

The regular meeting of the Thurmont Planning and Zoning Commission was held on Thursday, August 28, 2003 at 7:30 p.m. Present were: Bryant Despeaux, Chairman; Bill Blakeslee; Commissioner Hooper; Jim Larochelle; John Ford; Shirley DePaolis; John Ford; John Kinnaird; Rick May; Jim Gugel; Glenn Muth; Tina Terpko; Dan Lavelle, Lavelle & Associates; Gary Wylie; Bryan Grossnickle and Stan Neal.

Mr. Despeaux welcomed everyone to the August meeting of the Thurmont Planning and Zoning Commission. He stated Shirley and John are alternates and would not be voting tonight. Mr. Despeaux stated there would be an adjustment to the agenda the last item on the agenda Storm Water Management discussion will be stricken and postponed to next month. The first item on the agenda was that approval of the July meeting minutes Mr. Despeaux asked for a motion.

Commissioner Hooper made a motion to approve the July meeting minutes as presented. Mr. Blakeslee seconded the motion. Vote-all for. Motion carried.

Mr. Despeaux turned the meeting over to Mr. Brown for the Zoning Inspectors Report. Mr. Brown stated, "There were twenty four (24) Zoning Certificates issued from July 23<sup>rd</sup> to August 26<sup>th</sup> 2003 they were for one (1) replacement dwelling two (2) residential additions and twenty-one (21) residential accessory uses. The total number of Zoning Certificates issued till August 26<sup>th</sup> 2003 is one hundred eighty seven (187) this compares to one hundred and fifty three (153) for the same period in 2002. Zoning Certificates have been issued for eighty (80) new single family dwelling units to August 26<sup>th</sup> and this compares to forty eight (48) for the same time in 2002."

Mr. Despeaux stated the next item on the agenda was the Annexation Resolution number AN03-01, he turned the meeting over to Mr. Gugel for the staff report. Mr. Gugel presented his report (see attached). Mr. May presented local staff comments (see attached). Mrs. Tina Terpko was present representing The Thurmont Little League. Mrs. Terpko stated they are in the process of doing the bathrooms and the building is already there. She wanted to know if they make any changes as far as grading of the fields any type of maintenance on the property does that mean they have to apply first according to the town staff comments. Mr. Brown stated as stated in the comments, it's in the event that grading changes would be proposed around the existing manholes that's within the easement itself, plans would have to be submitted. Mr. Brown showed Mrs. Terpko where the easements were with the manholes on the plat. Mr. Despeaux had a question on the zoning of the Little League if it would be Open Space. Mr. Gugel stated it would be Open Space and recreational uses are permitted and it doesn't specify whether it has to be for the public. Mr. May stated the Public Hearing for Annexation is scheduled for September 16<sup>th</sup> at 7:00p.m. There was no public comment. Mr. Blakeslee made a motion based upon staff comments to recommend approval of Case TH-AN-03-01. Mr. Ford seconded the motion. Vote – 3 for, 1 abstained (Commissioner Hooper). Motion carried.

Mr. Despeaux stated the next item on the agenda was the Site Plan for McDonald's Corporation. He turned the meeting over to Mr. Gugel for the staff report (see attached). Mr. May presented the local staff comments (see attached). Mr. Gary Wylie was present representing the applicant. He stated he was present to answer any questions. He stated it would be a 1,200 square foot single story 20' high addition. He stated he does have State approved building plans to submit to the County. Mr. Kinnaird asked if access to the

playland was strictly from inside the building. Mr. Wylie stated it would be. He also stated they would not be adding any additional seating just relocating what's there. Mr. Blakeslee had a concern about the shrubbery where the entrance is blocking your view when you pull out. Mr. Stan Neal was present (the owner of the property) he stated he will take care of that. There was no public comment. Mr. Ford made a motion based on staff comments to approve the Site Plan file #THSP88-8B for McDonald's Corporation with staff comments addressed. Mr. Blakeslee seconded the motion. Vote – all for. Motion carried.

