Planning & Zoning Commission
Tuesday, October 25, 2022 - 6:30 PM
MINUTES

1. Call to Order

   Chairman Green called to order the Planning and Zoning Commission meeting for October 25, 2022 at 6:34 p.m.

2. Roll Call

   Present - Ryan Green, Steve Dyer, Benjamin Lee
   Absent - Jesse Coppel, Walter Raub

   Staff present - Sean Staneart - Acting City Manager, Nicole Shook - City Council, Charlie Campbell - City Council, Teresa Monroe - Clerk of Council

   Public present - Lewie Main, Marvin Block, Dennis Blankemeyer, Glenn Ronken, Travis Van Deest

3. Pledge of Allegiance

4. Approval of Minutes

   a. September 13, 2022

ACTION:	Ryan Green moved to approve; Steve Dyer seconded and the vote was as follows:
AYES:	Steve Dyer, Ryan Green
NOES:	None
ABSTAIN:	Benjamin Lee, due to absence

   Passed 2 - 0

   b. October 11, 2022

ACTION:	Ryan Green moved to approve; Benjamin Lee seconded and the vote was as follows:
AYES:	Steve Dyer, Ryan Green, Ben Lee
NOES:	None
ABSTAIN:	None

   Passed 3 - 0

5. Public Comment

   1. Marvin Block - 225 Edwards Rd.

      - Received a letter that his neighbors wanted to put up an eight-foot fence, he attended and spoke in favor of that. The Planning Commission voted it down. The

next meeting, which he was not notified of, the application was called back to the floor and passed. He does not think that was right, for him as a property owner there, to not inform him that it would be brought back up for a vote again. He was for it but what if he had been opposed; said this was a political play by this board. Said that Sean (Staneart) sent him some information and said they had the right to do it, but did that seem ethical. Added that he has never known the Blankemeyers to do anything wrong or not do things right, he fully supports them but he felt the zoning board was wrong making this decision the way they made it.

- Regarding zoning district GCC-1 and having apartments on the first floor. Discussion on the boundaries of GCC-1; said his building downtown was built in 1904 and has had living quarters (two apartments) on the first floor since it was built. On Pratt Street, the building that Blankemeyers own now, was built in 1900 and was converted into living quarters in 1940, it is a three-bedroom house. If the board tries to enforce this, asks if they are going to tell everybody that lives in GCC-1 that they can't have a bedroom downstairs, what about the people on Oregon and Maple Street.

Chairman Green said that is the trouble with a grandfathered district like that. In GCC-1 there are things that are historically there and are in operation currently. This is more for new things when they come in, so if there is a house there, it is hard to say you can't have a bedroom downstairs; a house is a different thing. If you are going to modify a building or change it completely, or build a new building, that is when the zoning comes into effect. Some discussion on examples of "what if" a building burnt down, could it be rebuilt the way it was even though the code is different now. Mr. Block said they should tread on thin ice and watch these zoning codes or they will be taking away peoples property rights with some of this zoning they are passing. Mr. Green said no, they do not intend to take property rights away.

2. Travis Van Deest - 10189 Duncan Plains Rd.

- Asked if the ordinance for the first story was an actual ordinance, he said he had problems finding that. Chairman Green said under GCC-1 it is conditional use. Ben Lee referenced 1155.03(b) (of the City Codified Ordinances) and said it explicitly lists that second story and multi-family and single-family dwellings are allowed within GCC-1. It doesn't explicitly state that it is allowed on first floor, the document being used as an exclusionary document means that it is not listed/included, unless it falls in some gray space in a variance piece. Mr. Van Deest said that is a lot of fancy words and asked if there was an ordinance that prevents someone from having a residence on the first story in GCC-1. Ben Lee again referenced 1155.03. Mr. Van Deest asked the definition of "gray space". Mr. Lee said an area that isn't specifically or explicitly defined within the code itself, so it is open to interpretation in some respect; within the code itself, you have to apply not only the explicit and what is listed, but the intent as well. Mr. Van Deest asked where it said that first story is prohibited. Mr. Lee said again, it is not explicitly listed so the intent of the code is that first story would not be allowed as a conditional use. Mr. Van Deest asked for the motivation behind preventing first story dwellings. Mr. Lee provided his opinion on lateral application, example given was a corridor of commercial along US 62 with

