

# Town of Emmitsburg Planning Commission Minutes

March. 28, 2022; 7pm

**Present:** Mark Long (Chair), Kevin Hagan (Vice-Chair), Amy Boehman-Pollitt (Secretary), Joe Ritz (Commissioner Liaison), Terri Ray (Alternate)

**Absent:** Glenn Blanchard

**Staff Present:** Zach Gulden (Town Planner) & Amy Naill (Code Enforcement Officer) and Leslie Powell (Town Attorney)

1. **Call to Order**

- a. Meeting was called to order by the Chair at 7:03 pm.

2. **Opening**

- a. The pledge of allegiance was held.

3. **Review and Approval of Minutes for Feb. 28, 2022**

- a. Motion to approve minutes by: Vice-Chair Hagan
- b. Second by: Mr. Ritz
- c. Changes: none
- d. Approved: The minutes were approved unanimously.

4. **Public Comment:** none

5. **Old Business:** none

6. **New Business:**

**Public Hearing:** Zoning map amendment application for Lots C and D as shown on the Final Plat of Section 1 – Plat 1 Parcels “C”, “D” & “E” of Brookfield recorded in Plat Book No. 58. File No. 2022-05

- Chair Long swore in those speaking for the hearing.
- Mr. Gulden, Town Planner, presented a summary of the “Zoning Map Amendment, File No. 2022-05”
- Mr. Bruce Dean, attorney for R.J.D. Development, request rezoning of the area near Brookfield since it has remained vacant for over 20 years. Town Plan of 2015 zoned this area as commercial, but trends in development would show a residential need. Factual determination has shown that the zoning is incorrect as a commercial lot.
- Mr. Richard Demmitt, owner of the property, advocated for different retailers on the property over the years but stated there has not been any interest due to lack of traffic in that area. He supports rezoning from commercial to residential.
- Vice Chair Hagan indicated that this was not the first request to rezone this lot and wants to know the reasoning for the decision.

- Chair Long asked which 5 properties were rezoned since 2015, as indicated in Mr. Dean's presentation. Mr. Gulden and Ms. Powell were unable to confirm that this occurred.
- Vice-Chair Hagan asked if increase of the student population was considered, and it was not considered. Ms. Powell stated that these considerations come after the rezoning request.
- No other planning commissioners had questions.
- Public Comment:
  - Ms. Diane Walbrecker (535 West Main Street) spoke against rezoning the land to residential since the town can benefit from having businesses on the west side of town.
  - Wendy Hagan (1304 Huntley Circle) is in favor of less expensive houses and more commercial options as there are very few job opportunities for the town youth.
  - Chair Long swore in Scott Frager (1449 Ramblewood in Emmitsburg). Mr. Frager questions whether Frederick County has done anything to improve the schools in Emmitsburg. He requests an analysis of the schools be done to determine overcrowding and conditions.
- Discussion:
  - Mr. Ritz inquired if the town population decrease might have more to do with the Daughters of Charity moving than children moving out of parents' homes in the town. He is also concerned about school capacity and water/sewer needs.
  - Vice-Chair Hagan mentioned the original idea for the lot in question was for a strip mall with apartments above it. The types of business the town wants can't afford to be here without the infrastructure. Vice-Chair Hagan stated that the roads and water taps were designed for the current city plan and that plan did not change.
  - Secretary Boehman-Pollitt was unsure of her position and recognized that there is limited commercial space in the town, and questioned whether additional housing would be the best decision with the current infrastructure. At the same time, she understands that additional housing would bring much needed money to the town to help with infrastructure.
  - Ms. Ray is also unsure of her position is more in favor of medium to high density housing than low density housing.
- Mr. Ritz made a motion to end discussion.
  - Vice-Chair Hagan seconds the motion
  - All members voted aye.
- Ms. Ray made a motion to find that the applicant has demonstrated legal mistake and that the request for approval of the zoning map amendment application for lots Cand D as shown on the Final Plat of Section 1 - Plat 1 Parcels "C", "D" & "E" for Brookfield recorded in Plat Book No. 58, Page 40 as noted in the applicant's Zoning Map Amendment application dated January 10, 2022 be granted.
  - Second by: Chair Long

- Vote:
  - Aye: Chair Long and Ms. Ray
  - Nay: Secretary Boehman-Pollitt
  - Abstain: Vice-Chair Hagan and Mr. Ritz
  - Motion passes.

