



Planning & Zoning Commission  
Tuesday, October 26, 2021 - 6:30 PM  
MINUTES

1. Call to Order

Chairman Ryan Green called to order the Planning and Zoning Commission meeting for October 26, 2021 at 6:30 p.m.

2. Roll Call

Present - Chairman Ryan Green, Vice Chair Ron Danne, Jesse Coppel, Benjamin Lee, Jon Merriman  
Absent - None

Staff present - Bailey Klimchak - Village Planner, Yazan Ashrawi - Law Director, Mayor Chip Dutcher, Cheryl Robertson - Council, Marvin Block - Council, Doug Lehner - Council, Abe Haroon - Chief of Police, Teresa Monroe - Clerk of Council

Public present - Terry Henson, Joe Ciminello, Lewie Main, Charlie Campbell, Mary Queen Cool, + 3 not signed in.

3. Pledge of Allegiance

4. Public Comment

None

5. Approval of Minutes

a. October 12, 2021

**ACTION:** Ryan Green moved to Approve as written; Ron Danne seconded and all were in favor.

**AYES:** Ryan Green, Ron Danne, Jesse Coppel, Benjamin Lee, Jon Merriman

**NOES:** None

**ABSTAIN:** None

**Passed 5 - 0**

6. Application Z-21-160

a. Certificate of Appropriateness; 670 W. Coshocton

Property owner Terry Henson was present for the application. Jim Blair said Mr. Henson is proposing to build a 50 x 200 foot all steel building on the property, unsure what it will be used for at this time, right now he just wants to get approval to put up the shell. Mr. Hensen said he has interest from people wanting to rent, some are current tenants wanting more

space.

Jesse Coppel asked if this was in one of the design corridor districts, Chairman Green said it was and asked if in the future this would be something the Design Review Board would see, Bailey Klimchak indicated it was but that they were not up and running yet, the Planning Commission will see these until they are. Jesse Coppel asked Mr. Henson if he had reviewed the Design Review Standards for the District in conjunction with the plans for the building yet; Mr. Henson was unclear on what that meant, Mr. Coppel explained new design standards were in place for districts and said he might want to take a look at them. Mr. Henson said it will be an all steel building, concrete inside and offered the color samples. Ron Danne asked if there were any restrictions on the number of buildings on a commercial property in GCC-2, Ms. Klimchak said no. Commissioners reviewed setbacks. Addressing Mr. Henson, Chairman Green said before, this was being built for storage, but now saying there will be businesses in there? Mr. Henson said he does not know. Mr. Lee reviewed the overhead plan to ensure there was enough drive lane room around the building relative to the new building and the previously approved addition to the axe-throwing business. Discussion on stormwater, parking and other businesses currently there. Mr. Coppel asked what is the parking requirement based on the square footage of all these buildings now; Mr. Blair said because each business is separate, all added up he counted eighty with the building in place but he thinks it is more like one hundred available parking spaces; Mr. Coppel asked if that was a hundred they would need or a hundred left over, Mr. Blair said a hundred left over. Mr. Coppel asked if he did the math based on the square footage, Mr. Blair said he did not do the math on this one, most of the businesses keep all cars in the building. Mr. Coppel asked about tree requirements; board consensus was not applicable on this. Mr. Blair said it is a multi-tenant building really no different than the Johnstown Square shopping center, the businesses will vary. Chairman Green said this is up in the air not knowing what is going in this, it is hard to come up with a zoning strategy. Discussion on accessory structures and ultimate building use. Jesse Coppel disagreed this was an accessory structure and noted variation in maximum width and depth of building allowed by design guideline standards.

#### Public Hearing:

##### 1. Lewie Main; 132 N. Main

- Asked where the fire hydrant was, if no hydrant in the back, could be a lot of loss

No further public comments, Chairman Green closed the floor.

