

# CITY OF LEBANON PLANNING COMMISSION MINUTES

DATE: June 21, 2016

TIME: 7:00 p.m.

Members present were Richard Fair, Michael Murphy, Mayor, Amy Brewer, Tom Miller, and Kevin Glardon. Absent was Pat Clements, City Manager. Also present was Samuel L. Hill, City Planner.

## CONSIDERATION OF MINUTES

The first order of business was the consideration of the minutes for the meeting of May 17, 2016.

Without objection the minutes were approved.

## CONDITIONAL USE – CU-16-04-01; 124 & 200 E. Silver Street (Lebanon United Methodist Church) – Parking Lot Expansion – PUBLIC HEARING

The next item of business was an application submitted by Mr. Michael Saxion, on behalf of the Lebanon United Methodist Church, for the proposed demolition of the structures located at 12 and 14 South Street.

Mr. Miller indicated he is a member of the church and is on the church's finance committee and for that reason recused himself from the review and discussion of this application.

After staff summarized this agenda item, the public hearing was opened at 7:10 p.m. Seeing no individuals wanting to speak on record in favor or in opposition of the case, the public hearing was closed at 7:11 p.m. Following the public hearing Mayor Brewer indicated the community is blessed with the churches located within the Downtown area. Mayor Brewer added she is happy the Lebanon United Methodist Church (LUMC) has the ability to expand its parking and enhance the property especially when there are many cases when a business or entity is forced to relocate due to a lack of space to grow. Also, Mayor Brewer indicated the LUMC is important to the community thanked the applicant for making the investment to the community. Mr. Fair echoed the Mayor indicating it is good to have Downtown churches that serve the city and take part in the community and we do appreciate that. However, the one thing that Mr. Fair is concerned with is LED signs within a residential zone. Mr. Fair asked staff if the application is for a single approval or two; the sign and the parking expansion. Mr. Fair indicated he has no issues with the parking lot expansions; however, he will be consistent in opposing the LED signs in residential districts. Staff replied if the board wants to separate the motion to make it easier to provide a decision that's fine. Mayor Brewer asked if the board has an option to deny as the use of the sign is outright permitted by the code. Staff replied correct and added the zoning code requires any modification to a conditional use property to go through the conditional use process which requires a public hearing; however, the installation of a sign with LED would be permitted if it meets the changeable copy criteria. Mr. Murphy asked what is directly across the street from the proposed location of the LED sign. Staff indicated residential properties and the majority are rental units. Mr. Murphy added we have approved LED signs elsewhere and every single sign is in violation of the stipulations provided in the zoning code to allow the signs. Mr. Murphy added, he is concerned and thinks we have a problem with the signs. Mayor Brewer asked Mr. Murphy if he was stating the enforcement of what needs to be regulated with the signs is not taking place. Mr. Murphy replied yes. Mayor Brewer indicated this is a different issue that needs to be addressed. Mr. Murphy asked staff for clarification that the application is a conditional use because to the use. Staff replied yes, a religious place of worship is only permitted as a conditional use in any residential zone. Mr. Murphy indicated for the sake of transparency the application should be divided into two separate motions; the parking expansions and the LED sign. Mayor Brewer made a motion to split the case into two motions and it was seconded

