

**Denton Planning Commission**

**Minutes**

**Town of Denton**

**September 26, 2023**

**Planning Commission Members:**

William Quick, Chairperson\*

David Burroughs, Vice Chairperson\* (Attended Virtually)

Doris Walls\*

Stephen Mead\*

Kevin Waterman\*

Joseph Mayer, Jr.\*\*\*

\* Those Present

\*\* Excused

\*\*\* Absent

**Participants:**

Bill Warnock

Scott Getchell

Sarah Dahl

Peter Johnston

Matthew Dahl

Don Mulrine, Jr.

Kevin Shearon

George Bailey

Nick Nistazos

Harry Wyre

**Recording:**

Donna Todd, Director of Planning and Codes

George Bacorn, Chief of Police

## PROCEEDINGS

### **Call to Order:**

The Planning Commission Meeting was called to order by Chairperson Quick at 6:00 p.m., on September 26, 2023, at the Denton Town Office. Chairperson Quick led everyone in the Pledge of Allegiance.

This Meeting was made available to the public via Zoom Video Conferencing, and access to the meeting was made available on the Town website.

### **Approval of Minutes:**

August 29, 2023, the Regular Meeting Minutes were unanimously approved.

September 12, 2023, Comprehensive Plan Information Meeting Minutes were unanimously approved.

**Old Business #1 – Other:** None.

### **New Business #1 – Second Street Ventures, LLC – Preliminary Site Plan:**

Bill Warnock, McCrone Engineering, submitted a preliminary site plan on behalf of Matthew and Sarah Dahl, Owners of Second Street Ventures, LLC, to construct a Brewery, located at 108 N. Eighth Street. The Applicant is requesting preliminary site plan approval.

Mrs. Dahl stated the property has an old lumber building warehouse with structural issues and will be demolished. Usable building materials and original elements that will preserve the character of the building will be included in the new structure and site. A new fence is planned to surround the property for the family friendly aspect and for safety from passing traffic.

Mr. Warnock addressed the parking calculations on sheet 3.01 and noted the error requiring seventy-five (75) parking spaces. RVE's comment #43 states 48 parking spaces are required. The parking plan will be updated to reflect asphalt parking spaces.

Commissioner Walls asked what type of fencing is planned to surround the property.

Mr. Dahl noted there is an existing chain link fence.

Commissioner Walls noted chain link fences must be slatted according to the Pattern Book and must be 4-6' in height. The fencing on the west side and east side of the property must be high enough to block the view from neighboring properties. Commissioner Walls stated the parking spaces should be paved. The vehicle access from Gay Street for both in and out traffic should have a stop sign posted off of Gay Street.

Chairperson Quick noted the owners do not have permission to add or remove signs on State roads and would need approval by the State Highway Administration (SHA).

Peter Johnston, Town Planner, stated this plan meets all the requirements for a preliminary site plan with revision to the parking and fencing. The building and flooring issues will be addressed in the Building Code and are not a part of the preliminary site plan process.

Commissioner Walls addressed her concerns about having a sidewalk to connect the property for a better traffic flow for pedestrians.

Mr. Warnock stated that he would review the State Highway Administration's (SHA) comments and discuss with the owners.

Mrs. Dahl wants to maintain the front of the property to make it more efficient for people to enter the establishment from Eighth Street.

Scott Getchell, Town Administrator, addressed the water main on Gay Street and noted it is 4" inches, and it has not been labeled on their plan. This may create some challenges for Fire Codes. The plans show a Grinder system. As for the brewery discharge, this needs to be addressed and is required to be separate from domestic waste.

Mr. Warnock stated all these requirements will be included in the final site plan.

Commissioner Waterman motioned to approve the preliminary site plan for Eden Town Brewery subject to changes to the parking as discussed.

Commissioner Mead seconded the motion. The motion passed. (5:0)

**New Business #2 – Strato Holdings, LLC – Preliminary Site Plan:**

Kevin Shearon, DMS & Associates, LLC, submitted a preliminary site plan on behalf of Strato Holdings, LLC, for a three-tenant commercial building to be located at 601 Legion Road, Denton, Maryland. The Applicant is requesting preliminary site plan approval.