Mr. Lee said for him, he just needs to understand how we are defining this, if it is an accessory structure and if so, in GCC is a business able to be run out of this building. Ms. Klimchak said yes, she thought it was a storage building. Chairman Green said he also was told it would be storage for cars. Mr. Lee referenced 1171.03 Accessory Structures that says they are permitted in association with the principal use or structure; but within the principal structure, there are multiple businesses and said he can't nail down whether or not it is permitted as an accessory structure. Chairman Green asked when this came to zoning staff, what was the point of the building, was it storage? Mr. Blair said yes but Mr. Henson said he also might rent some of it. Mr. Lee said if it is used as storage the parking

piece is really moot but if it is going to be used as a business is where the parking conversation comes in.

Law Director Yaz Ashrawi stated that procedurally the Certificate of Appropriateness (COA) for a structure is a different question than the land use. If the structure goes up and then a land use comes before the commission or council, that is a different question. Ms. Klimchak said he does not have a zoning certificate so before any zoning certificate can be approved he has to have a COA. Mr. Lee said then the question to be asked or condition to be applied is that the COA would be approved as a storage unit, anything else would have to come back; does not sound like there is any issue with the design part, it is the use of it and how that factors in to other discussions that would need to be had to make it permissible in that space. Mr. Henson asked for clarification. Chairman Green said they will look at the building first and then the use comes second to that, but now there should be a good idea of what the building can be used for. Mr. Lee said if the building is going to be used for anything other than storage then it sounds as if there would need to be additional conversation with the city with respect to use; the way it is being entertained tonight is as a storage building, not a separate use. Mr. Blair said it cannot be built without an approved zoning certificate. Ms. Klimchak said they can approve the design of the building, they cannot approve the actual application that says it can be built and the use, once the COA is received he would have to apply for a zoning certificate that says that structure can be built and approves the use. Further discussion and clarification on procedure.

|                 |                                                                                                        |
|-----------------|--------------------------------------------------------------------------------------------------------|
| <b>ACTION:</b>  | Benjamin Lee moved to Approve Application Z-21-160; Jon Merriman seconded and the vote was as follows: |
| <b>AYES:</b>    | Jesse Coppel, Ben Lee, Ron Danne, Chairman Green, Jon Merriman                                         |
| <b>NOES:</b>    | None                                                                                                   |
| <b>ABSTAIN:</b> | None                                                                                                   |

**Passed 5 - 0**

7. Application 2021-143-Z

a. Concord Crossing East Preliminary Plat

|                 |                                                                                  |
|-----------------|----------------------------------------------------------------------------------|
| <b>ACTION:</b>  | Ryan Green moved to take from the table; Ben Lee seconded and all were in favor. |
| <b>AYES:</b>    | Chairman Green, Ron Danne, Jesse Coppel, Benjamin Lee, Jon Merriman              |
| <b>NOES:</b>    | None                                                                             |
| <b>ABSTAIN:</b> | None                                                                             |

**Passed 5 - 0**

Planner Bailey Klimchak said there were concerns when this application was last seen. One concern was lot frontages which the applicant has addressed in some of the lots, another concern was traffic. Ms. Klimchak added that the property is zoned PUD and the Law Director is present for legal questions.

Law Director Yazan Ashrawi swore in all who planned to testify about the application.

Joe Ciminello was present for the application. He said they have done a lot of work with the HOA specifically with the lot sizes, they had fifty foot lots and have taken those out, the minimum frontage is fifty-five foot and have gone from one hundred seventy-four lots to one hundred and sixty-five; the HOA is happy with the lot size and configuration of the neighborhood. Mr. Ciminello said the main issue the HOA and neighbors have is the secondary access; they have spend a considerable amount of time with the village, the Evans Foundation and the HOA looking at ways to make the emergency access shown on the plat right now a full access. They looked at tunnels, bridges, bridging the bike path; the village and Evans Foundation, if that is where an access has to be, want that to be emergency only and would also serve as a leisure path. Have reached out to companies on Commerce Drive, continuing to work on getting road access to the new section; would be a parklike road, like the access off of Douglas would be, more like a metro park, could consider limeting truck traffic, no answer as of tonight. If everything else is in order, he asks the Planning Commission to recommend approval to Council condition that they get that access; said he was open for questions.