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by Mr. Glardon. Upon calling the roll, the motion was unanimously approved. A motion was made by Mr. Murphy and seconded by Mayor Brewer to approve the parking lot expansions and acceptance of the modified landscape plan as submitted. Upon calling the roll, the motion was unanimously approved. Mayor Brewer asked a question, if there are 4 members to vote and the vote is split 2-2 the motion fails, correct? Staff replied correct. Mayor Brewer asked what are the consequences of a 2-2 vote and what does this mean for the applicant? Staff replied the sign is not approved so it cannot be installed at this time; however, the applicant could file for an appeal to Planning Commission's decision to the Board of Zoning Appeals or reapply to the Planning Commission at a later date. Mayor Brewer indicated she wanted everyone to know what the process is for the case. Mr. Murphy indicated, to be fair, I am on the fence, I really don't know what to do with this. Mr. Murphy asked staff what is the enforcement mechanism currently in place for the signs. Staff indicated if staff is aware of a violation, the Zoning Code Enforcement Inspector will conduct an inspection, documents the situation and issues a violation notice if a violation exists. If a notice is issued a follow-up inspection will be conducted. If the violation has not been addressed and/or the property has repetitive violations the City could seek legal action to revoke the permit for the sign. Mr. Murphy asked if the permit for the sign is revoked what does that mean? Staff replied that would allow the City to have the sign removed. Mr. Murphy asked how would staff be made aware of a potential violation in place? Staff replied the City operates on a compliant based system as there is not enough personnel to actively drive around and seek out every violation occurring in the City. If violations exist in an area that is not frequented by the inspector for violations, staff may not be aware of violations; however, if made aware staff will investigate. Mr. Murphy asks so if a neighbor decides they are unhappy with the sign they can call and complain? Staff replied yes. Mr. Murphy stated no neighbors showed up today to participate in the public hearing? Staff replied correct. When the advertisement went out what did the advertisement state? Staff replied the advertisement indicated it was a conditional use application for a parking lot expansion but the plans were on file for anyone who wanted to review and/or had questions about the proposal. Mr. Murphy asked did it mention the sign? Staff replied no. Mr. Murphy stated so the neighbors are not aware that we may or may not approve an LED sign across the street. Staff replied based on the information in the public hearing notice mailed out, that would be accurate. Mr. Murphy indicated he is less on the fence as the notice didn't mention the sign. It would be different if it was indicated in the notice and there were no residents present to provide feedback. Staff stated for clarification, the case was discussed with the applicant and it was staff's suggestion to include the sign with this conditional use application to streamline the process. Therefore, when the notification letter went out it was with the understanding it was the parking area but the sign was included at a later date. Staff continued, I wanted to clarify so the board doesn't feel anyone is trying to pull something over the board's or the resident's heads. Mr. Murphy stated I do not feel that you are doing that; however, I believe the adjacent residents should know the sign is being proposed. Mr. Murphy continued, I wouldn't be surprised if no one showed up if it was advertised; however, I believe they should have the opportunity. Mayor Brewer asked if Mr. Murphy is in favor of tabling the case until the appropriate advertisements can go out and the residents are aware of the proposal? Mr. Murphy replied yes. Staff stated this would be better for the applicant because denial would force them to go through the appeal process or have to reapply and pay the fees for another application. Mr. Murphy started to make a motion to table the case until the advertisement can be re-issued with information about the proposed sign. Staff indicated the case would have to be tabled until the August meeting due to the public notification requirements. The upcoming meeting would be less than the required 30 day to advertise in the local paper. Mr. Fair indicated the applicant has to agree to that. Mr. Saxion indicated the church is concerned delaying the review and approval to August would have a

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negative impact on the main parking lot expansion as a trench would have to be dug and they are coordinating the installation along with the other site improvements occurring on the property. Also Mr. Saxion indicated this is cutting it close to the time that asphalt companies shut down for the fall/winter months which would put the expansion into mid to late 2017. Mr. Fair indicated asphalt plants typically don't shut down until November and you could always add a conduit for future electric to be run to the sign underneath the pavement without much cost. Mr. Murphy asked the applicant if they would light the sign whether or not it was digital. Mr. Saxion replied yes. Mr. Murphy indicated you will have electric run near the sign anyway so this should not hold up any site improvements involving the paving for the parking expansion. Mr. Murphy made a motion and it was seconded by Mr. Glardon to table the case until the August meeting to allow the proper advertisement of the proposed LED sign. Mayor Brewer indicated this is a better offer for the applicant as the vote would be split to approve and would put the applicant in a bad position. Upon calling the roll, the motion was unanimously approved

### CERTIFICATE OF APPROPRIATE (COA) – 127 N. Broadway – Replacement Windows

The next item of business was an application submitted by Thomas Battaglia, to replace ten (10) 2-over-2 wood windows for 1-over-1 vinyl windows on the second story of the building. After staff summarized this agenda item, Mr. Miller asked are the windows already installed? Staff replied that I cannot confirm; however, the one's in the picture where the contractors are working, yes those have been installed. The applicant would be better suited to answer whether or not all of the windows have been replaced. Mr. Murphy indicated that his issue with this application is it is truly incomplete. There is not enough information to properly review and understand what is being modified. One of the criteria is the window shall only be replaced when it matches the size, shape and design of the original window. Applicants are supposed to document the existing conditions of the windows and document the replacement product being installed. I can look at the picture and tell the sashed are 50% to double the width of the frames on the original sashes. It does change the appearance of the elevation which is why we have a process in place that is submit your plan to Planning Commission for review where we can have a dialogue about is there appropriate documentation being provided. Staff concurred with what Mr. Murphy stated. Mayor Brewer said she understands Mr. Murphy's concern and indicated this is the example of a property owner that has spent a lot of money to enhance the property, continually caring for and making an investment in their property. Many people have a plan and they do it and it may not be exactly the right process but it happens and it happens all the time. I am not sure how we can work together to make this more efficient but at the same time I think the enhancement to the property and what the owner has done looks amazing. It's a huge investment. I totally understand you Mr. Murphy but I am not sure how we streamline the process better. I want to give kudos to the residents that invest huge amounts of money taking care of their property. I have to say to the property owner thank you and next time get your permit in and allow review prior to making changes to the building. Mr. Battaglia thanked the board for allowing him to speak. Mr. Battaglia indicated he has slowly made several improvements to the property at 127 N. Broadway going through the proper channels. Looking at the CBD, there are a number of buildings that are run down and not properly maintained one of them being next to me. What is being done about these buildings though? I heard you say in earlier there were some electronic signs that were approved but they are no longer following the current standards. Whats being done about that? You are not going to punish them!?! Like I said you can see one of the buildings next to me is clearly run down and multiple replacement windows have been installed. For

