and nursery school within the R-1DD zone; and to seek a variance reducing the required front yard setback along the new extension of Plaza Drive from fifty feet to ten feet (Anne McBride on behalf of Hiland Pancake Enterprises).**

Andy Videkovitch of NKAPC presented slides of the project. He gave a history of this area and summarized his review. The submitted development plan shows the construction of a 90,526 sq. ft. congregate housing facility, 143 beds. It will have activity, dining, and exercise facilities, and will include a Montessori day care school. He described the building setbacks, elevations, parking spaces, an extension of Plaza Drive to the AA Highway, and the existing storm water detention facility, lift station and the 100 ft. power line easement through the site.

Staff has recommended approval of the proposed map amendment from NC to R-1DD subject to the condition that the conditional use permit for congregate housing and nursery school be approved. This proposed zone allows housing that will meet the needs and desires of a specific age group which is one of the goals of the Comprehensive Plan. This zone is more appropriate than the existing NC zone.

Staff has recommended approval of the conditional use permit subject to two conditions: the development plan be revised to meeting the minimum requirements of the zoning ordinance except for approved variances; and the development plan be revised to meet the minimum requirements of the Cold Spring subdivision regulations unless waivers, to be brought before this Board at the September meeting, are approved by the Planning Commission. If those waivers are not approved the development plan will have to be revised to meet those minimum requirements. Cold Spring has no housing units specifically designed for use by the elderly. This proposed conditional use will allow for such housing, along with a nursery school that is identified within the Comprehensive Plan.

Staff has recommended approval of the proposed variance reducing the minimum required front yard setback from fifty (50 feet to ten (10) feet.

Ken Warden questioned the additional ground to the west of the development on the other side of the power lines. Andy Videkovitch replied that there is no proposal to develop that area. It is not included in this development.

Roger Bay thought that land was given to the city to be dedicated as a park. Brandon Voelker explained the history of this area. Law suits were filed and as part of the settlement agreement the park went to the wayside because the topography. That area would be restricted, so that it could not be used for commercial, and would be zoned residential. One issue is that the owner of the property could use it for office use. There is a deed restriction filed on record. There is a contract to purchase the entire site but there are problems because of the small pie shape. It may become may be a doctors / medical office building.

Ken Sharp verified with Andy Videkovitch that the amount of space between the building and Villagegreen Drive is estimated at 200 feet. There is a curb cut on the AA Highway, which has already been approved by the State and it is unrestricted.

Ken Warden questioned what additional information was needed for parking is requirements. Andy Videkovitch said that there may well be enough parking, but the number of spaces is based on numbers of beds, employees, and doctors which is information they were not provided with.

Anne McBride was present on behalf of the property owner. Barry Bortz of Carespring was present along with Gene Ellison, architect with Architects Plus for the project. This company provides residential communities for aging people in a number of locations in this area. They have an option to purchase the entire 10.3 acres which does include the "pie" piece on the west end of the property. They are requesting the zone map amendment, conditional use, and the variance on the 6.68 acre piece which is the eastern portion of that property. They request that it be zoned R-IDD and the conditional use permit which would allow them to put in the transitional care / nursing home facility with 143 beds. They would also have the Montessori pre-school as a conditional use within that district. Plaza Drive would be extended from its terminus point all the way through to the AA Highway, and would be a public street.

The facility would be residential in character. She said with the number of beds, staff including the pre-school staff, doctors, and 32 spaces for visitors, comes out to be 146 spaces. They will be submitting this information in writing to NKAPC at the final submission should this be passed by the city. There is a detention basin across Plaza Drive on the east from the proposed building. Carespring is well-known for its landscaping which is meticulously maintained and is way above what most facilities have. The zone change is more compatible to the residential uses to the north.