rear residential, so mixed use. In a vertical sense, it is a similar application, his opinion is that they want to maintain first-floor commercial and second floor residential. Mr. Van Deest said he was still confused on the point of restricting that, he is trying to understand. Mr. Green said it has been a conversation in zoning for a long time, in Johnstown, as it pertains to our zoning, residential on the first floor downtown is not something that they are looking for, so as far as leaving residential out of it, and it being an exclusionary document, that is where we are at, so however it ended up that way, that is where we are at, as it pertains to now and this document, they are trying to keep first floor as commercial. Mr. Van Deest asked how common space is addressed, how do you separate the two. Mr. Lee said the difficulty too, is that if you look at the nature of the type of application that is reviewed, it is the conditional use that is an exception to a permitted use and is taken on a case by case basis relative to the standards and metrics that they have to review when they review a conditional use. Similar to variances, it is incumbent upon the board to make sure that if we have a certain number of conditional uses that come in a similar theme to review that particular policy and see if there is a need for a change to either make it permanent with maybe some stricter rules or to make it codified or allowable in another respect, the zoning document itself is a living document, it changes, it moves, it adjusts with the times. Similar to the example being given, if it hasn't come before this board for a specific hearing, he would say it is very hard to proper any kind of opinion on it without examining the merits of what is being presented, because it has not been examined in that sense. So it is hard to say to your (Mr. Van Deest) question, how would you review this, we don't have anything in front of us to review and it's hard to put an opinion out there to satisfy your question.

- Had another question in regard to short-term rentals, said the board has banned them in residential areas. Asked for the board's reasoning and motivation behind wanting to do that. Chairman Green said this had been part of a large conversation in the last couple of years, there are risks involved, traffic and other things that rentals on a mass scale could bring, that there was a lot of research that went into that and ultimately that was the decision made. Mr. Van Deest asked if he could share other reasons, Mr. Green said Mr. Van Deest would need to go back through the meetings or minutes as to why they did that, there were long conversations over a couple of months, not a spur of the moment decision. Mr. Van Deest asked that in light of the growth of Johnstown in the last year, had they talked about bringing that back to the table and reexamining. Mr. Green said no, not at this point. Mr. Van Deest asked if short-term housing is something that will be in demand in the city of Johnstown. Mr. Green said they will have to see as it comes, they take applications as they come. Mr. Van Deest asked if they had done any research on the other two markets in Chandler, Arizona or the Texas plant. Mr. Green said that is something they would have to do. Mr. Van Deest said workers in Texas were sleeping in their cars so it is a concern of his and thinks it is a conversation they need to have as a city. He thinks it is a disservice to the citizens by preventing them from opening short-term rentals with their properties, they could make money and provide a service to the area, said that in January we will have approximately 5,000 workers in Johnstown; have they had any conversation about that. Chairman Green said they have not brought that back to the table but they appreciate the thoughts on it. Mr. Van Deest asked if it was something they would consider, Mr. Green said it is

something they may look at, as Mr. Lee said, the zoning code is a living document and they do go through it.

6. Tabled Applications

a. Application # Z-22-159 Zoning Map Amendment TABLED AUGUST 9, 2022

Sean Staneart said there has not been any movement on this and if they do bring it off the table he would like to notify the applicant first as they were the ones that requested it. He said that Jake Shields with Redwood did reach out to him and wanted to reintroduce some type of plan. Mr. Staneart said that the application on the table is for a map amendment, not for a "plan" but that he would gauge the board's interest in getting into the weeds with a plan, He would recommend against that because this is a zoning map amendment. If they want to present a plan, they need to remove their application entirely and start fresh. Mr. Staneart said he is unsure if procedurally that is possible or needs to be voted up or down so he will lean on the board's desire, he does not want to see a lot of staff time or the board's time spent if there is not a strong desire to go down this path, no need to answer now. Mr. Lee asked if when we have had situations like this in the past, have they not allowed an applicant to withdraw or refile and credit toward whatever new filing fee? Mr. Staneart said possibly they could, procedurally he was not sure, he would need to check the ordinance. Mr. Lee said he knows we have done it at least once with a sign application, so he is just putting it out there that there might be some precedence for that. Mr. Dyer said he was confused, and said so instead of getting it rezoned the applicant wants to come with a plan for the current zoning? Mr. Staneart said it was confusing, he would really like to stay focused on what this request is and that is a zoning map amendment and the other various parts that go into the development in his opinion are really irrelevant for the most part, and that was strongly conveyed to the applicant while they were here. There are follow up conversations to still be had. Chairman Green said if there was no motion to bring off the table they will move on.

