

HERMITAGE PLANNING COMMISSION

MINUTES

Monday
December 3, 2007
Regular Meeting
8:30 a.m.

MEMBERS PRESENT:

Chuck Rogers – Chairman
Ed Benton
John Coupland
Shannon McConnell
Mark Passalinqua
James Tamber

MEMBERS ABSENT:

Woody Steele – Secretary
Laura Blaire
Chester B. Scholl

OTHERS PRESENT:

Jeremy Coxe
Tom Kuster
Cindy Pagliaroli
Jan Farmakis
Nathan Zampogna
Scott Smith
Gary Hinkson
Gary Gulla
Joe Pinchot
Mike Ristvey
Dwight Ferguson

Steven Victor
Geoff Hartenstein
Lynnette Hartenstein
Gordon Harbison
Faith Malencia
Mark Masters
Tom Flynn
Roberta Knauf

There were seven others in attendance.

Mr. Rogers called the meeting to order at 8:30 a.m. in the Hermitage Municipal Building, Conference Room #303.

Mr. Rogers asked for public input. There was none.

APPROVAL OF MINUTES:

Mr. Rogers asked for approval of the minutes of the November 5, 2007 meeting. Mr. Benton made a motion to approve the November 5th minutes. Mr. Passalinqua seconded the motion and the motion carried unanimously. The minutes were approved as distributed.

SUBDIVISION PLANS:

Caparo / Duferco-Farrell Parcel A-1 (Ohio Street)

Mr. Coxe explained that the purpose of this plan is to allow Duferco-Farrell Corporation to purchase 22.517 acres of land from Caparo Steel Company for potential future development or resale.

Approval of the plan would have the following contingencies.

- 1) Drawing corrections
- 2) Two sets of permanent ink mylars with signatures and seals

Mr. Rogers asked for questions or comments on this plan. There were none. Mr. Tamber made a motion to approve the Caparo / Duferco-Farrell Parcel A-1 Subdivision with the noted contingencies. Dr. Coupland seconded the motion. The motion carried unanimously.

Gulam Moonda Estate Resubdivision of Lot # 1 into Lot # 1A (Trout Island Road)

Mr. Coxe explained that the purpose of this plan is to increase the acreage of the lot with the existing home.

Approval of the plan would have the following contingencies.

- 1) Drawing corrections
- 2) Two sets of permanent ink mylars with signatures and seals

Mr. Rogers asked for questions or comments on this plan. There were none. Mr. Benton made a motion to approve the Gulam Moonda Estate Resubdivision of Lot # 1 into Lot # 1A with the noted contingencies. Mrs. McConnell seconded the motion. The motion carried unanimously.

PROPOSED ZONING ORDINANCE AMENDMENTS:

Recommendation on a proposed Zoning Ordinance map amendment to rezone approximately 20+/- acres of land on the east side of North Hermitage Road from R-1-100 Single Family Residential to Highway Commercial. (Ristvey property)

Recommendation on a proposed Zoning Ordinance map amendment to rezone approximately 9 acres of land on the east side of North Hermitage Road from Institutional to Highway Commercial. (Johnson property)

Mr. Coxe introduced Dwight Ferguson, attorney representing Mr. Ristvey, and Steven Victor of Victor Wetzel Associates who made a presentation of a possible development scenario for the Ristvey/Johnson properties. Mr. Ferguson stated that there are currently no proposed tenants or tentative deals for the properties. Mr. Victor displayed a number of aerial views of the properties, including a drawing depicting a potential commercial development that included access drives on North Hermitage Road. He noted that there are no other means of access to the Ristvey/Johnson properties via the surrounding residential properties. Mr. Victor noted that the proposed development plan provides for a 100-foot buffer to the north and east even though the City ordinance only requires a 50-foot buffer. He said that additional buffering could be provided by the placement of mounding and by the fact that the development would be at a lower elevation than the neighboring residential properties, which would prevent infusion of the lighting toward the residences. Mr. Victor stated that this proposed plan is consistent with current City land development standards.

Mr. Ferguson enumerated the five reasons to rezone these properties and provide for commercial development: the property is land-locked; a commercial development would provide real estate tax benefits to the City; the property was formerly zoned as Institutional; properties on North Hermitage Road have transitioned from R-100 residential to Highway Commercial in the past; there would be no traffic impact to the surrounding residential properties.

