



Planning & Zoning Commission
Tuesday, March 23, 2021 - 6:30 PM
MINUTES

1. Call to Order

Committee Chair Ryan Green called to order the Planning and Zoning Commission meeting for March 23, 2021 at 6:31 p.m.

2. Roll Call

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

Staff present - Jim Lenner - Village Manager, Bailey Klimchak - Village Planner, Jim Blair - Zoning Inspector, Yazan Ashrawi - Village Law Director, Marvin Block - Village Council member, Cheryl Robertson - Village Council, Teresa Monroe - Clerk of Council

Public present - Lewie Main, John Luke, Ken Colvin, Cameron Colvin, Don Haight, Joe Ciminello, Kris Almendinger, Heather Green, Ann Evans, Joan

3. Pledge of Allegiance

4. Public Comment

There were no comments from the public.

5. Approval of Minutes

a. March 9, 2021

ACTION: Chairman Green moved to Approve; Benjamin Lee seconded and the vote was as follows:

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

NOES: None

ABSTAIN: None

Passed 5 - 0

6. Appeal Case Decision

Zoning Appeal filed by Mr. Jerry Pulley in the matter of the construction of a "Tiny House" in a Residential neighborhood by Mr. John Luke, resident at 6 Westview Drive. Appeal was heard by the Planning Commission on February 9, 2021.

Chairman Green said the Planning Commission's opinion is to dismiss due to lack of jurisdiction and a failure to enforce.

ACTION: Ryan Green moved to Approve as written; Jon Merriman seconded and the vote was as follows:
AYES: Ron Danne, Jesse Coppel, Jon Merriman, Ben Lee, Chairman Green
NOES: None
ABSTAIN: None

Passed 5 - 0

Chairman Green said this project can proceed as originally scheduled, with Jim Blair's permissions as decided, it will be policed, and they will be looking at the project with a fine tooth comb. It can proceed in the manner previously discussed but will be under jurisdiction as much as possible.

7. Application 2021-142-Z Variance for sign

a. 450 South Main Street

Cameron Colvin was present for applicant Johnstown Baptist Church; 450 S. Main Street. Working to update the church sign that is in poor condition. Don Haight was also present from Morrison Sign and provided a rendering and dimensions of the electronic message sign requested.

Village Planner Bailey Klimchak said the variance request is needed because the church is in an SR-1 zoning district and sign regulations for the district do not allow this type of sign. Staff recommends approval as it will not face any homes and would be a good use of the property.

Commissioner and staff discussion and review of the application.

Ben Lee stated he has concern for the precedent this would set in allowing this type of sign in a residentially zoned area and if there is concern that the church is not zoned appropriately then that is where the conversation should start; once it is zoned appropriately, if moved from SR-1 to a zoning district that allows this type of sign then he thinks the village removes itself from setting a precedence with a variance. Mr. Lee said relative to the practical difficulty questions, he does not see where this application meets any of those to make this variance allowable from his perspective; he reviewed the test questions. Another concern stated was how dynamic this sign might be relative to a designated school zone. Mr. Lee again stated that if this area is not zoned properly then they should look at validity of moving it from SR-1 to something else to make it allowable.

Chairman Green said he sees both sides; he thinks this is just an update of the current sign, he sees other signs along the road, and other churches on the same road have these

similar new signs. His said his only concern on this was the setback from the road, brightness at night and whether it would distract drivers; based on something conditional that would hold those parameters, he would be able to approve this but he does understand where Ben's coming from and could see the need for a change of zoning.

Ron Danne asked if the sign were in UR-1 would the illumination and size of the sign be allowed; Mr. Blair said he would have to look that up. Mr. Danne said he shares Ben's concern that this would set a precedent.

Mr. Lee reiterated that he does not have anything against the sign itself or the idea of having a sign there; it is the precedence that it sets in a residential area. Added that UR-1 still does not permit internally illuminated signs.

