

**PLANNING COMMISSION MEETING
FEBRUARY 20, 2013**

Chairman Chris Cerino called the meeting to order at 7:30 p.m. In attendance were Commission members Christine Betley, Jane Richman, Paul Showalter, Gil Watson and Trena Williamson, Kees de Mooy, Zoning Administrator, Andrew Meehan, Esquire, Jennifer Mulligan, Stenographer and guests.

MINUTES OF JANUARY 16, 2013 MEETING

Mr. Cerino asked if there were any additions or corrections to the minutes of the meeting of January 16, 2013. **Mr. Showalter moved to approve the minutes as submitted, was seconded by Mr. Watson and carried unanimously.**

FINAL SITE PLAN – CHESTER RIVER HOSPITAL PHASE II

Mr. Kevin Shearon of DMS & Associates and Mr. Scott Burleson of Chester River Hospital were present on behalf of the Chester River Hospital. Mr. Shearon stated that they were seeking final approval for Phase II of the hospital improvement project. He said that Phase I was approved in May 2012 and included the site work for the overall project.

Mr. Shearon stated that Phase II was the emergency department addition and showed the bump out of the one-story, 2,500 square foot addition. He showed extensions of the canopy areas over the drop-off area of the lobby and ambulance entrance.

Mr. Shearon stated that they would likely begin construction of Phase II in July or August. Mr. Burleson stated that the entire project has been funded.

Ms. Williamson recused herself from the application as she is an employee of the hospital.

Mr. Watson moved to accept the plans as presented, was seconded by Mr. Showalter and carried unanimously.

PRELIMINARY SITE PLAN – 7-Eleven AT CROSS STREET AND MAPLE AVENUE

Mr. Watson stated that the applicant had items that they were to return with, including environmental remediation and asked if that material was available. Mr. Glass stated that he would try to address the environmental remediation in his presentation.

Mr. Tim Glass of Lane Engineering and Calbert Shaw, Rob Blake, Ben Wilson and Adele Saltoni were present to discuss the application.

Mr. Glass stated that last month there were several elements that they were asked to address. He said that a 5' sidewalk connection was added from Cross Street to the proposed addition and handicap parking spaces were relocated to the side. There was brick sidewalk added along the Cross Street side. He said that the State Highway would need to have ADA compliance, so the entrances were narrowed to a 30' width with full handicap ramps. Mr. Glass stated that along the Maple Avenue side there would be concrete entrances with brick flanking the rest of the sidewalk.

Mr. Glass stated that the issue of trash was discussed and there would be three (3) trash receptacles placed, one in each of the islands.

Mr. Glass stated that there was an existing utility pole behind the building, but wall packs will be added in the back for security lighting.

Mr. Glass stated that there was a bump-out in the rear that would be enclosed for the HVAC units.

Mr. Glass stated that based on several conversations with the State Highway Administration, it was acknowledged that a bicycle lane was not required along Maple Avenue.

Mr. Glass stated that the corner entrance had the access points pulled away from the intersection so the 30' driveway entrance was shifted about 22' further south along Maple Avenue. He said that it was just far enough for vehicles to turn in and utilize the parking spaces in front of the store.

Mr. Glass showed samples of lighting fixtures, noting that there were two (2) poles that would be replaced with dark-sky compliant lighting. A third light would be added by the handicap parking.

Mr. Glass stated that he attended the February 2013 Historic District Commission meeting and received feedback on the elevations. He showed the modified renderings with changes to the façade and said that they will return to the Historic District Commission for approvals.

Mr. Glass stated that the owner was required to perform all remediation on the site, noting that the tanks and canopy would be removed.

Mr. Blake stated that Mr. Bennett could not make the meeting and said that there was a Phase I and Phase II Environmental and Site Analysis was performed by 7-Eleven in August 2012 and showed contamination at the site. He said that part of the contamination was from a plume from the adjacent drycleaner. Mr. Blake stated that there were some other contaminants present, most likely from the gasoline facilities. He said that 7-Eleven was entering into a long-term lease with Mr. Bennett. Mr. Bennett would remain the property owner. Mr. Blake stated that as part of the lease, the premises

would only be accepted as long as it was “clean” and MDE compliant. He said that if the location was not in compliance with MDE, it would not be accepted.

Mr. Watson asked what monitoring has been done by Mr. Bennett and what has been done in the last month to get compliant. Mr. Blake stated that there are monitoring wells present at the site and there was an environmental consultant on board. Mr. Blake stated that he has not seen any reports.

