

CITY OF LEBANON PLANNING COMMISSION MINUTES

DATE: August 16, 2016

TIME: 7:00 p.m.

Members present were Richard Fair, Michael Murphy, Mayor, Amy Brewer, Tom Miller, Kevin Glardon and 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 July 19, 2016.

Mr. Murphy had one correction in regards to the COA for Demolition at 319 E. Main Street. Mr. Murphy indicated blue flame construction should be changed to balloon frame construction. Seeing no additional corrections, without objection the minutes were approved.

CONDITIONAL USE –124 E. Silver Street (Lebanon United Methodist Church) – Electronic Sign – 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 installation of an electronic sign located at 124 E. Silver 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 7:08 p.m. Mr. Mike Saxion spoke in favor of the electronic sign. We have worked hard to come up with a design that fits into the character of the neighborhood as well as meets the standards in the zoning code. The brick base will match the brick on the church building so it should be nice. Seeing no individuals wanting to speak on record in favor or in opposition of the case, the public hearing was closed at 7:09 p.m. Following the public hearing Mayor Brewer indicated she was one of the residents that received a letter. Interestingly enough that the notices have been received; however, there have been no calls, no emails and no inquiries, no nothing. I live around residents and home owners that would have called or inquired about the proposal or been present tonight. I think aesthetically its professional and well done. Thank you to the church and I am in favor of the sign. A motion was made by Mayor Brewer and seconded by Mr. Glardon to approve the electronic sign at 124 E. Silver Street subject to the following conditions:

1. All applicable permits shall be issued by the City of Lebanon and the Warren County Building Department prior to the installation of the proposed sign.
2. The proposed ground-mounted sign with electronic copy message shall be in compliance with the signage regulations at all times. Failure to comply with the changeable copy may result in the Planning Commission revoking the permit and having the sign removed per Ch. 1132.07 E 4.
3. All other ground-mounted and/or freestanding signage shall be removed from the property once the new sign has been installed.

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4. Any variation from the approved plans will require additional review and approval by the Department of Planning and Development and/or Planning Commission prior to any work being conducted at the site.

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

CERTIFICATE OF APPROPRIATE (COA) – 223 North Broadway – Stone around Foundation

The next item of business was an application submitted by Mr. Jack and Mrs. Vonda Brooks, to allow the installation of Autumn Blend Limestone around the foundation of the existing mixed use (residential/commercial) building at 223 North Broadway. After staff summarized this agenda item, Mayor Brewer added, whatever the Brooks do, they do an outstanding job with their property and I definitely support the enhancements to the property. Mr. Miller added, it will be an improvement to the property and help with the spalling concrete. They will make some repairs and I think it will be great. A motion was made by Mr. Miller and seconded by Mayor Brewer to approve the COA application at 223 North 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.

SUBDIVISION – Stephens First Subdivision – 705 Deerfield Road

The next item of business was a subdivision plat submitted by Mr. and Mrs. Stephens, on behalf of Mr. John Marlatt, to consolidate two separate lots of record at 705 Deerfield Road and shift the property line that runs through the multi-family building to the east. 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 705 Deerfield Road, subject to the following conditions:

1. All plan corrections as required in the City Planner's memo dated August 12, 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.

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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.

ZONING AMENDMENT – Horseshoe Falls Minor PUD Amendment – 908 Horseshoe Falls Drive – Rear Staircase

The next item of business was a Mr. David Baysore, has requested an amendment to the Horseshoe Falls PUD for a minor modification to allow the construction of a staircase off the rear balcony that allows a secondary ingress/egress to the structure. After staff summarized this agenda item, Mr. Murphy asked for clarification, with regards to the revision to the PUD, assuming this passes would this satisfy the HOA? Staff replied yes. Mr. Murphy wanted to make sure he understood the order of events...The HOA filed a complaint regarding an illegal structure built without a permit. Staff reviewed the elevation drawings and determined it was not permitted as it wasn't shown on the approved plans. We are approving a minor PUD amendment for a structure that has already been built to allow the structure which should satisfy the HOA? Staff replied yes; however, this is separate from the HOA covenants and restrictions. Mr. Murphy said okay, so the HOA is a separate issue. Staff replied yes. Who originally filed the PUD. Staff replied, I don't have that information in front of me. Mr. Murphy asked if any person owning property within the PUD could file a request to amend the PUD? Staff replied yes. Mr. Miller asked, it doesn't have to be the homeowners? Staff replied, again this is a unique situation because of the modification on his property. If the board permits it on one, then it has to be permitted throughout the entire PUD. Mr. Murphy said just so I understand, HOA aside because that's a separate matter...but if the amendment is approved the stair would be permitted retroactively and then it's a discussion between the property owner and the HOA regarding covenants and restrictions. Staff replied correct. Mr. Fair stated one property owner cannot change the covenants and restrictions it takes the majority of owners. Staff replied is that a statement or a question? Mr. Fair indicated every document that I have been associated with; you need a majority of the property owners to agree to a covenant change. One property owner cannot do it. Staff replied this is not a modification to the covenants and restrictions; the request is to modification the PUD to allow the stairs. Mr. Fair clarified the PUD's that I am familiar with there is always an agreement between the City and the Developer at the time and they both agree to the document. A PUD typically changes some details in a zoning district, so both parties have to agree to the changes to the zoning code. The document outlines the building materials, the number of units, setbacks, open space requirements, community areas and various other items. If the document is changed and this is a change, the majority of the property owners plus the City have to agree to change the document. And typically, the document is recorded. Staff replied looking at the approval process and the documentation on file, that process did not occur. Mr. Fair stated so one property owner can change the conditions for every property owner in that development? Mr. Miller said I understand what Richard is saying because this is an argument that we had when Mr. Hendrix was mayor of the community we discussed PUD's and this kind of situation. The initial agreement was partially with the City and the developer. Is that then an agreement that goes forward. Mr. Murphy added, the PUD definitely goes forward because it is a condition of the property. So any new owner and any subsequent owner is subject to the