Jesse Coppel said with the passage of the new Future Land Use Map it is important to progressively encourage parcels to update the zoning district they are in to fit the new design, this is a perfect example. His recommendation is also that the applicant apply for rezoning of the parcel.

Public Hearing

1. Ken Colvin; 271 Fairview Drive.

Church attendee of twenty six years said the current sign is sixty years old and has to be changed manually, desire is not for flashy, just ease of changing the message; the sign has also become pretty dilapidated.

2. Lewie Main; 132 N. Main Street.

In support of the sign as a citizen, other churches have gone electronic; they are not asking to do anything other churches haven't done.

Ben Lee noted that all the other locations are in GCC districts, this is not. Mr. Main referenced Ordinance 1103.01; discussion on interpretation. Mr. Lee said he wanted to make clear that this has nothing to do with churches in general; it is the specific location and the specific zoning that this parcel is under relative to the sign variance that is being discussed.

3. Marvin Block; 225 Edwards Road.

Asked how long it takes to rezone a parcel. Ms. Klimchak said if the applicant requests it, it comes to Planning and Zoning first then it goes to Council, and then it takes thirty days for it to be recorded if Council approves.

Mr. Block said his suggestion is that the applicant have the property rezoned, do away with this application and come back in two months to get this sign permit.

Discussion on procedure and cost for rezoning as well as crediting the variance fee paid toward the application for rezoning. Mr. Lenner said if the application were tabled, they

would not lose anything done tonight and the commission could then accept the application for rezoning.

ACTION: Chairman Green moved to table to allow time to come up with a decision, Application 2021-142-Z ; Jon Merriman seconded and the vote was as follows:

AYES: Jesse Coppel, Jon Merriman, Ben Lee, Chairman Green, Ron Danne

NOES: None

ABSTAIN: None

Motion to Table Passed 5 - 0

Ben Lee asked for clarification that they would move forward with a credit toward the future application for rezoning. Chairman Green said the applicant would need to make their decision on whether to withdraw or to proceed with this current application; if they decide to withdraw then yes they would get credit.

8. Application 2021-143-Z Preliminary Plat

a. Concord Crossing East

Village Planner Bailey Klimchak provided background saying this is an application for Preliminary Plat for the buildout of Concord Crossing East. Concord Crossing East is a neighborhood that was approved a while ago; Phase One has Schlabach Builders building on it and Phase Two is ready for Preliminary Plat. Ms. Klimchak said Phase Two has had some challenges with the EPA which is why a lot of wetlands are shown on the plat provided; she added that applicant Joe Ciminello could provide more detail on how many lots were in the original Preliminary Plat and how many lots are in the new Preliminary Plat due to the wetlands.

Ms. Klimchak said she is in the process of creating a development report and is waiting for some water and sewer numbers before it is ready but will share when it is, this will show impact on water and sewer, impact on schools, taxes etc.

Applicant Joe Ciminello was present for the application; he brought with him the original Preliminary Plat dated January 14, 2004.

Chairman Green said a lot of time has passed, it is a PUD and said as he reads, there is a stipulation that they have two and a half years to build or it goes back to the original zoning; Jim Lenner said that is open to interpretation. Village Planner Bailey Klimchak said she was not here when Phase One began but her interpretation is that this is Phase Two of a project and that Phase One is being constructed now; she said she believes the time to argue that PUD zoning ran out was the time Phase One construction started, she believes

this is just a continuation of a project.

Chairman Green said this project has gone well over two years at this point and asked Law Director Ashrawi if the PUD still holds up or if it should go back to the original zoning. Mr. Ashrawi said he agrees with Ms. Klimchak's interpretation in terms of the phased approach, the automatic revert provisions are a gray area in zoning law because it is a zoning change that is not necessarily requested by the owner; number two, as he reads the provision, it states that if no construction has begun within two years, the application may be revoked so it is not a mandatory revocation and based on the phased approach, he does not think that provision automatically triggers a revocation of the PUD.