Mr. Shearon made the presentation on behalf of Nick Nistazos, Property Owner. The three-bay commercial building will be occupied by the new Dunkin' Donut, the second unit has a lease agreement with T-Mobile, and the third unit is to be determined. The overall parcel is 5.8 acres, and the Dunkin' Donuts site is approximately 1.7 acres. The main entrance/exit shared with Taco Bell will have a dual lane drive-through for 30 vehicles. There is an exit only on Legion Road to Shore Highway MD Route 404. The project will be phased to keep the existing Dunkin' Donut operational. There will be a brief closing during the transition. The proposed building is 7,560 sq. ft. The retail parking is calculated at one space per 200 sq. ft., and the restaurant is one space for every 100 sq. ft. A total of 64 spaces are required. The site plan is providing 56 spaces and an additional 30 spaces in the stacking of the drive through lanes, and this is one of the requested. Sewer and water will be connected into the existing sewer and water mains near Legion Road for extension to future pad sites. The Stormwater Management Plan was discussed and review comments by RVE will be addressed. The Landscape Plan has been updated since the original concept plan. The new site plan shows more landscaping added along MD Route 404. The architectural elevations remain the same as the original concept plan.

Strato Holdings, LLC, is requesting the following two design waivers and reduction in parking:

- Reduction in the number of parking spaces for 56 spaces, 64 required spaces.
- Reduction in the parking lot interior landscaping.
- Reduction in street bufferyard requirements along MD Route 404 and Legion Road.

Chairperson Quick noted MD Route 404 requires 9 canopy trees, and 17 canopy trees are required on Legion Road per comments provided by Mr. Johnston.

Mr. Johnston stated this is the planting requirement for strict compliance with the bufferyard standards applicable to MD Route 404. It is the same bufferyard requirement that was waived in the past for Denton Plaza and Wawa. The real issue is visibility and consistency. The proposed planting plan is 6 canopy trees, 10 understory trees, 5 conifers, and 87 shrubs. The bufferyard standards are different on MD Route 404 than on Legion Road.

Mr. Johnston counted 87 shrubs from the landscaping plan. The comments for the numbers in the landscape schedule were correct, but the landscape plan was short. The revised landscaping plan added 2 additional trees, and one more needs to be added to the landscape plan.

Mr. Shearon explained that based on the 1,500 sq. ft. requirement, 20 trees are required, and they are proposing 14 trees and 76 shrubs.

Chairperson Quick noted the number on the chart needs to match the plan because this is very confusing for everyone to follow.

Mrs. Todd received comments from David Kuklish, Bohler Engineer, and requested the following comment be forwarded to the Planning Commission:

On behalf of Denton Site SW, LLC, (WAWA), to our knowledge there is no executed agreement in place to allow for the future vehicular connection between the subject applicant's parcel and our client's parcel (Denton Site SW, LLC) as depicted within the applicant's submitted plans, so as a result we would advise the Town to take this information into consideration when reviewing the

Applicant's plan. We understand however, getting this agreement in place may be a condition of the Applicant's approval.

Commissioner Mead motioned to approve the preliminary site plan for Strato Holdings, LLC, for the three-tenant commercial building as presented.

Commissioner Waterman seconded the motion. The motion passed. (5:0)

**New Business #3 – Denton Project, LLC – Final Subdivision Plan:**

Kevin Shearon, DMS & Associates, LLC, submitted a final subdivision plan on behalf of Denton Project, LLC, (Applicant) for the 44-townhouse development to be located at 812 Camp Road. The Applicant is requesting final subdivision plan approval for the 44-townhouse development. George Bailey, Developer, was present.

The project received preliminary subdivision approval, the Developer paid the water and sewer allocation deposit, and was granted an extension for the final subdivision. The housing market has changed since the preliminary subdivision approval. Due to the requirements in the Town Code, the Applicant may lose plan approvals and water and sewer allocation. Since the revised final subdivision plan includes a larger dwelling footprint than the previous plan, the Applicant is requesting another rear yard setback waiver from 20 feet to 15 feet to accommodate a larger building. Previously, waivers were granted for the front yard setback from 25 feet to 20 feet, and the side yard from 30 feet 20 feet. Mr. Shearon addressed Mr. Johnston's concern regarding the drainage easement for the rear yard, and how that will hinder the use of the rear yard. In lieu of a drainage easement, the Applicant proposes to add this item in the HOA stating each dwelling that will be draining downspout water through each other's property. The pipe would be installed closer to the townhouses to provide the owners with more usable space in the rear of the homes for a deck or patio.

Mr. Shearon is requesting final approval for the entire subdivision to be built in phases. Phase I includes 16 townhouse units and the subdivision would be recorded in phases.

Chairperson Quick noted that the biggest change is the removal of the parking lot.