They held an informal meeting with the surrounding residents and let them know what was going on and what they are proposing. Their development is consistent with the comprehensive plan. There is a lack of housing for the older residents, and this development will provide for them to stay in this community. The traffic generation is significantly less than any other retail uses that could have gone in there under the NC zoning. It mimics a residential character. They are asking for consideration for a variance to reduce the front yard from 50 to 10 feet. This site has many constraints with severe topography on the north end, transmission lines on the west end. They are locked in on location because both the terminus of Plaza Drive and the curb cut from the AA Hwy are already located. The pavement of the street will be 24 feet. They have pulled the development as far to the south as possible and as far away from the severe topography and Sturbridge as they can.

Ken Sharp questioned if the housing is only transitional and where the location of the Montessori is located. Anne McBride stated it is for both transitional and long term care. The Montessori school will be located at the right hand side of the front door, first floor. The mix of the two age groups works are a great combination. Elderly read stories to the younger children and they put on plays for the older residents. They will have approximately 35 children, ages three to five. They do not have any plans to increase this.

Steve Taylor questioned the sidewalks. Anne McBride stated that they want to put the sidewalk on the north side of Plaza Drive, so their residents could use it to walk to the strip center. They will be submitting a site plan showing information on the conditional use in relationship to the property to NKAPC.

Ken Warden stated that sidewalks are on both sides of the existing section of Plaza Drive. He also has concerns that they are trying to push too much toward the AA and very little area for landscape. Anne McBride said if they pushed the building back, it would be tremendously expensive to get into that hillside and it would be closer to Sturbridge which is not what they want to do. The approximate distance between the property line and the AA Highway is sixty to seventy feet, and is owned by the State. The road is pushed as far over as they can. Part of this property will be dedicated to the city as the right of way for Plaza Drive.

Steve Taylor questioned if there was enough room for utility work to be done. Ken Perry explained the placement of the utilities on this site and stated there would not be a problem. They are getting into the hills a little bit to put in the sewers.

Keith Van Meter of 310 Town Square Circle stated the residents met with applicant and they don't have a problem with the development of the property, however he has a few concerns associated with it. He verified that the sidewalk would go down the length of Plaza Drive and verified that the upper buildings on Plaza Drive will remain HC. He questioned how a commercial facility can be R-IDD. The comprehensive plan allows for it, but the city has a code of MUPD and when you talk about a commercial money making facility in R-IDD he questions whether it is the correct code. He asked if the extension of Plaza Drive will become a public road to be maintained by the city. He has concerns about the traffic. At the time the curb cut was approved in 1999 it was given two way access for farmers and traffic was minimal. That has changed and he has concerns about traffic using this as a short cut between US 27 and the AA Highway. He questioned how you set the speed limits and control the traffic along that extension. Also he asks if a traffic study will be done.

Dave Bertram of 116 Villagegreen questioned the issue of the sewer line. When it was put in it was meant for Sturbridge only. The pumping station will pump the sewage up the hill into a sewage manhole in front of his house and he questions if it can handle that. The Crossroads development has been added to this line. They already suffer from sewer gas and he has concerns that it will only get worse. He has spoken to someone from the Sanitation District who said that they will have trouble as long as long as they keep pumping extra into this manhole.

Don Heck of 33 Sturbridge didn't know that the sewage is going through his subdivision. It has been a nightmare in years past, and the pumping station on Wolbert Road does smell bad. They monitor it but you still get the gas vapors which they have battled for years. Once this development goes in it will be a problem. The Sanitation District does go down in the wells and take samples but you can't get a report to find out if it is good or bad.

Ken Warden verified that the applicant did go to the Sanitation District to see if it had the capacity to handle their facility. Mr. Bortz confirmed that they said it could. Sewer gas problems are the last thing they want to happen. Ken Perry said that he went to the Sanitation District himself and they did an actual flow study and said there is adequate capacity to serve this facility.

Ken Warden questioned if Mr. Bortz was really interested in taking the access road down to the AA Highway. Mr. Bortz replied that they want to be a good partner with the community and they want what the community wants. If they had a cul-de-sac it wouldn't bother them in the least, but it is not their decision to make. The rest of the businesses bought into this with the understanding that there would be a future outlet. Brandon Voelker stated that there are certain contractual obligations with the front section. Mr. Bortz could get all the approvals that he needs, but he if can't contractually fulfill his obligation to the owner for the access road, the owner may not be able to sell it to them.