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example, one of the panes is being filled in with cardboard because the pane has been busting out for almost a year. The back window is filled with plywood and vinyl wrap. But I guess there's nothing wrong with that. But at the same time, I am not saying you have denied this, you may after I get done talking, if so that's fine I don't care. At the same time I am trying to improve my building but I don't have millions of dollars. And so, is this a phase one project...it sure is. Did I not go through the proper procedures...no I did no. Did I know better...yes I did. I apologize, slap my hand. I will go through the proper channels the next time, but what is being done with the buildings in the CBD that are being run down and nothing is happening. What's happening? It's making Lebanon look like crap! Many people are trying to improve properties and you make them go through hoops and it's frustrating. I hear several business people say they don't want to do things in Lebanon because of all of the hoops and processes we have to go through. I understand there are rules and regulations and I respect that by all means but if someone is trying to do something for the better, help them out some too. That's what I'm trying to do, I'm sorry I didn't go through the proper procedures. This is phase 1 and I am going to replace more windows and yes they are going to be the same. I don't have the billions of dollars that would allow me to put in 6 panes, like with like windows made of wood. If you guys would like to loan me this money, I will make sure I do that then. But, I'm doing the best I can to make my property look better and ultimately to make Downtown Lebanon look better.

Mr. Miller stated we can appreciate that and we appreciate what you said, and I appreciate you for admitting you did not follow the process. So the windows have been installed completely? Mr. Battaglia replied yes. Mr. Miller stated I hope you will see staff and go through the proper channels on future projects. Mr. Battaglia added, when staff was coming down on me, one window had 6-over-6 and the other window had 2-over-2. None of the windows have the same look. I prefer to upgrade the windows so it doesn't look like a mix-match puzzle. Mr. Miller stated maybe you should leave the first floor windows 2-over-2. Mr. Miller said he would ask Mr. Murphy if the 2-over-2 would work? Mr. Murphy stated I'm not indicated what he is doing is good or bad. Mr. Miller asked from a cost perspective if the 2-over-2 are less expensive. Mr. Murphy stated when you add mullion pattern you add cost but nobody is replacing windows with true divided light which is where the real cost is. As such a simulated divided light is nominally more expensive but not the same cost as a true divided light like a 6-over-6, 2-over-2 or 4-over-4. But I think you miss my point, my point is not that I think what you are doing is right/wrong, my point is there is a procedure that we are supposed to follow. Mr. Battaglia replied I agree. Mr. Murphy continued, during the course of the procedure there are details that can be discussed and figured out, and maybe theres something that can come out of that which may lead you in a direction that makes it a little bit better, not necessarily at additional cost. That's the point of the procedure. Mr. Battaglia stated I respect that. Mr. Murphy added nobody would disagree with your points regarding enforcement; however, the procedure is to complain to the City and the City will perform enforcement. This body does not carry out enforcement. Mayor Brewer stated from an enforcement standpoint we have a long way to go. The ones who are the most guilty seem to be the ones who continue to go on and on with the court process and the 30 day notices and so forth. We all know who those property owners and landlords are. And I will use the word slumlords, which is an example next door. I hear it all the time and I see it all the time. I drive through areas where it feels like to the public we are not doing anything or not doing enough. I am aware of things happening behind the scene with the Code Enforcement Inspector but it's a struggle. Especially for someone who owns a piece of property who continues to take care of it or to add to its value and make changes. It's frustrating for people and I hear it all the time. Mr. Fair indicated we are still focusing on this case, so the top windows are in? You want us to approve the COA? Mr. Battaglia replied yes. Mr. Fair asked are you going to duplicate that on the first floor windows? Mr. Murphy asked to clarify your goal is to replace all