Ms. Betley asked if 7-Eleven has been assured that Mr. Bennett has the resources to remediate to MDE standards. Mr. Blake stated that he did not know the answer to that question, but conditions had to be met before the lease would go into full effect. Mr. Blake stated that there was an executed lease, but municipal approvals and permitting had to be acquired to build the structure. After that point, Mr. Bennett’s conditions for the environmental remediation kicked in.

Mr. de Mooy stated that he spoke with Jim Carroll, head of Land Reclamation at MDE, and Susan Bull, head of the Oil Program at MDE. He said that when Mr. Bennett is ready to bring a contractor in to remove the tanks, he would provide a 30-day notice to MDE. He said that testing has not occurred since 1996, so as a prerequisite testing would have to take place before anything was removed from the site.

Mr. Blake stated that 7-Eleven was trying to get a store approved under the Zoning Ordinance. He said that a site would not be accepted that was environmentally compromised, but it was Mr. Bennett’s duty to remediate the site.

Mr. de Mooy stated that the Town has communicated with SHA who suggested the entrance closest to Cross Street would not be permitted as there was no guarantee safe passage, so how vehicles are entering and exiting should be shown.

Mr. de Mooy stated that SHA has not had a formal plan submission to date. Mr. Glass stated that Rochelle Alton of SHA looked at their plans. He said that Royal Farms first wanted to know if the project worked for the Town before it was formally submitted to SHA.

Mr. Glass stated that he was really trying to keep all entrances and exits due to the lane widths and given site restraints.

Mr. de Mooy stated that he had an email from Larry Gredlein at SHA who said internal circulation using auto turn must be incorporated into the plan. He said that it was difficult to imagine, with an 18’ minimum length that would work. He asked if the parking spaces could be angled and the entrance at the Maple Avenue side be made one-way entry only. Mr. Glass stated that they did look at that option and the zoning requirements for parking came into play so it would not work. Mr. Glass stated that a 24’ aisle width was ample for single-stacked parking.

Mr. Watson moved for preliminary site approval subject to an environmental remediation plan that is MDE compliant, execution of that plan, with copies of the reports submitted to the Town, and compliance with traffic flow from the State Highway Administration, was seconded by Ms. Williamson and carried unanimously.

TIRE AND AUTOMOTIVE SHOP – WASHINGTON SQUARE PLAZA

Mr. Randy Dupleche was present to discuss a conceptual site plan approval for a proposed tire and automotive center at Washington Square Plaza.

Mr. Dupleche stated that the store would be approximately 9,000 square feet of retail space and 3,600 square feet of service area for bays, located adjacent to the Movie Theater and Centreville National Bank.

Mr. Dupleche stated that the applicant was proposing forty-five (45) parking spaces, which allowed for one (1) space per 300 square feet (service bays included) for a total requirement of forty-two (42). He said that he doubted all those parking spaces were needed, but was unsure of the process for waiving parking.

Mr. Dupleche stated that the water and sewer lines run behind the existing shopping center and would extend to the site. Storm water management would be handled by tying into the existing pond behind the shopping center.

Mr. Watson stated that there would likely be parking trade-off with the movie theater. Mr. Dupleche agreed. Mr. Watson asked if there were adequate travel lanes in the parking area proposed. Mr. Dupleche stated that there were 24' drive aisles.

Mr. Showalter asked about the tractor trailers that would deliver to the site. Mr. Dupleche stated that they would not be changing the width of the existing drive aisle at all. He said that deliveries to their particular site were the smaller box trucks.

Mr. Cerino stated that he thought the location was fine for the store, but suggested pulling the building forward (closer to the bank) making it more a part of the shopping center.

Mr. Dupleche asked if there was a process for parking reduction. Mr. de Mooy stated that the service bays only required one (1) space for three (3) employees. He said that there was so much adjacent parking that he did not think that reduction of parking spaces would be an issue.

Mr. de Mooy stated that 2010 regulations require that storm water be treated on site, so expanding the pond would be the last resort. Mr. Dupleche stated that there would likely be a bio-filtration to the pond. Ms. Betley stated that the applicant to also look to amending the current parking area to treat storm water.

Mr. Cerino stated that additional tree islands in the parking lot would be ideal.

Mr. Cerino stated that treating storm water on site, rather than tying into the existing site would be considered positive. Ms. Betley agreed, stating that she did not want to see the storm water management fall back to an outdated storm water management system, and suggested the applicant look for a more modernized and efficient practice.

Mr. de Mooy stated that JBK has a lot of rental equipment in the back and there was not really a sound system for treating or collecting the water that is used to rinse off the machinery. He suggested looking at the shopping center in a comprehensive way when thinking about storm water management.