There was a discussion regarding proposed buffers for the property. Mr. Victor said that a 100-foot buffer could be established in the covenant for the sale of the property so that any developer would have to provide for such in a proposed development plan. Mr. Ferguson added that enforcement of an established 100-foot buffer by covenant would be at the discretion of the adjoining property owners.

Mrs. McConnell asked why a previous subdivision request for the Ristvey property failed. Mr. Coxe replied that it was an issue of access to the proposed residential development. Mr. Victor added that the properties could be accessed from North Hermitage Road if they are rezoned as commercial, because no

developer would pay one million dollars to develop a driveway merely to access a residential development but they would pay that price to access a commercial property.

Mr. Rogers asked if access could be available from North Keel Ridge Road and Mr. Victor replied that the potential of developing such an access is not possible due to the ownership of the land by the church.

Mr. Rogers noted that the Ristvey/Johnson site of 39 acres is approximately the same size as the Wal-Mart site of 45 +/- acres.

Mr. Coxe reminded the Planning Commission that the request before them was a rezoning request and should be considered on the basis of the land uses in the Highway Commercial district and not on possible development plans for the properties.

There was a brief discussion about vacant commercial properties in the City, and Mr. Victor noted that the Ristvey/Johnson parcel is the largest at 39 acres, followed by the McConnell property at 23.5 acres and the Kraynak property with 21 acres. He said that for a cohesive, commercial development the Ristvey/Johnson properties provide the best opportunity.

Mr. Rogers made the point that although the presentation shows a strip-style development, a big-box store could locate on this site if it is rezoned to Highway Commercial.

Mr. Passalinqua asked if the developers have approached the owners of the abutting residential properties. Mr. Victor replied no.

Geoff Hartenstein, 1271 Foxwood Drive, an adjoining property owner, stated that the Ristvey property is not land-locked because there is an access drive to the property from Foxwood Drive. He noted that the neighbors are all opposed to the requested rezoning and listed various reasons for the opposition. Mr. Hartenstein said that the proposed buffers would take many years to grow enough to provide effective protection to the residential properties.

Gordon Harbison, 3580 Mount Hickory Boulevard, stated that the requested rezoning is not consistent with the Hermitage Comprehensive Plan of 1993, the Route 18 North Corridor Study, and the draft Shenango Valley Comprehensive Land Use Plan. He said that these plans state that rezoning goes from R-1-100 to multi-family dwelling, not commercial. Mr. Harbison noted that the Zoning Ordinance needs to be changed to protect large developments adjacent to residential areas. He said that there are other uses available to the Ristvey property than commercial development. Mr. Harbison said that the requested rezoning would also ruin Rodney White Olympic Park. He felt that a small residential development would be a good use, but a 24 hour-a-day commercial operation would be overwhelming.

Mrs. McConnell said that she would like to know that all possibilities have been exhausted for development of uses that are permitted in the current Institutional zone, such as multi-family dwellings.

Faith Malencia, 1295 Foxwood Drive, said that she has been trying to sell her house but prospective buyers are concerned about what could be developed on the Ristvey property. She noted that the requested rezoning is already affecting the current homeowners.

Lynette Hartenstein, 1271 Foxwood Drive, stated that a commercial development would lower the residents' property values. She said that in regard to the buffers, it would be up to the residents to approach the developer to ensure that satisfactory buffers are installed and that would be an expense to the residents that they could not afford.

Mr. Coxe noted that buffers are regulated by City ordinance and any approved land development plan would need to meet the requirements as set forth in the ordinance. The enforcement of any additional agreements as set forth in deed covenants is a private matter between property owners. Attorney Kuster stated that the City could enforce a buffer that is on a recorded land development plan.

There was a brief discussion about the ability of the City to enforce a 100-foot buffer since the Zoning Ordinance requires only a 50-foot buffer. Mr. Ferguson suggested that by giving the City the authority to enforce the deed covenant for the property, the City could thereby enforce the 100-foot buffer. Mr. Hartenstein stated that the adjoining property owners do not want a commercial development in their neighborhood and he commented that a 100-foot buffer is not sufficient even if a developer would agree.

Mr. Benton asked if Mr. Ristvey could convey a 50-foot right-of-way on three sides of the property to the City. Mr. Ferguson stated that it could be conveyed to the adjoining property owners.