Mr. Despeaux stated the next item on the agenda was the Final Plat for Jermae Estates, Lots 42 – 61 and 72-76. Mr. Despeaux turned the meeting over to Mr. Gugel for the staff report (see attached). Mr. May presented the local staff comments (see attached). There was no one present representing the applicant. Mr. Ford had a question whether or not the sewer problems were related to this development. Mr. May stated they are still investigating the situation and there was not any hard data at this time. Mr. May felt the improvements that were proposed would certainly allow the numerical capacity to come down that line, but he could not answer Mr. Ford's question since he did not know. Mr. Brown stated there are sanitary sewer upgrades they have to make just south of the Moser Road bridge past the entrance to Founder's Circle. There are three sections on line that have to be upgraded from 8" to 10" before anything can be developed, such as this section that they are proposing. That has to be done before any permits would be issued. Mr. Brown stated since no one was present representing the applicant and with all the staff comments that he had he felt they would probably have some questions on some of those and felt it should be continued until somebody shows up. Mr. Despeaux asked for public comment. Mr. Muth wanted to know if the A.P.F.O. was tested since this was a Preliminary Plat. Mr. Gugel stated that this was a Final Plat. Mr. Blakeslee made a motion to continue Jermae Estates File #THS-00-1 until further data is received and the applicant is here to discuss it. Commissioner Hooper seconded the motion. Vote – all for. Motion carried.

The next item on the agenda was a Site Plan for Orchard Village Shopping Center. Mr. Despeaux turned the meeting over to Mr. Gugel for the staff report (see attached). Mr. May presented the local staff comments (see attached). Mr. Dan Lavelle of Lavelle and Associates was present representing the applicant. Mr. Lavelle commented on the entrance of the shopping center. He stated originally when Food Lion was the main anchor tenant, Food Lion had a lot to say about the geometry of the entrance improvements for their site as they do have a lot to say about all improvements on all sites that they move into. Food Lion was very concerned about the entrance being wide enough for their tractor trailers to come in and not impede the flow of their patrons. Food Lion likes a two entrance site and they could not achieve a two entrance site here because the grade of Tippin Drive and the amount of earth Wastler excavating actually took off of this site some 40' of cut had to occur to make this site the pad that you see out there today. They wanted to make sure it was wide enough with decel lanes where there vehicles could pull over and actually pull in so the tenant had as much to do with the geometry of the entrance as the developer at the time which was Don Briggs. Mr. Lavelle stated the speed of Tippin Drive also is listed as 25 mph as Jim has stated and Jim had stated on the exceleration lane to the north you really don't need an exceleration lane because it's only a 25mph posted speed limit but people were coming up so quick into the entrance that you want to get rid of that decel lane. Mr. Lavelle stated his client feels that it was built the way the Planning Commission and Frederick County Department of Public Works staff felt it should be 10 years ago. He's client is changing by adding a pad site, which is a small future bank site less than a half-acre is being proposed.