### **Federal Stone; Site Plan**

#### **File No. 2022-06**

- Brandon Rethemeyer of Federal Stone mentioned they have stopped the project at the moment until the role of civil engineer can be filled. He presented a concept for the Federal Stone building.
- Mr. Gulden recommended that they table the concept for now and come back in two months.
- Vice-Chair Hagan made a motion to allow an open section of road without the need of sidewalk, curb, and gutter in accordance with Town Code 16.16.030.W
  - Second by: Ms. Ray
  - All members vote aye
  - Motion passes
- Vice-Chair Hagan made a motion to allow a reduction in the number of required parking spaces from 42-38 in accordance with Town Code 17.08.140.C.
  - Second by: Secretary Boehman-Pollitt
  - All members vote aye
  - Motion passes
- Secretary Boehman-Pollitt made a motion to allow a reduction in the number of bicycle parking from 2 to 0 in accordance with Town Code 17.08.140.H.
  - Second by Mr. Ritz
  - All members vote aye
  - Motion passes
- Mr. Ritz made a motion to table the Site Plan for Federal Stone
  - Second by: Secretary Boehman-Pollitt
  - All members vote aye
  - Motion passes

#### **7. Other Business - None**

#### **8. Next Meeting Date: Tuesday, May 31, 2022**

**9. Adjournment**

- a. Mr. Ritz made a motion to adjourn
- b. Adjourned at 8:58pm

## Findings of the Planning Commission

**RE:**           **Applicant/Owner:** R.J.D. Development Corporation (Richard Demmitt)  
**Application Type:** Zoning Map Amendment  
**Property Tax Map / Parcel No.:** 0031/0683 Parcels C & D  
**Property Address:** Lots C & D on Timbermill Run.  
**Current Zoning District:** Neighborhood Commercial (B-1)  
**Proposed Zoning District:** Low Density Residential (R-1)  
**File No.:** 2022-03

### REQUEST:

The applicant is seeking rezoning from B-1 to R-1 of Parcels C and D of Final Plat of Section 1 – Plat Parcels “C”, “D” & “E” for the Brookfield Subdivision recorded in Plat Book No. 58, page 40, Property tax Map/Parcel No. 0031/0683 based upon either change in the character of the neighborhood or legal mistake.

### SUMMARY:

The Planning Commission does not determine that change in the character of the neighborhood has been established. Although it appears that five rezonings may have occurred, the investigation by staff does not support this determination because of the lack of ordinances documenting any of these changes. The maps, however, may indicate that such changes have occurred.

The applicant for the rezoning of parcels C and D of Final Plat of Section 1 – Plat Parcels “C”, “D” & “E” for the Brookfield Subdivision recorded in Plat Book No. 58, page 40, Property tax Map/Parcel No. 0031/0683 has met the criteria of the Code of Emmitsburg and State Law to establish Legal Mistake.

### EVIDENCE CONSIDERED AND FINDINGS:

The Planning Commission considered the staff report and presentation of the applicant and public testimony in reaching its findings:

Population change – in Emmitsburg the total population has decreased.

Adequate public facilities are available and the addition of 7-10 single family homes will not adversely affect any transportation patterns.

School capacity is available although all agreed that improvements need to be made within the elementary school in Emmitsburg, but it was noted that without increased population, the funding for such improvements from the Board of Education were unlikely.

The Owner/Developer has been trying to sell this property or develop it for over twenty years without success.

The change to R-1 from B-1 for the addition of seven-ten single family homes does not adversely affect the comprehensive plan and is consistent with all the development in the surrounding area which, with a very few exceptions, is zoned R-1.

While members of the public and some Commission members would like to see some small retail or commercial development, there is no evidence that such a project is viable.

The loss of population and density required for B-1 development does not appear to have been considered by the Town in the development of the comprehensive plan and map in 2015.

The impact of the development less than a mile from the location does not appear to have been considered by the prior Board in its evaluation of the zoning of these parcels. Commercial Development has been concentrated on the East side of Town where signage and easy access are readily available.

The prior board could not and did not consider the trends in commercial retail, the impact of nearby commercial development or the housing shortage. While the Planning Commission would consider R-3 to provide diversity of housing types the Applicant did not request this classification and the R-1 as stated is consistent with the rest of the Brookfield development of which this would become a part.

The Planning Commission does not find evidence of change in the character of the neighborhood because of the lack of ordinances documenting zoning changes within the neighborhood as defined by the Applicant.

**MOTION:**

Motion made by Terri Ray:

Based on the foregoing including the testimony presented, the staff report and materials contained therein, and other evidence submitted at the public hearing, and for the reasons set forth in the Applicant's submissions, that the Planning Commission recommend to the Board of Commissioners that Applicant has demonstrated Legal Mistake and that parcels C and D of Final Plat of Section 1 – Plat Parcels "C", "D" & "E" for the Brookfield Subdivision recorded in Plat Book No. 58, page 40, Property tax Map/Parcel No. 0031/0683 have met the criteria of the Code of Emmitsburg and State Law and that Parcels C and D should be rezoned from B-1 to R-1.

After discussion, the Motion was seconded by Mark Long.

Motion passes:

In favor:

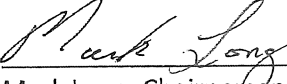
Terri Ray  
Mark Long

Against:

Amy Boehman-Pollitt

Abstaining:

Kevin Hagan  
Joseph Ritz (Board of Commissioner's liaison member. Mr. Ritz refrained from voting as this matter will be presented to the Board of Commissioners.)

  
Mark Long, Chairperson

3/31/2022  
Date: