



Planning Commission Minutes

Regular Session – June 24, 2014

6:30 pm

Call to Order – 6:32 PM by Chair Allen Burke

Present: S. Adams, A. Burke, A. Carroll, J. Theilacker, T. Ciccarone, M. Galey

Absent: J. Jones

- 1) Citizen Comments on items not on the Agenda – None
- 2) Approval of April Minutes

MOTION (AC/SA - unanimous) – Approve as submitted.

- 3) New Business
 - a) **Review Sketch Plan** – 614 & 616 West Gay Street

Mr. Fran Iacobucci offered an information packet and a presentation on the proposed construction of five townhomes at this address. Francis Iacobucci Properties have been in business since 1955. The proposed project is development by right. The townhomes are expected to sell in the \$400 thousand range. There is a buffer planned for the east and south edges of the property and the developer intends to seek direction from the neighbors on this and other issues. Sidewalks on Gay and Bradford will be replaced in their entirety. They are seeking to retain as many existing trees as possible but demolition has not been mapped as yet. The project fits into the Borough's 2002 plan.

Mr. Joe Rusella reviewed the storm water management (underground retention) and noted that street trees will be added in excess of the requirements on both streets. A handicapped ramp will be added at Gay and Bradford. Mr. Rusella does not anticipate that the project will require any waivers other than for the use of HDP pipe in the storm water system.

Commission member JT asked if the large existing hardwood on the south end of lot will be lost. A: Probably. AC stated that she believes the sidewalk along Bradford Avenue should be buffered with green space due to the traffic along Bradford and Mr. Iacobucci agreed. AC asked how parking would be managed for 3 vehicle households. A: One in garage, one outside on the driveway, and one on the street. Bradford Avenue is to be signed for no parking and AC requested that the parking availability on W. Gay Street be shown the plan. AC also requested that the corner townhome respect both Bradford and W. Gay via a "two front" design and that bigger than required caliper trees be used in consideration of the loss of large hardwood(s). Mr. Iacobucci agreed.

Mr. Iacobucci noted that there will be restrictions in the homeowner's association covenant regarding exterior maintenance and alterations. Driveways, walkways, and most green space will be maintained by the homeowner's association.

b) Review Proposed Zoning Ordinance Amendment

- 1) Definition of “family” due to complaint with the Fair Housing Act.

The Planning Commission has previously reviewed and commented on this change and has no further comments on the proposed language.

MOTION (SA/MG - unanimous) – The Planning Commission recommends adoption as proposed.

- 2) Consider zoning map change of 220 East Chestnut Street from Town Center (TC) to Neighbor Conservation District 2 (NC-2).

AC noted that the proposed change removes Chestnut Street from TC zoning, which was Borough Council’s original intent, however it results in a single building being divided into two zoning districts. Mr. Eli Kahn spoke regarding the impact such a change would have on his development currently under construction at 220 E. Chestnut. He stated that the change would make any future alterations non conforming and has the potential to negatively impact project finance and property value. He asserted that he followed all the proper procedures to obtain development approval under TC zoning and that the Borough has never rezoned lots that were in the midst of an approved development to make the property non conforming. AC discussed the history of the proposed change, which is meant to correct an earlier disagreement between the zoning map and the intended zoning. Mr. Matt Adams questioned why the change was being proposed for just this one parcel. AC explained that the line was intended to be drawn along the (paper) alley between Chestnut and Gay, keeping Chestnut Street in NC-2. TC zoning on Chestnut Street allows future use of 220 E. Chestnut’s street level as a bar, restaurant, or other TC business.

The Commission and Mr. Kahn discussed the possibility of compromise, for example, a deed restriction prohibiting certain uses, however Mr. Kahn stated that this was impossible at this point in the project. Mr. Malcolm Johnstone, who lives across the street from Mr. Kahn’s development, spoke. He stated that Mr. Kahn has dealt with the neighbors fairly and he supports the project. He also stated that concerns about retail business negatively impacting the neighborhood are probably unfounded since Chestnut St. traffic goes the wrong way to support retail on this side of the street. Mr. Johnstone feels that Mr. Kahn should not be forced to deal with the proposed zoning change. Mr. Kahn noted that the Chestnut St. side has only one entrance and the grade is such that retail is not really practical. JT stated that a zoning amendment that drawing a line through a building is bad zoning.

MOTION: (AC/TC – unanimous) The Planning Commission recommends that Borough Council not move forward with rezoning because:

1. We have a viable zoning map. It is bad practice to divide zoning through the middle of a building.
2. Such a rezoning appears to be a financial burden to the developer, whom the Borough granted development rights to, and may discourage future development in the Borough.

3) Zoning Map change of the Wyeth/Pfizer property from Industrial (ID) zoning district to Mixed Use (MU) zoning district.

SA stated that she believes the proposed re-zoning is a mistake. Changing zoning at this time (prior to a development proposal) gives the Borough less control over the property. It is far better to remain open to proposals for development and be willing to rezone to accommodate those that appeal.

Mr. Malcolm Jonhstone stated he is opposed to rezoning now. The Borough is in the process of updating its comprehensive plan and the outcome of this process should drive the development of the property. Mr. Eli Kahn (EK) stated that he has been involved in the property for some time and the property has environmental liabilities which limit its potential for redevelopment. Pfizer has required interested buyers to have sufficient financial strength to indemnify them against future environmental liability and does not wish to see residential development at the site. EK believes rezoning at this time is not helpful as there is no proposal for redevelopment and therefore no plan for the site. He also stated that he believes retail is undesirable at the site as it would compete with Town Center. AB asked EK if the existing zoning serves to inhibit development. EK: No.

JT stated that he believes the Borough does not need to concern itself with fair share or exclusionary zoning issues should the property be changed from ID as a strong argument can be made for limiting ID in densely populated areas. EK suggested that if any zoning changes are to be made in advance of a development proposal, the Borough should consider creating “master planning” zoning that provides an outline and intent, but leaves much discretion to the developer.

AC discussed numerous concerns with the proposed change to MU. Documented environmental issues at the site, as yet fully characterized, may make it inappropriate for certain MU uses. The property’s proximity to Sartomer exposes it to public safety issues historically associated with Sartomer operations, that may make it inappropriate for certain MU uses (particularly residential). The 200’ setback, presumably proposed to address this, is an enormous waste of land and loss of tax revenue. Elimination of light manufacturing from MU may rule out the most appropriate use of a property with environmental contamination. It is highly desirable to maintain a taxable status for the property and therefore educational uses should be discouraged.

MOTION: (JT/SA) The Planning Commission recommends that Borough Council table the rezoning proposal.

Discussion: AC noted that tabling postpones the action but the Planning Commission feels the action is inappropriate and should not be revisited. In response to this, JT withdrew the motion.

MOTION: (AC/JT – unanimous) The Planning Commission recommends that Borough Council not pursue rezoning until such time as adopted revisions to the Comprehensive Plan suggest that rezoning is appropriate or until such time as a proposal is brought forward for the development of the property by a credible entity. This recommendation is based on the following:

1. The Comprehensive Plan revision is the appropriate place for envisioning the future of this property. This process is underway and will be concluded in the near term.

2. The proposed change may unintentionally reduce viable uses of the property and may introduce undesirable or problematic uses.
3. Before allowing some of the uses compatible with MU, a full environmental assessment should be available in order to protect the Borough from future liability.
4. The proposed 200' setback will reduce taxable land to the financial detriment of the Borough.
5. Permitting educational (and likely non-profit) uses is undesirable because of loss of tax revenue and also because such use may expose the Borough to public safety as well as environmental liability.
6. The proposal deletes light manufacturing from MU, which may be a desirable use at this site. The Planning Commission is developing a proposed definition for light manufacturing which aims to exclude manufacturing with inappropriate impacts for a densely developed community.

4) Amendment to student home requirements eliminating reference to group quarters and homes for the handicapped.

The Planning Commission has previously reviewed and commented on this change and has no further comments on the proposed language.

MOTION (SA/MG - unanimous) – The Planning Commission recommends adoption as proposed.

5) Amend the use regulations in the Mixed Use zoning district to delete “light manufacturing”

The Planning Commission’s recommendation for this proposal is included in 3) above.

6) Amend design standards in the Mixed Use zoning district to require a 200 foot buffer between residential buildings and lots zoned Industrial.

The Planning Commission’s recommendation for this proposal is included in 3) above.

c) Review Procedures of the Planning Commission

MOTION: (AC/MG – unanimous) -- The Planning Commission recommends adoption of the procedures with the following language change to Article VI:

Replace the words “on disk” with “in electronic medium” (three occurrences).

5) Reports

JT reported on the Comprehensive Plan Update. The task force is working on mission, vision, and goals. JT will send out an update after the next meeting. HARB light was discussed and a model ordinance was examined....some type of HARB light seems to be developing. A Sustainability subcommittee has been formed.

6) Adjournment – 9:07. **MOTION** (JT/SA - unanimous)

Respectfully Submitted,
Suzanne Adams, Secretary
West Chester Borough Planning Commission