Mr. Ciminello said the original Preliminary Plat was approved by zoning in 2004 and believes construction was commenced in 2006 or 2007 and agrees the time to argue that was at the time of initial construction because all utilities were put in contemplating future phases. He added that 84 Lumber bought the right to build one hundred lots from them and they put those lots in as well as the community center; design was originally for three hundred and thirteen lots total; the detention basin was put in and he was advised to not only take care of the lots out there but future phases. They started selling homes but hit 2007/2008 and have been stagnant since.

Chairman Green said a lot of things have changed since early 2000's; properties have changed hands, builders have changed, some design has changed, EPA standards have changed and part of this has a lot of water. There is a lot that has happened on this property since it was originally designed and he thinks it needs to be looked at; said his main question is, do we have to start over.

Mr. Ciminello said the original preliminary plat approved was for three hundred and thirteen lots, the current plan is two hundred and seventy five with what 84 Lumber developed and what they are proposing now. He said he believes the ability to revoke it is if construction had not been commenced; they have been working with staff on this for two years, some of the wetlands issues were caused by commercial development but they are owning up to it; nothing has changed on the land further to the east where there are wetlands, they are trying to preserve what they can and still have the ability to connect the streets they need to. He said the street pattern is pretty much identical to the preliminary plat, he believes they will meet the minimum square footage requirements in the original zoning and thinks the homes will start north of \$300,000. Mr. Green asked about the house square footages, Mr. Ciminello said he could get back to him on that but that they would meet the minimums in the zoning.

Law Director Ashrawi commented that he has not had opportunity to review the history on this piece of property; tabling this application may be appropriate in order to have further discussion.

Ben Lee said he said the history of it is what is confusing, the history is going to determine how this discussion moves forward, if there is an already accepted preliminary plat from

2004 that is over three hundred parcels, he would like to see it and compare it to what is being presented now; if pieces were sold off from the original plat, it has not been approved in its final form because there isn't anything platted for the sixty four acres. The uniqueness of this property requires further deliberation and a staff report on impact to water and sewer, schools, usable open space, lift station upgrades, parcel frontages and other considerations. Chairman Green and Ron Danne expressed their agreement.

Public Hearing

1. Marvin Block; 225 Edwards Rd.

- Provided some history; said Concord Road was supposed to be done, it wasn't and the project was abandoned.
- Dump truck loads of dirt have been dumped at the site since then and this has been an issue with the EPA, unsure if that is straightened up.
- If that many houses are built, all cars will be coming out of one entrance, what about a traffic study; a lot of things have changed since this was done.
- Nothing has been done over there for a long time, why should we just ignore the zoning requirement of two and a half years.
- If that land is built on, where all that dirt was dumped, who is going to accept responsibility for the streets and the water and sewage lines; it wasn't compacted down, he doesn't think Council wants to accept responsibility for streets falling in and water and sewer lines breaking. Thinks there are a lot of things to consider and more discussion needed before talking about a plat plan.

2. Lewie Main; 132 N. Main.

- Questioned when this area was annexed, was it zoned PUD and what was the Ordinance number.
- Said there are requirements in 1105.04(a), questions that have to be answered before a vote can be taken.
- Concern for one ingress and egress for the one hundred and seventy four lots. Still a lot of unanswered questions.

Ben Lee added that the way he reads it, PUD is not a zoning district in and of itself but an agreed upon deviation from a standard district; referred to 1179.04 about the two and half years and that the permit shall expire. Still questions that need to be answered. Law Director Ashrawi clarified his earlier statement and noted a more specific expiration provision in 1179.08 which also says shall.

Chairman Green said the PUD is unique, that it is more akin to a Conditional Use Permit than it is to zoning; in this situation the people that we had the permit with are gone, the people we made the permit with are gone, he thinks it all needs to be looked at again.

Mr. Lenner said it was recorded as annexed in July 2000.