Vince Sticklen questioned if they can have just a one way down toward Wilder. Andy Videkovitch said that the State already has it approved as a complete access. Within the transportation element of the comprehensive plan, it does actually call for the extension of Plaza Drive to the AA Highway. It is one more layer to deal with this extension.

Steve Taylor clarified that the highway is contractual obligation and outside of our venue. The "pie" section of the property is not before us tonight, but may come to us at a later date with the medical office.

Brandon Voelker stated that this is a concept plan and we will see more in the Stage II development plan. Anne McBride stated that she doesn't believe that this Board will see the Stage II development plan because it is a commercial development. It only goes to Staff. Andy Videkovitch stated all Stage II plans for Cold Spring come before this Planning Commission. It is the permits that only go to Staff. Brandon Voelker stated that in the past this body has allowed Staff to handle administratively. We do not have to concern ourselves with this Stage II issue tonight.

Vince Sticklen questioned the distance from the door to the street on the south side of the building. Older people sometimes wander and he would hate for someone to get hit. Mr. Bortz said all doors have a secured exit except for the main entrance. They have alarms on them. Outside the door is the sidewalk and then 10 feet to Plaza Drive.

Vince Sticklen asked if they could push the building back into the hill to get it away from the street. Mr. Bortz said that any movement into that hill will take substantial engineering work at a significant cost. If we mess with the hill who knows what the consequences will be.

Vince Sticklen questioned the room sizes. If they take one room off, how much would that back the building up. Mr. Bortz said they have to prepay for the license up front to establish the number of beds, which has been set at 143. It is driven by state regulations. They don't make a profit until the last ten percent of the beds. If you take away four rooms it impacts them substantially. From an economical standpoint it would not be a good decision for them.

Keith Van Meter said if this was not a through street it would eliminate the traffic issue. Steve Taylor stated the problem is that the street is out of our jurisdiction and we cannot take it away. It is a private contract of law.

Anne McBride said the other option is to make it a private drive, and the variance goes away. The setback and subdivision requirements goes away, but the access still remains. If it is a case of pushing it into the hillside versus having this as a private drive, they would opt for the private drive.

Roger Bay questioned if they could just make the rooms smaller. Mr. Bortz said he cares for these people and they get crammed into small rooms all of the time, horrible designs and locations. He designs these buildings so they have

plenty of room for extras like nice chairs, bookcases etc. They need to meet ADA standards and so many feet are required. He wants to make it beneficial to the residents and he will not decrease the size. This building is an exceptional design and he will not sacrifice what he has spent 35 years developing because he knows in his heart this is what they want and what they deserve.

Anne McBride stated that she will amend the plans. The access road will be a private drive which will take care of the contractual obligations which are not the city's issue. Plaza Drive will terminate as a public street at the property line. This takes the variance off the table and they are now just asking for the zone map amendment and the conditional use.

Brandon Voelker stated that they do not want to jeopardize this project over not being granted the variance. Perhaps if we call the variance out of order and then do the map amendment, they could adjust at that time. Anne McBride said she has to come back next month with two waivers regarding the street. She can't put her client in the position of a denial on the waiver and she doesn't want to lose her ability to make this a private drive.

Brandon Voelker explained that the waivers are for the request of a sidewalk on only one side because the other side doesn't have a house on it. Also they ask the right of way to be 40 instead of 60 feet. It doesn't change the size of the street, which will remain at 24 feet. It would just be the grassy area.

Brandon Voelker stated that preliminary construction can be done if approved tonight. Steve Taylor said that the variance and the street are the problems. Brandon Voelker stated that this is unique in that the width of the building is 65 ft, out of 1,000 ft to Plaza Drive all the way down. We would only be granting a variance on 65 ft out of 1,000 ft. We are not granting a variance for everybody to build right on top of Plaza Drive. Steve Taylor stated that the topography situation is created through none of the applicants doing. If we start disturbing a hill to get the building moved back, it may very well create possible slides.

