

Mayor & Council of Berlin

10 William Street, Berlin, Maryland 21811 Phone 410-641-2770 Fax 410-641-2316 www.berlinmd.gov

Town of Berlin
Planning Commission
October 13, 2021
5:30 PM
Berlin Town Hall – Council Chambers

Mask Required for All in Attendance

- 1. Call to Order
- 2. Agenda Adoption
- 3. Approval of Minutes August 18, 2021
- 4. Edward Hammond Ill 313 South Main Street -Requesting Subdivision of Land, Lot 1
- 5. Concept Review& Discussion, Rezoning of Tax Map 0025 Parcel 0004 from B-2 Shopping to R-4 Residential District
- 6. Comments from the Commissioners
- 7. Comments from the Chairman
- 8. Comments from the Public
- 9. Comments from Staff
- 10. Adjournment

Town of Berlin Planning Commission August 18, 2021

Chairman Chris Denny called the Planning Commission Meeting for the August 18th, 2021, to order at 6:31PM. Members Present were Chris Denny, Ron Cascio, Newt Chandler, Matt Stoehr, Phyliss Purnell, Pete Cosby and Austin Purnell. Staff Present was Planning Director Dave Engelhart and Permit Coordinator Carolyn Duffy.

Chairman Chris Denny called for a motion to adopt the agenda. Mr. Newt Chandler made the motion to adopt the August 18th, 2021, agenda. Mr. Matt Stoehr seconded the motion, and it was unanimously accepted by the Commission. Chairman Chris Denny called for a motion to approve the May 12th, 2021, minutes. Mr. Ron Cascio made the motion to approve the May 12th, 2021, minutes. Mr. Newt Chandler seconded the motion, and it was unanimously accepted by the Commission.

Chairman Chris Denny called the first item on the agenda 21 Jefferson Street, The Berlin Commons. Applicant Megan Hines requesting to have amplified music. Chairman Chris Denny asked the Planning Director about the noise ordinance time. Planning Director Dave Engelhart stated the town ordinance for noise was 9:00PM. The noise ordinance on Sundays per code is 9:00AM till 5:00PM. During the week Monday through Friday 7:00PM till 9:00PM and Saturday 7:00AM till 7:00PM. Mrs. Megan Hines stated they had opened at the Berlin Commons. They are open Thursday through Saturday 4:00PM until 9:00PM. She stated they have tried different people playing music and it has been very hard to hear. They had tried single and dual persons. Mrs. Hines stated they were just asking for a level playing field. She stated they had spoken to the neighbors and they like what they have done. Chairman Chris Denny asked Mr. Engelhart if he had received comments from the neighbors like before. He replied no he had not received any comments. Mrs. Phyliss Purnell asked who monitors the volume of the music. Mr. Engelhart stated its usually complaint driven. Chairman Denny stated he had called the Police Department to see if there had been any complaints. They had not received any complaints.

Mr. Matt Stoehr asked what business was close to them that had music. Mrs. Hines replied Tiki Tim's. Mr. Pete Cosby stated the difference is the Liquor Control Board. Mr. Cosby asked Mrs. Hines how many people and instruments they wanted. She stated what they have had so far is a single person and an instrument. Mr. Cosby asked what you want they don't want to see a band out there. She stated they want to be family friendly just so the people on the property can hear the music. Mr. Cosby asked if Mrs. Hines had a problem with the Planning Commission being the authority on when it's too loud. Mr. Engelhart told the commission they have music at the Farmers Market on Sundays. Mr. Newt Chandler replied but it's not in residential. Mr. Engelhart reiterated that there is apartment above where they have the Farmers Market. The sound could bump off the building but have not received any complaints. Mr. Engelhart didn't think the Commission needed to be the authority on this because its complaint driven through the Police department. Mrs. Ivy Wells Economic Development stated they put the stage to be closer to commercial and she has been there on other occasions, and it has been hard to hear. Mrs. Wells stated kids are always there. Mr. Chandler wanted to know what kids had to do with