Mr. Lavelle agreed that the entrance is so wide it's very inviting for a faster speed than you probably should be traveling. He stated his client felt that putting a note on the plan that improvements to the intersection would be at the expense of the Town of Thurmont may allow them to revisit this item but obviously staffs made the recommendation that all the improvements be by his client. He stated they have construction improvement plans that they still have to design and bring before the board so there's still time to discuss it. Mr. Lavelle stated other than that they have reviewed the comments and the marked up plan that Jim has provided and they agree with the landscaping and some of the other movements internally like pedestrian crosswalks and they are here to request approval. He stated on the storm water management for the site they only have a half acre site total that they are annexing onto their shopping center lot of which they're only developing about two thirds of that because of the slope from Tippin Drive up. He stated they are going to put a storm drain inlet in and it's shown on the plan. He didn't know if anybody has focused on that, they're going to bring the water back over to the existing storm water management pond that is just to the north of the shopping center. He stated the anchor tenant must approve these modifications on Wayne Smith's end and Mr. Lavelle felt they will get back to them and can do that in the form of the construction improvement plans. There was some discussion with the applicant and the board on the entrance. Mr. Larochelle stated he would have to abstain from voting on this because of a possible conflict of interest. Mr. Ford made a motion that Site Plan File number THSP86-5A Orchard Village be conditionally approved based on staff comments and incorporating staff comments except for the entrance configuration, we are proposing the lane size be reduced to 14' incoming and 11' for both out going lanes and that the decel lane pavement removal be the responsibility of the developer and that we have the opportunity to take a look at the development plans final configuration. We also recommend that the stop bars be moved out as far as possible to improve the site distance for people leaving the shopping center and the acceleration lane be painted. Mr. Blakeslee seconded the motion. Vote- 3 for (Hooper, Ford, Blakeslee) 1 abstained (Larochelle). Motion carried.

Mr. Despeaux stated the next item on the agenda was the Fence Text Amendment Discussion. He turned the meeting over to Mr. Gugel to review the modifications (see attached). Mr. Bryan Grossnickle was present he lives at 407 N. Church Street he stated he is in a situation where his property is designated with two fronts because he has N. Church Street in front and then Brown Avenue at the back. He wanted to know if this could be addressed along with the corner lot situations. Mr. Gugel asked if the town could just define the Brown Avenue side as a back yard. Mr. May stated Mr. Grossnickle was referred here by the Board of Appeals he went for a variance and they suggested that he come here. Mr. May stated he did try to communicate that this discussion was not applicable to his situation. Only part of Brown Avenue is dedicated so it only effects the properties on the dedicated part. Mr. Grossnickle had gone to the Board of Appeal for a variance to replace an old fence that was already there. He stated there was a 13' section of fence that was 4' tall that he wanted to raise it to 6' and then he wanted to extend the fence toward Brown Avenue 6' back to about 8' from the property line which is about 25'- 26' from the actual street. The board held a discussion on the properties with this situation. The board decided to have this situation placed on the agenda for the September meeting and notify all the property owners of the meeting on N. Church Street that backs to Brown Avenue. The board continued with the Text Amendment discussion. The decided to delete the language hedges and other plantings under paragraph B and under the new item 3 item B they would add fences or walls to be consistent with the previous language and then they would also reference in Article X The Administration and Enforcement to require Zoning Certificates for fences and walls.

Diagrams will also be included. Mr. Blakeslee made a motion to recommend the Text Amendment changes as noted by Mr. Gugel regarding the deletion of hedges and other plantings from Section 2.4 B, Section 3- B fences or walls be added, the Zoning Certificate requirement be added to the appropriate section and diagrams be included. Mr. Ford seconded the motion. Vote – all for. Motion Carried.

Mr. Despeaux stated the last item on the agenda was the portable classroom discussion. He stated they received a response from Mr. Barnes with the Board of Education (response attached for the record) regarding the idea of banning portable classrooms. Mr. Muth was given a copy of the response. A discussion was held, they needed to decide as a board whether they wanted to pursue this text amendment and recommend it to the Board of Commissioners. If they decided not to then Mr. Muth would have the opportunity to submit it as a formal text amendment on his own. Mr. Despeaux asked for a motion. There was no motion made. Motion dies. Mr. Muth now has the opportunity to submit this his self as a formal Text Amendment if he chooses.

Mr. Despeaux had a question as far as emailing comments back and forth between board members if that would be violating the Open Meetings Act. Mr. May stated the way that reads they would all have to be on line simultaneously or all in one room to violate that.

The next meeting of the Thurmont Planning and Zoning will be held on September 25, 2003.

Without further business to discuss, the meeting adjourned at 9:38 p.m.

Respectfully submitted,

Rebecca E. Sharer-Long  
Recording Secretary