Some questions on road names on the plat. Callout that sidewalks are still listed as four foot, change to five foot. Chairman Green asked Mr. Ciminello what has changed since they tabled it last. Mr. Ciminello reviewed saying that the fifty-foot lots are now fifty-five foot lots where the neo-traditional lots were, around the community center. Also some addition of green space to Lot #1 per request of the HOA. Mr. Lee asked if that would be HOA public space or absorbed into the corner lot; Mr. Ciminello said he didn't know, they would do that on the final plat, but if it was part of that lot it would be a no build area. Mr. Lee asked who the electric provider would be, consensus was that The Energy Cooperative was the provider for others in subdivision. Mr. Lee asked if the conversations with the HOA had been positive, Mr. Ciminello said they had been very positive, that they have worked together to come up with resolutions; added that the desire of the village and Evans Foundation is that Douglas not be a full crossing, optimistic they will work something out to the north. Discussion on open space, leisure path connecting to the bike path and desire to be in the same HOA but no final deal on that yet. Mr. Lee asked what the open space percentage was, Mr. Ciminello said he did not, but this has significant more open space than their approved preliminary plat, they have added at least ten to twenty percent more open space. Mr. Lee said he did not know that there had been an approved preliminary plat; Mr. Ciminello said the preliminary plat they had approved in 2004 or 2005 is part of the village documents and it is how the existing Concord Crossing has developed, they had to come in to match the preliminary plat to get the final plat so they do have an approved preliminary plat already. Mr. Lee said the only thing that was platted finally is what is being developed now; Mr. Ciminello said correct, and so what they are asking now is to amend the existing preliminary plat. Mr. Lee said there is an existing basin shared by multiple parcel owners and asked if there was any indication on how that would be managed. Mr. Ciminello said they would not be discharging any of their stormwater directly into that basin, it goes into the other two and then into that basin. Mr. Lee asked if there had been conversations with that property owner on any kind of MOU with respect to maintenance; Mr. Ciminello said if part of it is on their property, they would have the right to it, they have not reached out to them. Mr. Lee said for him, a traffic study is going to be conditional upon anything discussed tonight, for impact of traffic on Concord and Concord and SR37. Mr. Lee said he appreciates the increase in lot sizes, the biggest things that hold him up

are the ingress and egress down Commerce Drive, the traffic studies, he knows that stormwater management is a part of the next phase if this preliminary plat is approved, the HOA is also a conditional aspect with respect to green space and other asks; asked if there had been any discussion on adding to that, playgrounds etc., increasing some of the active rec space in the area where the clubhouse and pool are, said he doubts an increase in one hundred sixty five homes would be sustained by what is there right now.

Mr. Coppel said it looked to him like the PUD expired and this is zoned agricultural, asked if this would need to be rezoned before approving a preliminary plat. Law Director Ashrawi said he has not seen a zoning map that says this is agricultural; said the history of this parcel is in 2000 it was annexed into the then village and rezoned PUD, prior to that it was zoned in the township and it is unclear what township zoning was.

Chairman Green opened the floor for comments. Law Director Ashrawi explained the difference between comments and testimony.

## **Public Comments**

### **1. Abe Haroon; 330 Fondriest**

- Lives in Concord East, it is and will continue to be a small subdivision. He likes it, it is quiet and there is an expectation from him and his neighbors to know who is coming and going from the subdivision.
- Opposes a second entrance, they use a single exit now, it enhances the security within the subdivision and lowers undesirable traffic in and out and helps all recognize vehicles that do not belong.
- Connecting Concord East to Douglas would be a mistake; should never sacrifice safety for convenience, noted safety for those using the bike path, even emergency vehicles passing over this area is dangerous, crossing path of Douglas should not be allowed. He is for a walkway entrance.
- Connecting Commerce Drive would be even worse; any inconveniences in traffic will cause a cut-through of the subdivision. If people know a cut-through is accessible they will use it, they will speed through the neighborhood. The majority of areas he receives speed complaints from are neighborhoods that have cut-throughs.
- Has commuted in and out of that neighborhood for nearly two years now and does not see a problem with the vehicles entering and exiting the subdivision.