amplified music when people come home, they don't want to be forced to listen to that. Mr. Ron Cascio asked how many times a year would you have musicians. Mrs. Hines stated they had scheduled for every weekend but found out you can't hear. He asked would they be willing to have a trial period. Mrs. Hines agreed to a trial period and said not trying to make people angry. Mr. Pete Cosby stated if they get a complaint, they have a problem. He said he wants to know it and end it and you don't have to bring the police into it. Chairman Denny asked could they try this until the end of the year. Mr. Cosby stated he likes the project and thought it was a public service to the town and thought they could make it work.

Chairman Chris Denny called for a motion. Mr. Pete Cosby made the motion to allow amplified music at the location trusting the applicant will be reasonable in volume and if there is any complaint, they will be referred to the commission to be determined if they would revoke their right. Mr. Austin Purnell seconded the motion, it was a 6/1 vote with Mr. Newt Chandler against.

Chairman Chris Denny called the next item on the agenda, Site Plan Approval for 10103 Old Ocean City Blvd, Applicant Forgotten 50 Distilling and EJF Real Estate, LLC. Planning Director Dave Engelhart stated this is for Site Plan Approval located on Old Ocean City Blvd. next to the American Legion across from the Bank of Ocean City. They are getting the building ready for a Distillery and a tasting room out front. The existing buildings footprint has not changed at all. The producing area is about 2300 square foot of space. The tasting area just a little under 2200 square feet a seating area outside on east side of building. Mr. Engelhart stated they had been before the Board of Zoning Appeals for a parking variance. He stated the code would have allowed 34 parking spaces they were given a parking variance down to 25 parking spaces. Most of the parking out front currently must be eliminated per State Highway because they need to curb the area to allow access to the area. Curbed entrance so no one can roll right onto Old Ocean City Blvd. Mr. Engelhart concluded this was his summary to the commission.

Chairman Chris Denny stated the only residence around was the former Mayor Gee Williams. Mr. Steve Engel from Vista Design stated they got the final letter today. Mr. Mark Cropper Attorney told Mr. Engel to explain the site area. Mr. Engel stated you have the American Legion, Bank of Ocean City and William G. William residence. He stated it is .067 acres, due to State Highway parking has changed to 25 spaces and will have a tasting area outside. Stated State Highway is requiring sidewalks. Mr. Cropper no sidewalks out front now. He stated there are twelve parking spaces out there right now that are not striped but with State Highway requiring this commercial entrance those spaces will no longer be available.

Mr. Cropper stated out front in the blue area you indicated there would be landscaping and shrubbery. Mr. Cropper asked if the Planning Commission favors this plan what would be the time frame. Mr. Flore stated they would start right away. They have been stock piling material. Mr. Cropper asked if the picture on the screen would be the look of the building. Mr. Fiore replied yes this is the front façade of the building, but the parking has changed due to State Highway. Mr. Cropper asked about the material being used on the building. He asked Mr. Engel other than the parking variance everything complies. Mr. Engel replied yes. No further variances or exceptions will be necessary. Mr. Steve Engel replied no. Mr. Ron Cascio stated the handicap spaces need to be smooth not gravel. Mr. Cascio asked if the vinyl fence would be

removed. Mr. Engelhart stated on the front page its noted that the fence would be removed on site plan. Chairman Chris Denny called for a motion. Mr. Austin Purnell made the motion to approve the site plan. Mr. Newt Chandler seconded the motion, and it was unanimously accepted by the commission. All in favor

Chairman Chris Denny called the next Case for Site Plan Approval for Maple Ave of Berlin LLC. Mr. Engelhart stated this was for Site Plan approval, for a condominium on Maple Ave. He stated it is zoned R-3 previously went to Board of Zoning Appeals to be authorized to put townhouse dwelling units in the R-3 which is required by code. They also got a reduction in the required width; the code required a minimum of 18 feet, and they got a reduction to 16 feet for the width of each individual townhouse unit. There are a total of 33 units on property 4.5 acres. He stated these would be fee simple units not rentals units. They would be for people to purchase as homeowners. They titled it Maple Dale in accordance with the street name Maple Ave.