b. Application # Z-22-191 Conditional Use Permit; 18 S. Main Street TABLED SEPTEMBER 13, 2022

ACTION:	Benjamin Lee moved to take off the table; Ryan Green seconded and the vote was as follows:
AYES:	Ryan Green, Ben Lee, Steve Dyer
NOES:	None
ABSTAIN:	None

Passed 3 - 0

Travis Van Deest said he thinks Sean Staneart has a partisan interest in the outcome beyond the business of the board and to avoid the appearance of impropriety, he asks that he recuse himself, said he owns the property adjacent to his and has a conflict of interest in this matter and asks that he does not make a recommendation on this. Mr. Staneart said he has not made a recommendation for approval or otherwise and that he would not have any problem with being removed from this entirely, it is up to the board to decide, all he does is provide the information and the background as far as what is in the city ordinances, so he would have no issue with being removed from this if it makes the applicant more

comfortable. Mr. Lee said he trusts Sean's judgment with respect to the ethical aspect of his participation here, if he wants to step aside that's fine, or if he wants to stay a part of the conversation that's fine. Mr. Lee said he does not feel there has been a recommendation done, that Mr. Van Deest's comment is noted, but he thinks Mr. Staneart's comments have been directed upon further review of what to look at as the criteria but neither an up or down was in the packet itself so in his opinion he will leave it up to Mr. Staneart. Chairman Green said it is a board decision and he thinks it is acceptable to leave it up to Sean, he does not have a problem with him giving background on the application and not an opinion, the decision is up to the board.

Mr. Staneart said on the background, he would defer to the prior packet put forth. Chairman Green said he would give the applicant a chance to speak on this and provide any updates, that any new information should have been provided twenty-four hours before this meeting and anything not provided in the packet is not permissible. At the previous meeting, Mr. Van Deest was asked to provide more detailed material for consideration. Mr. Green deferred to staff, Clerk Monroe said nothing new had been received and noted the applicant was also sent an email by Mr. Blair last week. Applicant Travis Van Deest denied receiving but that he had new material tonight. Mr. Lee said if there is new material being submitted tonight, in order to make an informed decision, that the board table it again to have time to review. Chairman Green said they could table it again at the applicant's request or they can rule on it tonight without the new information. Mr. Van Deest said he has retained an attorney in this matter, he is out of town, Steve Palmer, and has asked that he get an extension so that would be favorable to him as well so that he can review all the documents and be here at the next hearing. Mr. Green asked Mr. Van Deest if he is asking the board to put this back on the table, Mr. Van Deest said yes.

Benjamin Lee referenced Zoning Code 1131.04 that within sixty days from the date of the application, the commission shall approve, approve with supplementary conditions or disapprove the application as presented. Mr. Lee said at this point with the sixty days expiring thereabout October 29th, the applicant is asking that the board table this until such time they are able to review and or the applicant's attorney is able to review the documents and can come back and have a hearing. Mr. Lee addressed the applicant Travis Van Deest saying that puts us outside of that timeframe and with that noted, you are ok with not making a decision within that sixty-day period. Mr. Van Deest say he will wave that, correct, yes. Mr. Van Deest to provide the material for consideration.

ACTION:	Ryan Green moved to table at the applicants request; Benjamin Lee seconded and the vote was as follows:
AYES:	Ben Lee, Steve Dyer, Ryan Green
NOES:	None
ABSTAIN:	None

Passed 3 - 0 TABLED

7. Application # Z-22-230 Conditional Use Permit; 10 W. Pratt Street

   a. Application & Staff Report

   Sean Staneart said the staff report references the ordinances, this application is similar to