Mr. Watson asked how many trees would be lost in the build. Mr. Dupleche stated that he did not know at this time. Mr. Watson stated that replacement landscaping should include trees.

GARFIELD CENTER FOR THE ARTS – 210 HIGH STREET – LED SIGN

Mr. Philip Dutton, President of the Board of Trustees of the Garfield Center for the Arts, Mr. Peter Newlin of Chesapeake Architects, Mr. Jay Yerkes of Yerkes Construction, Mr. Bob Ramsey of the Finishing Touch and Mr. Jeff Halpern of Halpern & Associates were present for the submission.

Mr. Dutton thanked the Commission for meeting with them tonight. He said that they were seeking a favorable recommendation from the Planning Commission to the Town Council regarding Sign Ordinance changes or Sign Ordinance exceptions for the Garfield's marquee signs and for a programmable LED sign.

Mr. Dutton stated that there should be language in the Sign Ordinance that allows the installation of replicas of non-conforming historic signs, which can be documented and which the HDC approved.

Mr. Dutton stated that LED screens can be compatible with the downtown and said that their use and behavior can be controlled. He said that the Garfield would be appreciative of any guidelines and regulations that would accommodate their sign.

Mr. Dutton questioned what type of sign the Garfield should have if it didn't have an LED sign. He said that colorful, printed, brightly lit banners like those at the "New Lyceum" are no longer practical, economical, or environmentally sensitive. He said that manually operated letter boards are not permitted by Town Zoning Ordinances and would require special exception in addition to be impractical and dangerous to use. He said that the LED screen made sense, understanding that clear guidelines would contribute to the vitality of the Town and not diminish its historical significance.

Mr. Newlin showed a video of how the LED sign would fit with the marquee, what it would display and how it would display it. He said that the programmable sign would be used in good citizenship benefitting the neighbors and community. Mr. Newlin stated

that the lighting on the marquee was LED and the pendants surrounding the lights were reproductions of the original pendants.

Mr. Newlin stated that the screen would be used to welcome customers, announce current shows, thank event sponsors, remind people that restaurants offer theater specials, promote local talent, programs for children, and events of other non-profits. He said that it would not advertise for others.

Mr. Newlin stated that the light levels on the screen would blend to fit in with the surroundings. He said that it would not flash or crawl. The screen colors would be complimentary to the marquee colors. He said that there was an operating manual developed which would be used to insure that the sign is used appropriately. Mr. Newlin stated that there were colors already approved by the theater in the manual.

Mr. Newlin stated that it was important to note that the screen would show exactly what was put into the computer, so if the inputs were appropriate the output would also be appropriate.

Mr. Newlin stated that the LED screen would be part of the strategy to allow a historic structure serve a modern, economic purpose.

Ms. Williamson asked who would serve as the programmer for the sign. Mr. Newlin stated that theater staff would be in charge of the sign, but the program was fairly simple to operate. Ms. Williamson asked if there was a style guide developed. None had been developed though Mr. Newlin said it could easily be done.

Mr. Yerkes stated that there were many details about the LED sign that have been discussed, but said as a business owner, he thought that it was important to attract theater patrons downtown. He said that \$1.7-million dollars has been invested in the theater to date and has been carefully and tastefully done. He said that the sign would be handled the same way.

Mr. Yerkes stated that the screen would be installed in the same spot where the original Hollywood posters hung. He said that he believed in local advertising, and as a major event sponsor, he could testify to the draw that the theater brings to other businesses. Mr. Yerkes stated that the theater was a major target market for patrons and businesses and a large part of the downtown. He said that the LED screen had support from many in the downtown, with a petition from residents of Queen Street and High Street and unanimous support from the Downtown Chestertown Association. He said that the Historic District Commission approved the sign as well.

Mr. Ramsey stated that the Garfield Center for the Arts was important to the downtown. He said that the downtown is not as strong as it has been in past years and needed all the help it can get. He said that the theater brings people downtown. He asked the Commission to look at the Garfield's actions in the renovation of the building. He said that the entire project has been first class and the sign would be handled the same way.

Mr. Ramsey stated that he understood the concerns over the sign, but in looking at the responsibility that the theater has shown, it should only continue in the future. He said that he wrote a letter to the Town in August and read it into the record.

Mr. Halpern stated that he was invited to consult on the application for the Garfield Center for the Arts. He said that key components of the marquee restoration at the Garfield did not meeting current sign codes and required changes to the sign ordinances in order to move forward.