Mr. Mark Cropper Attorney representing his client asked him to introduce himself. Mr. Robert Kitchens stated he was the developer of the project. Mr. Russell Hammond prepared the site plan. Mr. Cropper asked about the exterior materials to be used for the building. Mr. Kitchens said it would be vinyl siding. Mr. Cropper stated you want to market these units very reasonable like work force housing. Mr. Kitchens replied if they can afford rent this would be an opportunity. Mr. Cropper asked when the beginning of construction would start. Mr. Kitchens replied in less than a year he would like to start. He stated he would probably do the project in phases depending on the market conditions. Mr. Cropper stated he went to Board of Zoning Appeals with Mr. Kitchens the site complies with the code. Mr. Cropper asked was the only access to the property off Maple Avenue. Mr. Kitchens replied yes. The square footage of the units would be 1400. Mr. Cropper asked if they were only two-bedroom town houses. Mr. Kitchens stated he will try to have some three bedrooms with maybe two and a half baths. Mr. Cropper asked about land scaping. Mr. Kitchens stated on the plans you see landscaping as the building get built, they would get landscaping around them. Mr. Cropper stated they would have a paved driveway off Maple Avenue. He stated any vegetation would be planted because there is none there. Chairman Chris Denny asked where this is located. Mr. Engelhart explained where the development is going on for the project once called Wolf Terrace Apartments is now called the Willows on Maple Ave so he said he would call it the Southwest side of Maple Ave.

Mr. Newt Chandler asked Mr. Kitchens if he would stipulate, he wouldn't turn this into a rental unit. Mr. Kitchens stated he wanted to build it and get his money back. Mr. Cropper asked what are you saying if someone buys these units they can't rent it. Mr. Kitchens stated he wouldn't know after they purchased the units. Chairman Denny asked if any site work was going on. He had heard about flooding on Maple. Mrs. Phyllis Purnell stated there has been flooding on Maple Ave. They have relied on the engineering of the town but every time it rains it floods the property owners. Mrs. Purnell stated they brought in tons of dirt an elevated it so high all the water from Flower Street and Elizbeth Street flow to Maple Ave. Mrs. Purnell stated this street was never meant to have all this. Mrs. Purnell stated Maple Ave has been impacted by the development that is going on now. She does not think more development needs to be done on Maple and she stated the ditches are not maintained. She brought pictures in to show the standing water. Mr. Engelhart stated the storm drains must be covered in silt fabric, the water has nowhere to go and MDE won't agree to remove the fabric. He stated there is a swale or

ditch there that has not been maintained and needs to be cut and maintained to the East. Mr. Engelhart stated they have visited the site many times. MDE is trying to keep dirt from running into the storm drain systems so they back up. There is a swale that has not been maintained that backs up its not town property. Mr. Engelhart explained to Mrs. Purnell the design for stormwater is to keep the water on the site. He agreed with Mrs. Purnell about the standing water, but it won't be that way forever. Mrs. Purnell thought it should have been corrected before this project got started. Mr. Austin Purnell asked if they are still covered. Mr. Engelhart replied they will remain covered until Willows is completed and MDE approves the as-builts and it's functioning according to the plans.

Mr. Cropper thanked Mrs. Purnell for sharing the pictures but then stated the difficulty is Willows is creating that condition but shouldn't stop this owner from developing his property when it complies with the code. If this owner gets an approved stormwater plan that should not stop them from doing their project. This would cause a moratorium on Maple Ave and that wouldn't be fair to this applicant. Mr. Matt Stoehr asked would the flooding be better when the project is done. Mr. Engelhart replied it should be but I can't say for certain. Mr. Cropper stated there will be components that exist until completed. Mrs. Purnell stated nothing has been done to the road. Mr. Engelhart stated doing construction the roads are usually done last, so they are leaving a good quality road. Mr. Cropper asked about de-watering. Mr. Russell Hammond said there is a ditch to the back of the property where the ditch feeds off that and a stormwater facility would feed off ours that will run that way. Mr. Cropper asked Mr. Kitchens if he would be helping to design the storm water. Mr. Kitchens stated the roads, roof tops would drain toward the out fall to the rear ditch.