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windows on the building to be uniform. Mr. Battaglia replied yes sir, that is my goal. Mayor Brewer made a motion and it was seconded by Mr. Miller to approve and future projects go through the appropriate process prior to making changes. Mr. Glardon had a question on the motion, if we approve this aren't we essentially approving future 1-over-1 windows? Mr. Murphy indicated the 1-over-1 like the applicant has done is expressly permitted per the code. Mr. Glardon then asked why would the applicant have to come back to the board for approval of additional replacement windows for the first floor? Staff indicated the application submitted is for the replacement of the 10 second story windows, if the applicant wanted to do all windows the application should have stated such. Staff continued the one thing I do want to add to this conversation, I can appreciate a property owner being frustrated with the process. The thing I have a problem with is similar to a police officer issuing a ticket. If someone gets a speeding ticket and they tell the officer you didn't give that car traveling at 85 mph a speeding ticket so from now on, I'm not going to go the speed limit. I have a problem with that. I can appreciate what Mr. Murphy is saying as he has a trained eye to catch differences on the intricate components of a building, whereas the typical person will pass the property as state that's a nice building with new windows. Again a trained eye such as Mr. Murphy will say the view of the building has changed; where is the documentation for the board to properly review and approve such a change? I can appreciate that. Mr. Fair interjected, let's stay on track, we have a motion and a second. The board needs to act on the motion so please call the roll. Again, Mayor Brewer and seconded by Mr. Miller to approve the COA application at 127 N. Broadway, subject to the following conditions:

1. The property owner is required to contact the Department of Planning and Development and discuss any future improvements, renovations, and/or refurbishment to the structure prior to beginning any related work.
2. All required City and County permits shall be approved prior to beginning work on the structure.
3. Any variation from the approved plans will require additional review and approval by Planning Commission prior to any work being conducted at the site.

The roll call was as follows: Mr. Fair, Yes; Mr. Miller, Yes; Mayor Brewer, Yes; Mr. Glardon, Yes; Mr. Murphy, No.

### SITE PLAN – SP-16-05-01; 232 E. Main Street (St. Patrick's Episcopal Church) – Parking Lot Expansion

The next item of business was an application submitted by Mr. Richard Wolford, on behalf of St. Patrick's Episcopal Church, to expand the existing off-street parking at 232 E. Main Street. After staff summarized this agenda item, Mayor Brewer reiterated how much of a blessing the City is to have so many churches in the Downtown. Glad to see expansions and investments in the community. After the discussion, a motion was made by Mayor Brewer and seconded by Mr. Glardon to approve the site plan application at 232 E. Main Street, subject to the following conditions:

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1. All plan corrections as required in the City Planner's memo dated June 15, 2016 shall be provided on revised plans for final staff approval prior to any zoning, comprehensive and/or building permits being issued for the project.
2. Variance shall be obtained from the BZA for parking encroachment within 10 feet of any lot lines.
3. All required City and County permits shall be approved prior to beginning work on the structure.
4. Any variation from the approved plans will require additional review and approval by Planning Commission prior to any work being conducted at the site.

Upon calling the roll, the motion was unanimously approved.

SUBDIVISION – Columbia Business Park Section 15 – 3675 Taft Drive (Lot Consolidation)

The next item of business was a subdivision plat (Columbia Business Park Section 15) submitted by Cheryl Kolb, on behalf of Alloy Farms, LLC to consolidate two separate lots of record at 3675 Taft Drive, yielding a 14.7259 acre lot. After staff summarized this agenda item, a motion was made by Mrs. Brewer and seconded by Mr. Miller to recommend approval to the City Council for the subdivision plat at 3675 Taft Drive, subject to the following conditions:

1. All plan corrections as required in the City Planner's memo dated June 10, 2016 shall be provided on revised plans for final staff approval prior to being forwarded onto the City Council for review.
2. The replat shall be recorded within sixty (60) days from the date of approval by Lebanon City Council, as listed in Section 1117.04 (a)(4) of the Subdivision Regulations.
3. A reproducible Mylar of the recorded plat shall be provided to the City of Lebanon.

Upon calling the roll, the motion was unanimously approved.

SUBDIVISION – S.H.I. Subdivision – 130 & 200 Cook Road (Lot Consolidation)

The next item of business was a subdivision plat (S.H.I. Subdivision) submitted by John Stone, on behalf of Countryside Community Church, to consolidate three separate lots of record at 200 Cook Road, yielding a 1.7982 acre lot and dedication of right-of-way along 130 Cook Road. After staff summarized this agenda item, a motion was made by Mrs. Brewer and seconded by Mr. Murphy to recommend approval to the City Council for the subdivision plat at 130 & 200 Cook Road, subject to the following conditions:

1. The replat shall be recorded within sixty (60) days from the date of approval by Lebanon City Council, as listed in Section 1117.04 (a)(4) of the Subdivision Regulations.

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2. A reproducible Mylar of the recorded plat shall be provided to the City of Lebanon.

Upon calling the roll, the motion was unanimously approved.

OTHER BUSINESS

Staff noted the following cases are on the agenda for the July 19, 2016 meeting:

1. 319 E. Main Street – COA for Demolition (PUBLIC HEARING)
2. El Picante – Building Footprint Expansion
3. Work Session – Assisted Living Facility

Mr. Miller indicated he would not be present at the August meeting.

There being no further business, the meeting was adjourned.

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SECRETARY – PLANNING COMMISSION

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CHAIRMAN – PLANNING COMMISSION