Mr. Ciminello noted that the ordinance says "if no construction has begun within two and a half years" but obviously there is construction there and obviously that clause was not invoked prior to them starting construction; reviewed some history of the phases with different builders and addressed wetland area history with the EPA. Mr. Block said there are a lot more problems with that property than is being said; they are not out of the woods with the EPA yet.

Chairman Green moved to table. Mr. Lee said in the interest of satisfying Mr. Ciminello's request for specific feedback he could summarize if appropriate; Mr. Green said that it was; Mr. Lee seconded the motion and then provided his list of items to address as follows:

1. Traffic study on Concord Road and one ingress/egress for one hundred and seventy four new homes
2. Water and Sewer capacity, where this proposed number of homes would put the village.
3. Whether or not lift stations would need to be upgraded or added and who would pay for that.
4. Open space, desire that green space is usable and maintained, and maybe addition of a playground.
5. Conformity to UR-2 and logic behind deviations from street frontage requirements. Mr. Ciminello said that all lots would be fifty five foot minimum lot frontage and that they also plan to work with the HOA to upgrade the community facility with more amenities, playgrounds and to significantly improve that community space.
6. Northern border requirement for a buffer zone; the homes would be against an active manufacturing and industrial zoned space with callout relative to noise that the village continues to work with businesses on.
7. Storm water management is a paramount concern; as the development of these parcels are being looked at, they are key to the stormwater management of a large portion of this side of town. Borings, compaction analysis, when the streets may be turned over to the village.

Ryan Green added his concerns as follows:

1. The EPA aspect
2. Compaction of the dirt brought in
3. Square footage of houses and setbacks; directed staff to look at 1179.08
4. The ingress and egress with the one entrance to a road that is not going to accept a lot of traffic.
5. The density and how it works with our current zoning versus other neighborhoods

Ron Danne commented as follows:

1. Confusion with the lot numbering; shows lots 1-11 in the old section and lots 1-11 in the

proposed, if the engineers could clear that up.

2. Concern for the fifty five foot lots, most of the lots in the existing built section are seventy foot, the ones that are fifty five foot are the Neo-traditional; lots shown in the Northeast corner are fifty five foot.

4. Reserve B in the Northwest corner is inaccessible

5. Asked for consideration on connecting the second cul-de-sac to the walking path also

6. Concern that when complete, well over two hundred houses will be emptying out onto one egress on Concord Road.

Mr. Ciminello said that Reserve B is preserving a wetland and connection to the path from the other cul-de-sac may disturb a wetland, may be able to do a path around. Ben Lee noted connection to the bike path is permission given by the TJ Evans Foundation.

Chairman Green opened again for any further public comment:

1. Lewie Main

- Would be beneficial if original minutes and plans could be reviewed, said one thing guaranteed by Roger Hatch was that Douglas Street was to be improved and used as an additional ingress/egress. Clerk to research.

2. Marvin Block

- Asked if the wetlands are accepted as green space.
- Again referenced 1179.08 and asked Law Director to clarify; Mr. Ashrawi said yes there is an automatic revert after two and a half years with no construction.

ACTION:	Ryan Green moved to table the application; Benjamin Lee seconded and the vote was as follows:
AYES:	Jon Merriman, Ben Lee, Chairman Green, Ron Danne, Jesse Coppel
NOES:	None
ABSTAIN:	None

Motion to Table Passed 5 - 0

Mr. Ciminello asked about timeline; Ms. Klimchak said the Commission has thirty days to make a decision but before that she would like to consult Law Director opinion on best next steps and decisions that need to be made and by who.

9. Zoning Ordinance Update

a. [Zoning Code Draft - Article 18 review](#)

Chairman Green said there is a need to double up on meetings in April and May to get through this.

Commissioners and staff continued review and edits beginning with Section 18.01 and worked through Section 20.

Special Planning Commission scheduled for next Tuesday, March 30th at 6:00 - 8:00 pm to focus on Design Guidelines.

10. Other Business

Nothing to note.

11. 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 9:00 pm.