Discussion followed on the current Plaza Drive, whether it was public or private. It was determined by NKAPC that it is public, however, the bond has not yet been released because they have to come up with a way to do the inspections / testing of the road.

Keith Van Meter verified that if it becomes a private drive, the police still have jurisdiction. Brandon Voelker stated that under a provisions of K.R.S. you can enforce traffic regulations but it is more difficult if it is contested in a court of law. The city cannot establish speed or traffic control devices on a private drive.

Ken Warden stated if it is private, the developer would have to control speed devices in order to slow the traffic. This development is good for the community. Our problem tonight is to find a way to make this safe for the residents living there and the visitors going in and out from there and to slow down the traffic or keep it from being a cut through, and to wind up with some sidewalks and allow the residents to walk a little more, and keep the sewerage smells down. Whether the road is private or public people will use it as a cut through.

Brandon Voelker stated that if this Board believes this as a whole promotes the general health and welfare of the city, that is the standard to be applied when granting a variance. There is limited space in this city to build a building of this size.

Vince Sticklen stated that we still have to look at the setbacks, because he is still concerned about people being that close to the street.

Mr. Bortz stated the contract does not have a time limit on it to put that street in. His plan is to build this building over the next twenty months. Eventually they will have to put in this drive if that is what they are forced to do. They will build it as a private drive, which takes away the variances. All this Board has to do is vote as to whether or not we want this in our community. Anne McBride stated that what is on the table is the zoning amendment and the conditional use request.

Mr. Bertram said in the past they spent time and money fighting various developments and won it three times. For seven years they have wondered what is going in that hole. Now they have finally got something that is residential looking, and it is everything that everyone wants. He doesn't understand the concern about the 10 foot variance.

Anne McBride stated that in summary they are asking that this board give favorable consideration for the zone map amendment from commercial to R-1DD, pursuant to the Staff recommendation pursuant to compliance with the

Comprehensive Plan and for favorable consideration of a conditional use permit which Staff agrees meets the requirements of the Cold Spring Code relative to conditional uses.

Roger Bay questioned if Plaza Drive will not be built until the “pie” is developed. Steve Taylor stated there are several things at play. There is a contractual obligation that Mr. Bortz has to extend it at some point. His immediate concern within the next twenty months is to extend the drive far enough to build this facility and that leaves him time to negotiate with the owner and the other people located on Plaza Drive, to determine if it has to be extended and what it looks like if it is extended. They may put in a construction entrance but it will not be permanent. Mr. Bortz stated that they do have a contract to purchase the other acreage, but that is contingent upon us give permission to use it for a medical office.

The public hearing was closed at this time.

Ken Warden stated that this is a great project and benefits everyone in the community. Everybody has questions about sidewalks and traffic. A private roadway has no requirements for sidewalks., and he feels that we need to make it a condition that we need a sidewalk from the western part of the property from the terminus of Plaza Drive down.

Steve Taylor made a **motion to recommend approval of the zone change from NC to R-1DD, that we make the street public due to the transportation element of the comprehensive plan, and that we grant the forty (40) foot right-of-way as a condition due to the transportation element and topography and economic issues of this land, and that the sidewalk be built on the north side of the Plaza Drive extension, based on the transportation element of the comprehensive plan.** Roger Bay seconded the motion. Roll call vote showed six yeses and no noes. **Motion carried.**

Steve Taylor made a **motion that we approve the conditional use of the congregate housing and nursery school facility within the zone, as well as the 10 foot setback variance within the zone, on the bases that it does not adversely affect the general health and welfare of the community.** Ken Sharp seconded the motion. Roll call vote showed six yeses and no noes. **Motion carried.**

Ken Sharp made a motion to adjourn. Vince Sticklen seconded the motion. All were in favor. Motion carried.

Respectfully submitted,

Rita Seger, City Clerk

NEXT MEETING – SEPTEMBER 10th