### **2. Dave Douglas; 321 Fondriest**

- On the HOA board; enjoys their small neighborhood and hope to continue with a small neighborhood but understand growth is occurring and they want to make sure the growth is managed in a thoughtful reasoned manner.
- They have met with Joe, the developer, on numerous occasions and he has tried to meet some of their requirements as far as lot sizes; would like to have fewer and larger lots but understands the economics of development.
- The second access from Commerce Drive would get the Fire Department quicker access to their development, would save half the run time. They are in favor of

looking at that, maybe not as through traffic but as some sort of emergency access to save run time.

- Have talked to Joe the developer about stormwater runoff but have not come to any conclusions
- Have talked to him about additional space for the clubhouse and for other areas but have not come to any conclusions on that either.
- Understands the Chief's point of view; for emergency access thinks it would be nice to have something quicker from the Fire Department.

### 3. Charlie Campbell; 306 Middleburn

- Lives there, Middleburn is a raceway already, people speed and don't stop at the stop sign at the end. Said there is another project being planned on the other side of Concord, not sure how far along; looking at one hundred sixty five homes on his side and one hundred and some on the other side coming into the one intersection of Concord and Botteccia; three or four hundred cars coming into their area with no control.
- Coming off of Commerce, why would it be made like a park entrance and not a regular road? EMS should not use time to go all the way around the village
- Concern for HOA joining the other one, said their HOA is doing well but would be impacted by new areas to take care of. Does the HOA and money coming in give them enough to take care of those areas, they have to pay taxes on it, cut grass and maintain everything that goes with it; we have a pool and greenspace and they are not providing anything, we are giving them our assets.
- He thinks there needs to be more discussion, particularly on the one entrance and one exit, it is nice for what they have now but surely not when they are going to double the size of their complex.

Mr. Lee asked what he was referring to on development on the other side of Concord, Mr. Campbell said they had been in and out bunch of times. Ms. Klimchak said the annexation had been denied. Mr. Lee said there are no plans that we are aware of for that space sitting here today.

- Added that something would need to be done for traffic at SR 37 and Concord if adding all the extra homes.

Chairman Green closed public comment

Chairman Green opened the floor to those entering evidence and testimony.

### 1. Marvin Block; 225 Edwards Rd

- Said he would like to present evidence from the auditors office; September 20, 2004 Johnstown Land Holdings purchased a property. May 11, 2006 they sold a portion of the land to 84 Lumber Co. July 31, 2008, 84 Lumber sold it to Brand Homes. In 2009 the first house was purchased.

- PUD was established when it was annexed, it was never built on through all those years, thinks it would revert back to farm land.
- Provided some auditor property sheets to the board.
- There are concerns with the HOA. Don't know anything about the traffic study or the stormwater.
- Said the original developers were going to redo Douglas Street, take it down to the base and redo it, it never happened. They were also supposed to take Concord Road down to the base and build it back, that never happened; they were supposed to take care of the pond, they didn't. Concord Road cost the village over two million dollars; the pond and court costs cost the village \$55,000 to straighten out. We are continually spending taxpayer money to straighten out things the developers are supposed to do and now they want to go back to 2002-2004 and complete the same scenario again, they have not followed through on anything they have told us verbally.
- Staff report says Council confirmed the PUD zoning, asked when that happened? Ms. Klimchak said it was her understanding that Council came to an agreement on the PUD zoning.

Law Director Ashrawi provided some factual background:

1. This property was annexed and rezoned to PUD in 2000
  2. There was preliminary plat in 2004 for both phases
  3. There was a final plat approved for phase one, not phase two. Phase one is plated on the auditors site and there has been construction on it. Phase two has not, there was a preliminary plat but not a final; there has been no subdivision of property and now there is a request for a different preliminary plat which is ok to request.
  4. The plat is different than the zoning. In terms of the PUD zoning, the code says if no construction has begun within two and a half years after approval is granted of a PUD, the approval shall be void and the land shall revert to the district regulations in which it is located.
  5. Two unknowns; when that provision was created and what district this property is in.
  6. Because the platting was separated in phases, the zoning was for both.
- Mr. Block said there was no action on the property for more than two years so the PUD died. Mr. Ashrawi said again, another open ended issue, what happens to the existing homes? Are they in an agricultural zoning district and nonconforming?
  - Mr. Block said he is violently opposed to letting them come across Douglas Street, the village has spent over a million dollars on that park since it's been in existence and doesn't think we should allow it to be used for anything else except what we are using it for.
  - Asks what has been done with the wetland. Ms. Klimchak answered that we have a letter from the EPA that says the applicant has made his first set of payments into their wetland program.
  - Mr. Block asked the board to vote the whole application down and start it over again, he doesn't think it is good for Johnstown, if they'd have been good they would have done it twenty years ago; said it's his opinion and he asks the board to listen to it and listen to the community.