Mr. Halpern stated that the first change that was needed was the three (3) signs on the marquee, which read "Garfield". He said that the marquee itself, if it hadn't existed, would not have been permitted under the current zoning. He said that he thought that historic elements lost from a building should be permitted when there was documentation to prove that it did once exist in order to give back the original appearance of a building.

Mr. Halpern stated that the other portion of the application was allowance for the installation of the LED sign. He said that the sign would replace two (2) previous signs at that exact location. Mr. Halpern stated that theaters needed a way to announce what they were currently showing and coming attractions. Mr. Halpern stated that an LED sign would be in violation of the Sign Ordinance if it was improperly used, but what was being proposed was a programmable sign that would feel more like the signs it was replacing and would basically be the equivalent of the paper signs he thought were permitted under the Guidelines.

Mr. Halpern stated that the applicant was willing to work under cooperative guidelines that would be no more of an intrusion than the previous signs that had been allowed, noting that a theater really needed to be able to show multiple messages. He said that the screen would have a high resolution and be aimed at the pedestrian level. Mr. Halpern stated that the Historic District Commission approved the sign as not being in violation of their Guidelines. He said that they would like the opportunity to install the sign and give the community a chance to comment and work with a set of standards that could be approved by the Town.

Mr. Halpern stated that the sign would not be lit when the theater was not in use, so there would not be 24-hour exposure.

Mr. Dutton stated that the Garfield Center had a trained graphic artist on staff who would operate the sign. He said that the Historic District Commission was requiring that the Garfield Center return to them six (6) months after the sign was installed to make sure that the sign was operating as proposed.

Mr. de Mooy stated that the proposed text amendments would allow the newly restored marquee with signs on three (3) sides as well as an LED sign to be located where an internally lit, changeable letter sign was removed. His remarks are attached to this document.

Mr. de Mooy stated that there could be a text amendment inserted to allow more than one (1) sign for restoration projects where there was clear historical evidence where the signs or signs being reproduced existed so long (as it is compatible with the character of the building and its surroundings). He said that this would be available to anyone in the C2 Downtown Commercial district who carried out a restoration project so as to not violate the uniformity requirement and did not confer unique or non-uniform rights upon one property to the exclusion of others in the same zoning district. He said that if the Commission approved such a text amendment, it would be drafted, approved, and then forwarded to the Mayor and Council for their adoption.

Mr. de Mooy outlined his findings. He said that his recommendation as the Zoning Administrator was to deny the request for the LED sign. He said that a special exception may violate the uniformity clause of the Maryland Land Use code and granting an exception also violates the Historic Resource Section of the Comprehensive Plan by opening the door to LED signs and by extension all types of internally lit signs in the C-2 District.

Ms. Williamson moved to create a text amendment to be forwarded to the Mayor and Council that buildings in the C-2 District where evidence can be demonstrated that historically more than one sign was present be permitted to replicate that signage, was seconded by Mr. Watson and carried unanimously.

Mr. de Mooy stated that he would draft the text amendment.

Mr. Cerino asked for discussion on a text amendment allowing the Garfield Center a special exception for historic theater only for an LED sign. Mr. Halpern stated that they were not seeking a special exception. Mr. Cerino stated that was the exact wording on the application to the Planning Commission.

Ms. Betley stated that there was no way to insure that future leadership/management would control the LED sign in the same way that the existing leadership has indicated would be done.

Ms. Williamson stated that she did not have a problem with the concept of an LED sign and said that change and technology should be embraced. She said that they had to figure out how to use the technology across the board. She said that in approving the sign as proposed, they were approving a "blank slate", leaving the design up to others. Ms. Williamson stated that the Commission should decide what could be put into amendments requirements in which to adhere, such as style guides.

Mr. Watson stated that if this was approved, he thought it amounted to "spot zoning", which the Commission did not do. He said that he would not approve something for an individual operation to the exclusion of others. Mr. Watson stated that once a sign like this was approved for one business the rest would follow.

Ms. Betley asked if there were alternative solutions that would not require a text amendment, such as an appeals process. Mr. de Mooy stated that there was a precedent where the Chester 5 theaters came to Chestertown in 1996 and requested a marquee sign with changeable letters. He said that after a public meeting, the Commission sent a request to the Mayor and Council and an Ordinance was created permitting a changeable copy sign for theaters in the C-1 District. The Ordinance did not extend to the Prince Theater as the theater had its own grandfathered sign and was in the C-2 District. He suggested taking that Ordinance and tweaking it to allow C-1 and C-2 for a changeable copy sign.