Mr. Pete Cosby was explaining to Mrs. Purnell that this project is downhill, and the water would drain to the back of the property. Mr. Kitchens showed Mrs. Purnell the site plan and the ditch where the water should flow. Mr. Cropper stated as a condition this project would have a Condominium Association, the declaration obligates them to maintain the stormwater facility on the property. Mr. Cosby reiterated what he was hearing was the property and the ditch has nothing to do with the stormwater conditions and won't have anything contributing while its being developed. Mr. Cropper stated you are not allowed to have stormwater runoff on neighboring properties. If so, the engineers would have to fix it. Mr. Ron Cascio stated there is no stormwater management plans. Mr. Kitchens said they wouldn't spend that money until they have the approvals. Mr. Newt Chandler asked about the lighting. Mr. Ron Cascio stated they wanted down lighting. Mr. Kitchens stated they would be LED's they have a company that is well known for lighting for residential homes. Mr. Cropper stated they would resubmit. Chairman Chris Denny asked if they could do a traffic study.

Mr. Cropper asked Mrs. Purnell was the road elevation her biggest complaint. Mrs. Purnell said Mr. Greg Purnell could tell them better. Mr. Greg Purnell stated the issue was the roadbed water flows from Flower Street, Elizabeth Street down Maple Ave. Mr. Purnell stated he grew up on Maple Ave now there is even more traffic. He asked was this conducive for more building more traffic it's not one thing it's all these together. He asked should the comp plan be looked at with the road conditions and water issues. When you look at it will this make it better or make it worse. He stated he knew the commission was listening this is coming to roost we have a water problem now we are going to have a traffic problem. Mr. Greg Purnell stated development is

good but it's where you develop that makes a difference. He stated he hopes the board will consider its already issues that are not being addressed. Don't move forward before you look back. Mr. Cascio stated they are not allowed to remove the fabric until the project has been completed. Mr. Cascio stated what I am hearing from Mr. Purnell is little Maple Avenue was not built to handle all the hundreds of people just the single-family homes that are there. Mr. Engelhart reiterated they will be redoing the road when they are completed. Chairman Chris Denny stated they need to have a study done. Mr. Engelhart stated you can request that as a condition. Mr. Chandler asked could the town redo the street. Mr. Engelhart stated the town would not go behind a developer and redo the street. Mr. Chandler asked what triggers the town putting in new curbs & gutters. Mr. Engelhart disrepair of an existing street. Mr. Cropper stated the town does not usually require a traffic study. Mr. Cascio stated you must agree there will be traffic. Mr. Cropper said he did agree there would be more traffic.

Mr. Pete Cosby asked what the potential for new development around Maple Ave. is. If there are any large parcels to be developed the town would need to start addressing it. Mr. Kitchens stated it is thirty-three units on this site two bedrooms. There are 65 units at the Willows and Community Building. Chairman Denny thought the impact on the neighborhood was too much. Mr. Cosby stated it was two problems stormwater was not the problem but more people and traffic study. Mr. Cosby asked does the developer pay for this or the town. You don't want the developer to pay for it and then you say tell us what's going on, wouldn't recommend that. Mr. Chandler insisted the town rezoned the land. Mr. Engelhart stated the town didn't rezone the land. Mr. Cropper stated Mr. Kitchens was trying to make this units low enough and affordable with that study it would be extremely expensive. Mr. Cropper said to do the study the way the town would want would be too much for their budget. Mr. Austin Purnell asked Mr. Engelhart how far out does the town look at the road conditions. Mr. Engelhart stated on the development agreement with the Willows on Maple Ave when they leave, they pave the road from there down to Flower Street. They are not widening the road and not tearing up what's there. The road has not been repaved in many years he said.