Mr. Shearon states Lots 1-8 used to be set off the road and had a parking lot in front. This reduced the impervious cover and forest conservation is provided on-site. Lots 37-44 had a parking lot in the middle for tenants to park and walk to their home. These units now have their own driveways and a single car garage. With the road construction of the next phase, Phase II would accommodate parallel parking to provide more parking in the community.

Mr. Johnston noted the parallel parking appears to be in front of all the driveways and the townhouses are front loaded.

Mr. Shearon stated this final subdivision plan needs to be revised.

Mr. Johnston requested clarification regarding the revisions. The original subdivision plan approved eight townhouses with a driveway and separate parking. This plan moved the front-loaded units to the main street. Everyone will back from the driveway into the street. Each unit has one garage and two parking spaces. There's not enough additional space for guests or overflow parking.

Chairperson Quick asked if the original plan for the parking lot could be reinserted to alleviate the parking issues.

Mr. Shearon noted the challenges with the Phase II properties off a public road and would require the eight north and south units to have a separate/private maintenance agreement. The Town would not plow the snow, and this would need to be resurfaced over time. This would reduce the price, and all units have access directly to a public street.

Chairperson Quick asked how would the extra parking along the south in the preliminary plan impede access to the street.

Mr. Shearon stated that it would not. If it becomes a public parking lot, they may be able to include in the overall HOA. The original parking plan was only meant to serve the 8 townhouse units. They may be able to move 37-40 townhouse units to accommodate additional overflow parking.

Mr. Johnston expressed his concerns regarding a substantial change between this proposed final subdivision plan and the approved preliminary subdivision plan. There are too many issues and changes to this plan for consideration of a final subdivision plan approval. The Applicant should address all these issues before asking for final approval.

Mr. Shearon will address the issues in question. He plans to study the road, parallel parking codes, and determine if a small pocket parking lot can be located for the entire HOA to maintain.

Commissioner Waterman asked Mr. Johnston if making that change would be enough to bring into the substantial conformity requirement of the law.

Mr. Johnston thinks the issue could be addressed with a redesign of the parking issue. The Commission has already given them relief on lot setback requirements and is now asking for additional reduction in the rear yard of the properties. The developer is reducing the property owner's usable yard.

Commissioner Waterman inquired if removing the drainage easement would address Mr. Johnston's concern.

Mr. Johnston stated it would be an improvement.

Chairperson Quick asked if the property was sufficient enough for a deck.

Mr. Shearon stated the plans show a patio layout.



Commissioner Walls noted that Mallard Landing has a place for overflow parking for visitors, and the developer should consider a similar parking area.

Commissioner Waterman inquired about the proposed reduction in the rear setbacks for units 1-8 which appears to have a large area for open space and how will it be maintained.

Mr. Shearon stated that it may become more of a forest conservation area to support the single-family homes section.

Mr. Johnston noted that the preliminary plan had pedestrian trails through the development.

Mr. Johnston asked what price point they were at per unit.

Mr. Bailey stated the price point is dependent on what people can afford. Currently, between the interest rates and availability on loans makes it difficult to put a price on anything.

Chairperson Quick referenced Mr. Johnston's note about minor collector standards outlined in Denton's Standard Specification and Details for Public Works Construction, and asked if he could explain.

Mr. Johnston stated relief has been given to them the last time for where the street goes through the sensitive environmental area. What is shown on the subdivision plan is not in compliance with the specifications in the new Denton Street Standards. Mr. Johnston is pointing out the parking on the street needs to be in compliance with residential minor collector specifications and the Town standards.

Mr. Shearon discussed the requirements for the parallel spaces. Is that full width space or neck down to the two lanes?

Mr. Johnston states a full width.

Chairperson Quick addressed the Commission and asked for consensus on this subdivision plan, and it is everyone's opinion to revise the subdivision plan to address the concerns for the final subdivision plan.

Commissioner Waterman asked if this would accommodate the time frame for the project.

Mr. Shearon stated he believes so.

No Action was taken on the Final Subdivision Approval.

**New Business #4 – Marketplace on 6<sup>th</sup>, LLC – Concept Plan:**

Harry Wrye submitted a concept plan on behalf of Marketplace on 6<sup>th</sup>, LLC, (Applicant) located on North 6<sup>th</sup> Street behind Burger King. The Applicant is requesting comments from the Planning Commission for the proposed commercial development of three (3) building pad sites.