## 2. Lewie Main; 132 N. Main

- Gave some history on the first village annexations; said they were zoned at the same time based upon the actual usage, where there was no usage and open fields, they zoned it what was contiguous to it.
- When this property came in, three owners were Potter, Hatch and Patrella; property was rural and we did not know how the township zoned it. The property owners wanted to annex it, sat down with Planning Commission and explained what they wanted to do; it started off with what we know as Concord Crossing West. Property owners parted ways and Potter built the condos. Roger Hatch was going across the railroad tracks to do Concord Crossing East, Johnstown thought it looked good and that was phase one, he did not know what he was going to do about phase two at the time but he ran into health and financial problems, that is why the area laid fallow after it was annexed and zoned.

Joe Ciminello said he was not a part of Concord Crossing West and to tie the two developments together, it is not the same entity, that was Roger Hatch and Steve Potter. That is who the issues were with on the pond; the promises that were made on Concord he knows nothing about, he knows it was not part of Concord Crossing East; said those accusations cannot be put on this development. The time to question the zoning was at the time of their preliminary plat. Their zoning and preliminary plat were done at the same time and almost became part of the same document, they asked for UR-1 or 2 with certain variances and all those are listed on the preliminary plat and if we wouldn't be here tonight, they would just be filing a final plat; their preliminary plat covered all of existing Concord and still does to this day. Mr. Ciminello said if we need to come in and develop under that preliminary plat, we're not going to have the larger lots, the streets don't work out well because of the wetlands issues, things would be left blank, it isn't the best solution for the neighborhood. It is their legal right to come in under the approved preliminary plat that doesn't expire but he is simply here tonight to ask for an amendment to redo their preliminary plat. They could build one hundred ninety five more lots, they could build more neotraditional. The question of zoning was back when the preliminary plat was done around 2004 or 2005 and if memory served that was when it was zoned as well. It doesn't matter if who zoned or preliminary platted it commences construction, construction commenced within the time frame. Mr. Ciminello said he doesn't want to get litigious about it, they have an approved preliminary plat, they can come in and develop under that. Their commitment was, and it is shown on the preliminary plat, the road extending from Douglas, says they will improve Douglas up to Kasson and they are prepared to do that. They have been trying to honor the neighbors wishes, they feel the emergency access will be fine, they were trying to work with the HOA. Has met with city staff and discussed extending Commerce Drive; that would introduce cutthrough traffic and is why he talked about making it more like a park road with 15mph and speed bumps. Mr. Ciminello said they are trying to be responsive to the village and the HOA, if they want as part of the HOA, they have offered and have talked about improvements to the existing facilities, have not gotten the final numbers yet. Also understand that if they are not part of their HOA, their HOA will be responsible for all the greenspace seen on the screen today. He thinks they have developed a good relationship over the past few months with the HOA and is optimistic they will work something out.

Jim Blair said the process to get an approved Concord Crossing East preliminary plat took almost three years, it was approved on January 14, 2004 signed by the Chairman of Zoning at that time then construction started on the underground. On the plat plan it says current zoning PUD, there were seven variances approved on the preliminary plat; the original contractor started on the underground, he was slow and went bankrupt, that was the beginning of the downturn in the building industry. A second contractor worked on it in 2005 and he went bankrupt; went to a third one that finished it in 2006/2007 and all that time there was activity there, there might be gaps with no activity for six months, it wasn't a high priority project with no deadline and 84 Lumbers failed to manage it at all. Even to the point that the area Schlabach is building out now, the underground was in but had to be redone. Mr. Blair said keeping all that in mind, there has been activity on site since the preliminary plat was approved as a PUD.