Mr. Cropper stated they are not removing the road just paving so the road will be a little higher elevation. Mr. Engelhart replied normally that is the case. Chairman Chris Denny said they would need a impact study and traffic study done. Mr. Cropper replied they would need more information than that. Chairman Denny study on Maple Ave, Flower Street and Elizabeth Street. Mr. Chandler said he thought the town should do that. Chairman Denny asked them to do the study. Mr. Pete Cosby asked what we are doing is the town doing the study or the developer something that would give us an idea if Maple Ave could handle this much traffic. Mr. Austin Purnell thought the town should have control of this. Mr. Engelhart stated we cannot encumber the town to pay for it the board does not have the authority for that. We can investigate it; I will discuss it with the town's engineers. Don't know how much the data will tell us about trip counts. He didn't believe we had that. He told the commission you could make it part of the condition in your motion. Maybe the developer pays for it or let them provide the study. We probably would use the same one The Traffic Group. They are in the area and the commission required them for the Cannery Village project. When we did Dollar General you required a traffic study it was done by The Traffic Group, and it was moved to Decatur Street instead of by the hospital. Mr. Engelhart stated the projects get looked at by EA Engineering, but the area has always had flooding per Mrs. Purnell. The requirements from MDE are not finished yet. The

stormwater management plan was submitted and approved by E A Engineering and we have great confidence in them. They have been on site three different times after it has rained. They are trying to work with the developer and MDE on the town's behalf. So, you have a regulatory over the Town of Berlin and Engineering that won't let us solve the problem or ease the problem. Mr. Engelhart stated one owner on the end of Maple is most impacted along with residences on Maple Ave. He stated it may need curb and gutters, but it has to do with budget.

Chairman Denny asked Mr. Engelhart for whatever help the town could do to try to address the issue. Mr. Pete Cosby asked if they wanted to table this for now. Mr. Ron Cascio stated it sounded like something the Mayor & Council should be dealing with for the road that needs improvements. Mr. Ron Cascio made the motion to table the project. Mr. Matt Stoehr seconded the motion. All were in favor

Mr. Matt Stoehr asked was there any movement on the Air B&B. Mr. Engelhart replied no movement. Mr. Engelhart stated nothing since the first meeting. Chairman Denny called for motion to adjourn. Mr. Newt Chandler made motion to adjourn. Mrs. Phyllis Purnell seconded the motion. Adjourned 7:50PM