Lynette Hartenstein commented that there are no trees on the part of the Ristvey property that adjoins her back yard. She stated that other homeowners in the neighborhood are having difficulty selling their homes even though their properties do not adjoin the Ristvey property.

Mr. Rogers gave his opinion that the proposed rezoning affects property throughout the City. He noted that zoning is done not only to provide for growth in the City but also to protect people who have based their plans for life on existing zoning, and he feels that the Planning Commission cannot lightly or arbitrarily change a zone.

Mr. Victor said that the proposed development plan provides for a 10-foot high berm on the north side that will provide for screening and a 100-foot buffer on the east. Mr. Rogers responded that all issues are not realistically addressed by the proposed development plan and he commented that a 100-foot field with a double row of pine trees is insignificant.

Mark Masters, 1264 Foxwood Drive, stated that his concern is safety on the streets in the surrounding neighborhoods, and he feels that more commercial development will impact traffic and cause unsafe conditions for the families who travel these streets on a regular basis.

Dr. Coupland stated that he agrees with Mrs. McConnell that more should be done to exhaust all of the possible uses for the properties as they are currently zoned.

Mr. Passalinqua said that Route 18 is where Highway Commercial zoning should be; he also agreed with Mrs. McConnell.

There was a brief discussion during which Mr. Ristvey commented on his former efforts to develop his property and the subsequent actions by the Hermitage Planning Commission and Board of Commissioners.

Mr. Rogers asked if there was a motion for a recommendation for the approval of the Ristvey rezoning request. There was none. Mr. Rogers then asked if there was a motion for a recommendation against the approval of the Ristvey rezoning request. Mrs. McConnell made a motion to recommend against the approval of the Ristvey rezoning request. Mr. Passalinqua seconded the motion. Mr. Rogers voted in favor of the motion. Mr. Tamber, Mr. Benton and Dr. Coupland abstained. Attorney Kuster stated that there was no quorum since there were only three votes, so the motion failed to pass.

(After the meeting, Attorney Kuster reviewed the applicable law regarding abstentions. Based upon this review, he determined that the basic requirement for approval of an action is a majority vote. Majority

vote means more than half of the votes cast by persons legally entitled to vote, excluding abstentions. Abstentions are not counted as votes. Therefore, the number of votes cast was three, thus the motion to recommend against the approval of the Ristvey rezoning request passed.)

Mr. Rogers asked if there was a motion for a recommendation for the Johnson rezoning request. Dr. Coupland made a motion to deny the Johnson rezoning request. Mr. Rogers asked for a second to the motion. There was no second. The motion failed.

Recommendation on a proposed Zoning Ordinance text amendment to provide for regulation of Pet Day Care Facilities.

Mr. Coxe stated that Hillcrest Memorial Park filed an application to define and allow a pet day care facility in the R-2, R-3 and R-4 zoning districts. He explained the proposed ordinance, noting the definition of a pet day care facility.

Tom Flynn of Hillcrest Memorial Park stressed that this facility would not provide overnight stays for pets. He also said that the design of the building would conform to the existing architecture of the neighborhood. Mr. Flynn noted that the hours of operation would be 6:30 am until 7:00 pm and he briefly explained the structure of a typical day for the pets at the facility.

There was a brief discussion about the proposed design of the facility.

David Metz of Dutch Lane asked Mr. Flynn how much of his property he wished to rezone. Mr. Rogers responded that this proposed ordinance was not relative to Mr. Flynn's property specifically, but was instead a text amendment that would affect the entire City by allowing Pet Day Care Facilities as a Special Exception in the R-2, R-3 and R-4 zones.

Dr. Coupland made a motion to recommend approval of the proposed Zoning Ordinance text amendment to provide for regulation of Pet Day Care Facilities. Mr. Passalinqua seconded the motion. The motion carried unanimously.

OTHER BUSINESS:

Buffer / Lighting Requirements – Mr. Coxe stated that the sub-committee is still working on proposed requirements.

Shenango Valley Multi-Municipal Comprehensive Plan update – Mr. Coxe said that the Plan should be ready for review in the near future.

Mercer County Regional Planning Commission update – Mr. Benton said that by unanimous vote the Mercer County Regional Planning Commission rejected the proposal to create an Institutional-3 zoning district in Hermitage.

There were no public comments. The meeting adjourned at 10:15 a.m.

Respectfully submitted,

Cindy Pagliaroli
December 6, 2007