Some comments from audience not heard on mic. Mr. Ciminello said so where we are today, they thought this would be a better adjustment to the preliminary plat but if people feel it's not they will have to develop under their existing preliminary plat.

Mr. Danne asked for copies of the original preliminary plat, Mr. Blair provided for the board to look at. Some discussion on water capacity from the Impact Analysis report. Mr. Block commented on some more history and that this is a new application, the land laid fallow and he thinks it should be scrapped. Mr. Lee asked if there had been any consideration for a buffer given to lots abutting commercial. Mr. Ciminello said those lots are about ten foot deeper than the rest in the neighborhood, there is a storm line going through, there is room to plant trees in the rear; he didn't know if he could make that commitment on a preliminary plat.

Mr. Lee asked what next steps would be. Ms. Klimchak said a preliminary plat goes to Council for a final say, one that is anything else ends here; the board can recommend approval, approval with conditions or deny.

Discussion on conditions; traffic studies to look at second entrance, Concord and Boteccia, Concord and SR37 and Fondriest and US62. Some sort of MOU with the owner(s) of the balance of the pond for usage and maintenance. MOU agreement with current HOA of Concord Crossing East with respect to active green space and clubhouse/pool. Mr. Ciminello said a traffic study is not required for a preliminary plat, was done at time of zoning, Mr. Green noted that was twenty years ago, Mr. Ciminello said the alternative is to just get a final plat on the plan he has, they are trying to work with everybody; he could look into. The four parcels now don't have an MOU, now will rely on four other people that have never figured anything out about the pond, thinks that general property ownership laws cover, wants to look into that himself a little more. Would like to come to resolution with the HOA is reasonable because the whole neighborhood was planned together, was preliminary platted as one and developed in phases; will probably develop this in phases, not all one hundred sixty five lots at one time, may have different sections and different builders. Hears the conditions and will do their best to try to fulfill those. Does not think an MOU with adjoining properties is under the purview of zoning or platting, he will reach out to them.

Mr. Coppel referred to Chapter 1179 considerations. Law Director Ashrawi said those

application requirements were for a PUD and the consideration here is an application for a Preliminary Plat.

Chairman Green continued through criteria considerations of 1179.02(b) and said he does not feel like they have anything drastically different from when they tabled this initially.

Law Director Ashrawi said that is in the staff report and are considerations for PUD generally but the considerations for Preliminary Plat are included in Chapter 1105; he read the requirements for Preliminary Plat and approval.

Some further discussion of the board; comments/discussion from audience not heard on recording. Mr. Coppel expressed concern for school district capacity.

Chairman Green asked for a motion to approve with the conditions. Mr. Danne asked the Clerk to read the conditions.

1. A traffic study at Commerce Drive, Concord and Boteccia; Concord and SR37
2. An MOU with four owners of the existing pond/basin for usage and maintenance
3. An MOU or agreement to be a part of the current HOA or not relative to green space

**ACTION:** Ryan Green moved to Approve with conditions listed; Benjamin Lee seconded and the vote was as follows:

**AYES:** Ron Danne, Ben Lee

**NOES:** Ryan Green, Jon Merriman, Jesse Coppel

**ABSTAIN:** None

### **Failed 3-2**

**ACTION:** Ryan Green moved to recommend Council deny the application; Jon Merriman seconded and the vote was as follows:

**AYES:** Ryan Green, Jon Merriman

**NOES:** Ron Danne, Jesse Coppel, Ben Lee

**ABSTAIN:** None

### **Failed 3-2**

Law Director Ashrawi said right now there is a recommendation of approval to Council without conditions.

**Motion:** Jesse Coppel moved to reconsider the second motion to deny. There was no second and the motion died; original motion stands. Application goes to Council.

## **8. Zoning Ordinance Draft**

No worksession on the draft.

- a. [Article 35](#)

9. Other Business

10. Adjourn

**ACTION:** Ryan Green moved to Adjourn; Benjamin Lee seconded and all were in favor.

**AYES:** Ryan Green, Ron Danne, Jesse Coppel, Benjamin Lee, Jon Merriman

**NOES:** None

**ABSTAIN:** None

**Passed 5 - 0**

Meeting adjourned at 9:03 pm