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specific conditions that are a part of the PUD but that does mean that where this gets fuzzy. So does a PUD is subject to a public hearing? Staff replied, if a major amendment or new PUD that will trigger a public hearing. Since the proposal is a minor amendment, the code authorized the Planning Commission to review and provide a decision. Mr. Murphy stated, maybe its minor for this property; however, it is major for the implication. Staff replied, not according to the zoning code. The code identifies what is considered a major versus a minor modification or amendment to a PUD. This falls under the minor category. Mr. Murphy said, I understand your point. Mr. Miller said, the controversy comes with the HOA steps in and says we don't allow blue doors we only allow red doors. Staff replied, that happens all the time; however, if the proposal meets the standard as outlined in our codes and ordinances we have no basis for denial. Mr. Murphy asked, if this improvement was going to be made on a property that does not have a PUD, there would have been no zoning issue at all. Staff replied correct. Mr. Murphy asked this could be done on any house outside of the PUD? Staff replied yes. Mr. Murphy continued, as long as it meets the setbacks and all of the other criteria, you could do this. Staff replied correct. Mr. Murphy further clarified, it's just because this particular PUD didn't show the rear elevation with the stairs as constructed. Staff replied correct. Mr. Fair stated the only this that surprises me is that the HOA and the majority of the property owners are not involved in this change to the PUD. So you are saying with the zoning code the City can make those changes without the majority of the property owners being involved? It's one property owner that wants it, not fifty. 49 of the owners may not want this but one does...because it's already built. So we are going to change the covenants and restrictions for one property owner. Staff replied, this would modify the PUD not the covenants and restrictions. Mr. Fair stated, typically with a PUD there is still a covenant that goes with it. There is still a change to the current zoning; the underlying zoning is changed at some point. You said when it was originally approved it did not have the stairs; however, now it's shown. I think that's a zoning change...it's more than just a building change. Staff replied, again per the zoning code, this is defined as a minor amendment which does not require a public hearing. It is reviewed and approved by the Planning Commission. Mr. Fair stated, I find that kind of unusual. Mr. Murphy stated, I agree. Mr. Miller asked, so if we approve this the property owner will have to go the HOA so it would be a 2-step process? So the HOA will then say you can't do this but that at their discretion. Staff replied, yes and if I may I would call Mr. Baysore to the podium to answer some of the questions related to the HOA. It is staffs understanding that Mr. Baysore has provided some information to the HOA to obtain their preliminary approval based on the finalized product constructed onsite if the board would allow him to speak. Mr. Baysore stated he does not have any approval in writing from the HOA; however, the president said it would be fine and there was no opposition for me to proceed with this PUD amendment application. I don't want to put carts before horses so I am trying to take care of things. First things first, then if this passes, then I have to go through the next steps with the HOA of course, to get something in writing from them. Mr. Fair asked, what if the HOA says no? Mr. Baysore replied, I suppose I will have to tear it down. Mr. Fair said but if the City said it's okay...Staff added, that's where it becomes a civil matter between the property owner and the HOA. Mr. Baysore indicated, I am caught in-between a rock and a hard place right now. That's where I am at on this project. I bought the house and it was in the contract it would have steps but not I have to navigate through this. Mayor Brewer said so it's our responsibility to take care of this one piece so you can take care of the rest of it with the HOA and deal with whatever decisions they make. Mr. Fair told Mr. Baysore I am sorry you have to go through all of that just

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for a set of stairs. Seeing no further discussion a motion was made by Mrs. Brewer and seconded by Mr. Glardon to approve the minor PUD amendment, subject to the following conditions:

1. The railing used to line the staircase shall be black metal to match the existing railing on the balcony.
2. All applicable permits shall be issued by the City of Lebanon and the Warren County Building Department prior to the start of construction.
3. Any varying from the approved regulating plan will require additional review and approval by the Department of Planning and Development and/or the Planning Commission prior to any work being conducted at the site.

Upon calling the roll, the motion was unanimously approved.

OTHER BUSINESS

Mayor Brewer noted Mr. Jack Hedges wanted to address the board. Mr. Hedges stated he wanted to interject 2 things: 1. Thank the board for reviewing the Stephens plat. The Stephens plat has to be done and unfortunately they are being stuck with responsibility and expense of platting the property. 2. I want to complement Sam Hill. He has represented the City well and provided assistance on this as well as other matters so I want to commend Sam on his representation of the City.

Staff noted the following cases are on the agenda for the September 20, 2016 meeting:

1. 875 Covenant Way – Map Amendment from R-1C to P-I
2. Fairway Crossings – Assisted Living (Conditional Use)
3. Lebanon Library – Site Plan & Subdivision Plat
4. Lebanon Ford – Site Plan

There being no further business, the meeting was adjourned.

SECRETARY – PLANNING COMMISSION

CHAIRMAN – PLANNING COMMISSION