This will be a nice addition behind Burger King, and the Applicant is seeking tenants for the location.

Mr. Johnston reviewed the concept plan for landscaping and the requirements needed for the shading and percentage of trees for the surface area need to be addressed. Signage needs to be considered since the buildings are located behind Burger King, and how this site will be visible to the highway public.

Mr. Wrye explained that you will get the most visibility when coming onto the MD State 404 highway ramp.

Mr. Johnston inquired about the need for a traffic impact study done for State Highway.

Mr. Wrye will address the impact study in the next phase.

There was no action required on the Concept Plan.

**New Business #5 – Other New Business:** None.

**Staff Item #1 – Comprehensive Plan – Maryland Department of Planning:**

Peter Johnston provided an update on the Comprehensive Plan that was sent out to the State for review. The Town received comments from the 895-clearing house. Maryland Department of Planning (MDP) gathers comments from State agencies and provides the town for review and consideration in the Plan update. The major changes in the enabling legislation requirements for a Comprehensive Plan since the last one is the House Bill that needs to be addressed for affordable and low-income housing. There was a change in the Natural Resources requirement that examined climate change and the sea level rise and potential impacts. Another requirement includes addressing fair housing in the town. Fair housing is housing opportunities for people of protected heritage. That includes transitional housing, shelter housing, discrimination, racial discrimination, or discrimination on the basis of LGBTQ. The requirement takes definitive actions to address fair housing. The Comprehensive Plan includes an assessment of fair housing in the community and strategies, actions, goals, and objectives for addressing fair housing. MDP provides an assortment of resources on their website to help with the process. The data available does not include or collect data at a small municipal level.

In Mr. Johnston's opinion, to rely on another level of data at State, County, or Regional level is likely to be inaccurate.

Chairperson Quick inquired about MDP's expectation of the Town to take the State demographic data and apply it to this community.

Mr. Johnston explained the Town is required to do a self-assessment of fair housing conditions within the community.

Chairperson Quick inquired about a demographic analysis.

Mr. Johnston stated no demographics data is available to verify an affordable housing issue in the Town or the County. Low-income housing issues are addressed in the Plan and strategies

are identified. Fair housing geo-locates people of protected characteristics to identify their situations. Therefore, the Town would rely on other agencies for this information to provide qualitative experimental data to provide demographics data. The Plan should include recognizing the requirements and responsibilities and setting goals and objectives. A recommendation should be included in the Plan to complete an assessment before the next 5-year update. During this time period, reviewing data from organizations that can provide this information will determine if there is a housing problem. Strategies and actions can be addressed if there is a housing problem.

Chairperson Quick suggested consulting with agencies and organizations such as the homeless shelters and social services that may provide assessment data.

The new Comprehensive Plan addresses the Town's goals, objectives, livability, and housing. Including in the Plan, the organizations that help build a data network for the Town will meet the State requirements that the Town is addressing the new legislative requirements.

Commissioner Waterman inquired about the sustainable growth and the impact on provisions to the Plan.

The Town will include the sustainable growth area. The 2020 Census Data are updated with tables to reflect the most current data available. The Draft Comprehensive Plan began in 2019 and Census Data was not available. A previously adopted Septic Tier Map has been updated and included in the Plan.

There is a suggestion under the Natural Resources Element that the Town should try to educate the population on climate change. Recent studies indicate State models are flawed, and climate change is not as big of a concern. It is not appropriate or necessary for the Planning Commission or Town to educate the population.

Mr. Waterman referenced MDP's Comment #1 on the Municipal Growth Element, and MDP recommends the Town change the reference document for park land needed and suggests the Town has inadequate park land.

Mr. Johnston stated that is not the case in our situation and noted the reference in the 2021 County Park and Recreation is considered a draft online and not adopted.

**Staff Item #2 Comprehensive Plan – Joint Working Session:**

Mr. Johnston noted the Joint Working Session on October 10th, 2023, with the Town Council to review the proposed changes to the Plan for the rezoning requests. A consensus of the proposed recommendations from the Planning Commission and the Town Council is necessary to move forward with the Comprehensive Plan. Following this meeting, a revised Draft Plan with a summary discussing the fair housing changes will be completed for review. After the revisions are completed, schedule a public hearing, and make a recommendation to the Town Council.

**Staff Item #3 Other – Staff Updates:**

An ordinance was distributed to the Planning Commission for review and comments on Multifamily Housing and Apartments.

**Adjournment:** The meeting adjourned at 7:23 p.m.