Respectfully Submitted,

Carolyn Duffy



Mayor & Council of Berlin

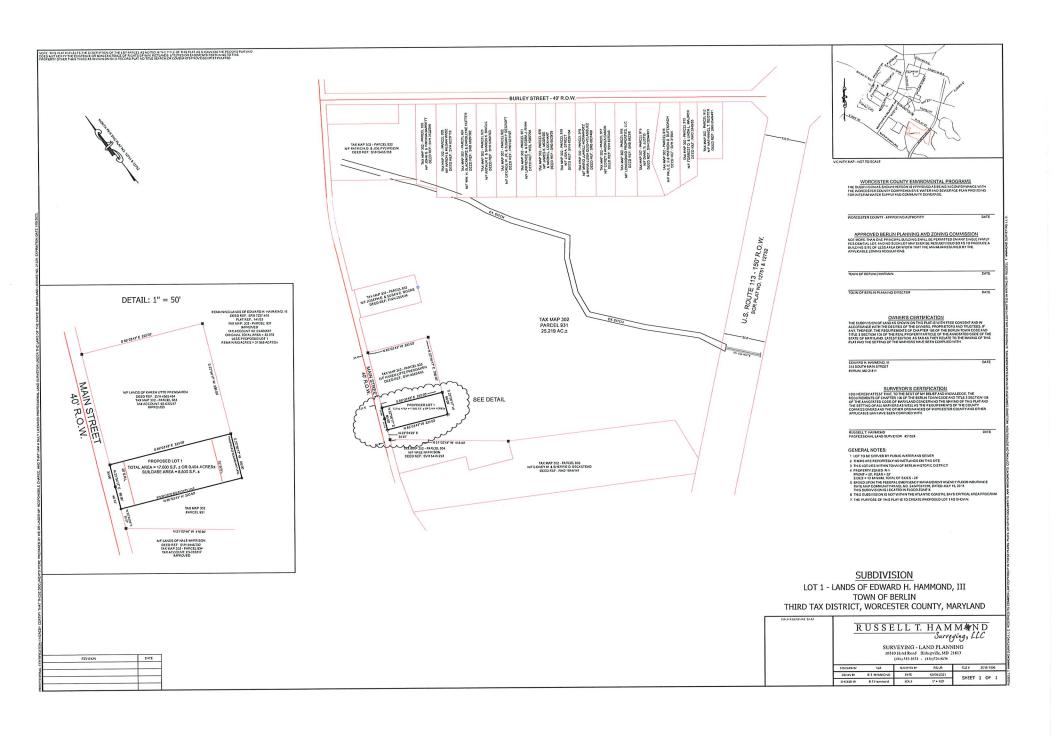
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PLANNING COMMISSION APPLICATION

DATE: 6 OCT 2 HEARING DATE: 13 OCT 21 CASE NUMBER: 10-13-21-07
APPLICATION FOR: SUBDIVISION SITE PLAN REVIEW
PROJECT NAME:
LOCATION OF PROPERTY: 313 SOUTH MAIN ST (TOBE: 409 SOUTH MAIN ST)
SIZE OF PROPERTY: 404 AC ZONING: R-1 TOTAL LOTS:
PROPERTY OWNER/AGENT <u>FOWARD HAMMOND</u> PHONE # 325-347-2829
ADDRESS 313 S MAIN ST EMAIL Manager & muskrat. farm
SIGNATURE OF APPLICANT

- Applications must be submitted at least two weeks prior to a regularly scheduled meeting of the Planning Commission.
- Three copies of the proposed subdivision or site plan must be provided with this application.
- Applicable review fees must be paid when application is submitted.



Law Offices AYRES, JENKINS, GORDY & ALMAND, P.A.

6200 Coastal Highway, Suite 200

GUY R. AYRES, III (1945-2019)
M. DEAN JENKINS
JAMES W. ALMAND
WILLIAM E. ESHAM, III
MARK SPENCER CROPPER

EMAIL ADDRESS: mcropper@ajgalaw.com

(410) 723-1400 FAX (410) 723-1861

BRUCE F. BRIGHT
HEATHER E. STANSBURY
MAUREEN F. L. HOWARTH
RYAN D. BODLEY
VICTORIA O'NEILL
SPENCER AYRES CROPPER

September 30, 2021

<u>OF COUNSEL</u> HAROLD B. GORDY, JR.

The Honorable Zack Tyndall Mayor and Council of the Town of Berlin 10 William Street Berlin, MD 21811

RE: Change in Zoning Classification from B-2 Shopping District / Tax Map 25, Parcel 0004 to R-4 Residence District

Dear Mayor Tyndall:

I represent Delmarva Property Management, Inc. regarding the subject property. The property is located on the north side of U. S. Route 50 near the intersection of Maryland Route 818, generally identified as Tax Map 25, Parcel 0004, containing approximately 25 acres (see Exhibit "A" attached). Please accept this letter as a petition to change the zoning classification of the property from B-2 Shopping District to R-4 Residence District as required by Sections 108-214 and 108-215 of the Town Zoning Ordinance. The property presently can be served by water and wastewater service from the Town of Berlin. I have enclosed the required filing fee of \$525.00

Should anything further be needed, please advise and it will be provided without delay.

Very truly yours

Mark Spencer Cropper

Enclosures