Mr. Dutton asked if a conditional use would be permitted. Mr. de Mooy stated that there was no variance permitted for sign regulations and it would open the door for any organization demonstrating a need, such as the fire company, Washington College, churches, etc.

Mr. Cerino stated that he did not think this a suitable location for an LED sign, noting that they were generally located on major arteries with a lot of traffic and competing businesses and vehicular traffic. Mr. Cerino stated that this was a dead-end street in a pedestrian-oriented area. He said that the sign was superfluous and would “pop” for all the wrong reasons.

Mr. Cerino stated that the type of technology was not compatible with the streetscape on either side. He said that he thought it was the most inappropriate place for an LED sign as it was the heart of the Historic District.

Mr. Cerino stated that the Garfield has shown that there was signage in the area where they wanted to install the LED sign, but they could all agree that there was never an LED sign there. He said that posters and letter board are static signs, changing periodically, but not at the 7-second delay proposed for the LED sign. He said that in the time they were sitting at this meeting the sign would have changed over four hundred (400) times.

Mr. Watson stated that the E-mail blasts were very effective at letting people know what is happening at a certain place.

Mr. Cerino stated that Chestertown has one of the most pristine Historic Districts in the Country and said he did not want to pollute that with LED signage. He said the fact that there wasn't that type of signage was an economic draw. Mr. Cerino stated that people came to Chestertown to see the Historic District, not a 21st century sign. He said it did not work. Mr. Cerino stated that the Maryland Historical Trust sent a letter to that effect to the Town.

Mr. Cerino stated that there was no review process for the signage as it changed out and nobody could guarantee what would happen over time.

Mr. Cerino stated that he understood the economic argument and said that the quality of the programs at the theater would drive business, not a sign. Mr. Dutton stated that

people who were at the theater would be likely to return if they knew what was going to be showing the following week. Mr. Watson stated that the proposed LED signage could be installed inside the theater.

Mr. Cerino stated that a special exception for the theater only was a misconception. He said that if this was approved for the most historic street in a National Landmark Historic District, it would be able to be approved anywhere else in Town.

Mr. Halpern stated that he thought the application was mistaken to say that it was only for the Garfield. He said that theaters, in general, in Chestertown should be permitted to have LED signage with limitations on the activity of the screen.

Mr. Newlin stated that perhaps a special exception was not the right path to take, suggesting that a conditional use may be the way to have the LED screen approved. He said that with all of the documentation that they were supplying to the Town for the sign, there would not be many applications for LED signs. Mr. Watson disagreed.

Mr. de Mooy stated that the precedent-setting nature of this application was very important. He said that downtown Chestertown was a National Historic Landmark and there was a historic resources element in the Comprehensive Plan that clearly indicated the level of review rises to a level that decisions made could affect the rest of the State.

Mr. Yerkes asked if there was this much discussion about the electronic kiosk that was installed downtown. Mr. de Mooy stated that the kiosk was an application filed by the DCA to the Historic District Commission and not uniformly approved. He said that the application was not for a specific individual or property owner. It is in a public location and the success of it was questionable. Mr. Cerino stated that the kiosk was not attached to a single business for promoting that business; it was a community sign.

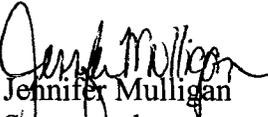
Ms. Williamson stated that technology was not going away and at some point it had to be brought into the area, in a sensible way. Mr. Newlin stated that this (the Garfield) was the most disciplined, thoughtful process that was ever going to be presented on LED screens. Mr. Cerino stated that it was still impossible to enforce.

Mr. Halpern stated that there were ways to limit this sign so that its impact was no different than the paper signs that once hung there. He said that a dialogue was needed to get to the point where this would be permitted because it was the future of technology.

Mr. Watson moved to deny the request for a text amendment for an LED sign on the grounds that it is not legal, as it did not fit with the uniformity act; it violates the Comprehensive Plan; it creates a dangerous precedent regarding LED signage; the 21st century technology does not fit with the historic streetscape in the pedestrian-oriented environment; it is not in an appropriate location, and; it is out of place in the heart of the Historic District. The motion was seconded by Mr. Showalter and carried with five (5) in favor, Ms. Williamson opposed.

Mr. Cerino stated that the Commission would meet at the next meeting beginning at 6:30 p.m. to work on the Comprehensive Plan.

There being no further business, **Mr. Watson moved to adjourn the meeting at 10:30 p.m., was seconded by Ms. Williamson and carried unanimously.**

Submitted by: 
Jennifer Mulligan
Stenographer

Approved by:
Chris Cerino
Chair