the prior applicant, same zoning consideration when it comes to conditional use, a transient accommodation which is allowed under conditional use. Engineering diagrams provided by the applicant show the site plan with parking area for the establishment as well as trash receptacle, building elevations and diagrams that speak to the size and the number of units. Applicant Dennis Blankemeyer said he was under the impression last year that this was all taking care of and there were no issues and now they are told to come back and put it under conditional use so he is a little confused about what has happened in the last year and what has changed, he is here to clean up any gray area in the application. Added that they have been operating now for a while, they even asked the City of Johnstown and Licking County about the bed tax information and were told there was none at the time, they have done all they can to keep everything above board and be transparent so he thinks this is more about cleaning up some gray areas. Sean Staneart said the applicant is correct, it is a bit of a housekeeping item and that the applicant has borne some of the burden to be a participant in trying to help the city clean this up and do things properly, he commends them and appreciates them being willing to go through the process and apologized for any past miscues or conversations had by previous staff. Mr. Staneart said all he knows is that when a transient accommodation is granted it has to be under a conditional use and we did not have anything on file. Commissioners reviewed the application asking questions on items within. The first floor is a common area with kitchen and seating, questions on the expectation of privacy, the rooms are upstairs, applicant said they were specifically told they could not have any bedrooms on the first floor, they wanted to but it was made clear they could not so they made it a common area. The rooms can be rented out without the first floor but if the first floor is rented out they typically make them rent the rooms also, all guests can use the common space. Total number of rooms is three.

Public Hearing

1. Marvin Block, 225 Edwards Road

- Said the Blankemeyers have tried to do everything right, they fell through the cracks at the time, unbeknownst to them and it is not their fault, it was a former staff problem with the city. If they had been advised of proper procedures at the time they would have done it.

2. Travis Van Deest

- He did not hear any mention of parking, asked if that side of the road has their own parking. Mr. Green said that side of the road has public parking behind them. Discussion on parking, noted that the application only need identify parking, public or private. Mr. Van Deest asked if he could utilize that same parking for his projected project. Mr. Blair said any business on S. Main Street can use any public parking.
- Asked if the no first floor bedrooms was an ordinance, is there somewhere he can read that. Chairman Green again referenced the conditional use application. Mr. Lee again referenced code 1155.03(b) and the conversation previously had during public comment.

3. Marvin Block

- Said the downtown parking lot was bought for the businessmen of this community

and they maintained it for years, the parking lot was deeded to the Village of Johnstown for always and ever to be public parking for the citizens of Johnstown. That didn't mean for one or the other side of the street, it is for everyone in Johnstown.

Chairman Green closed public comment.

Motion: Ryan Green moved to approve; Steve Dyer seconded

Benjamin Lee referenced 1131.03 and the criteria that they all reviewed and found to be acceptable with respect to the application. Mr. Lee said for himself, he will state that 1131.03 A – J in his opinion weighed in favor of the applicant, there wasn't one that outweighed another and looking at how the application was submitted and the business being proposed, the ability to separate the common area from the second floor bedrooms and the fact it fits in the transient definition. Mr. Lee referenced 194, the administrative code that looks over the bed tax within the city. It was noted that the applicant inquired on how to proceed with the tax, Mr. Staneart said that given the current staffing situation, he is addressing this with the Finance committee and recommends rescinding the bed tax temporarily until there is proper staff in place to enforce the code. He believes that if there is something on the books then it needs to be enforced and if they are not going to enforce it then it should either be removed or taken back for the time being. Discussion on procedure and the need to investigate further, Mr. Staneart said that at this time from an enforcement standpoint neither he, nor finance has the ability to do this type of enforcement, there are a lot of details. Mr. Blankemeyer said there were so many things that were unclear about the tax, what was the percentage, when do they pay it, at what time do they pay it, so many things that would also be administrative on their end, and seemed an unnecessary burden for three rooms for a six percent tax but they will pay it, it is just a little unclear for them. Discussion on maybe not rescinding but a suspension of and not enforcing. Potential for partnering with the company that codifies and maybe have a strikethrough or an asterisk and a note about its enforcement level, Mr. Lee said he feels the policy is sound, it is just having the ability to enforce it.

Travis Van Deest said he had a comment on the issue, Chairman Green said public comment was closed. Mr. Van Deest continued interruption and comment, Chairman Green said that public comment was closed and they will move to the vote. Clerk Monroe said there was a motion and a second on the table currently. Mr. Van Deest was again denied comment.

ACTION:	Ryan Green moved to approve; Steve Dyer seconded and the vote was as follows:
AYES:	Steve Dyer, Ryan Green, Ben Lee
NOES:	None
ABSTAIN:	None

Passed 3 - 0

8. Other Business

   No further business.

9. Adjourn

ACTION:	Ryan Green moved to adjourn; Benjamin Lee seconded and all were in favor.
AYES:	Ryan Green, Steve Dyer, Benjamin Lee
NOES:	None
ABSTAIN:	None

Passed 3 - 0

Meeting adjourned at 7:30 pm