CITY OF GERMANTOWN PLANNING COMMISSION
MINUTES OF MEETING HELD SEPTEMBER 22, 2021

The City of Germantown Planning Commission met on September 22, 2021 at 7:01 p.m. in the City Council Chambers at City Hall.

MEMBERS PRESENT:

The following members were present at the Call to Order: Jeffrey Jones; Larry Wiser, Rob Rettich, Whitney Izor, and Emily Berry.

ALSO PRESENT:

Chip Wirrig and Dan Mutzner, Public Service Operations; Tom Schiff, Law Director; Keith Brane, City Planner; and George Reinke Sr., the Reinke Group.

CONSIDER APPROVAL OF THE MINUTES OF THE JULY 28, 2021 PLANNING COMMISSION WORK SESSION: Mr. Wiser said the first full paragraph on page four of the minutes of July 28, 2021 was stated by Mr. Schiff, not Mr. Wiser. On a motion by Mr. Wiser, seconded by Mrs. Berry, it was moved to approve the minutes as corrected. On call of the roll: Mr. Wiser, yes; Mrs. Berry, yes; Mr. Jones, yes; Mrs. Izor, yes; and Mr. Rettich, yes. Motion carried.

BUSINESS: Application RZ21-02 to establish a PUD Overlay for the continued development of the Bearcreek Estates.

Vice Chair Izor read the request for a Planned Unit Development Overlay to allow the continued development of the Bearcreek Estates subdivision proposed to contain approximately 84 individual lots for detached single family dwellings. She asked Mr. Brane to summarize any new information regarding traffic studies, the injector pumps, and any other issues.

Mr. Brane said we have a description of the property and what they want to do. Anticipating the effect on existing roadways and intersections, the city requested and provided framework for a traffic impact analysis which was forwarded to the Planning Commission as soon as it was received. Not all the components have been received as of the generation of the staff report. Additionally the city has not yet received analysis of the components from our city's traffic engineer.

Mrs. Izor said they were also going to follow up with information about the grinder/injector pumps. Mr. Brane said they were going to follow up with an explanation tonight.

Mr. Wirrig said what is missing from the traffic report is analysis of the impact of the Weaver Road intersection, we are waiting on that.

Mr. Wiser said if you do not have all the information you need, is it wise to even do any action tonight. Mr. Brane said there are a number of things taking place concurrently and we thought we would meet and work out as much as we could.

Mr. Reinke distributed additional info regarding the traffic study at the Weaver Road intersection from CESO. He said for them to do that, they had to get the counts which were taken last week. The official report is expected around Friday, October 1st or Monday, October 4th. He read the letter from CESO dated September 22, 2021. According to this professional, impact will be minimal and no offsite improvements will be required.

Mrs. Izor said she had a list of requested information from the last meeting: traffic analysis, injector pumps, further definition on rear setbacks, questions about the development being in alignment with the economic development plan, and depth to width lot ratios. Mr. Reinke said we met with Faircreek Environmental Consultants in Warren County and in this particular case they suggested we go with a septic tank with injector pumps. He explained how the systems work. Mrs. Izor asked if these were tied into the public infrastructure. Mr. Reinke said yes; instead of using leach fields, we will pump it into the sewer system.

Mrs. Izor asked Mr. Wirrig if he had experience with this type of system. Mr. Wirrig said not within the last ten years. Mr. Izor asked Mr. Brane if he was aware of any developments in town using this type of system. Mr. Brane said no. Mrs. Izor asked if there was a possibility of eliminating the three sites that required the septic tank and injector pump systems. Mr. Reinke said we feel we are doing what is sensible and environmentally friendly. These are nice, premium lots.

Mr. Jones asked what would be the safeguard to make sure the sewage doesn't go back into the house or into the yards if the system should fail. Mr. Reinke said there are check valves to stop it from going back into the house and there is a warning system if the pump fails. Mr. Jones asked if the injector made noise and if it just came on when someone flushes a toilet. Mr. Reinke said it is similar to a sump pump. Mr. Jones asked where the system would be located. Mr. Reinke said that would be determined at the time someone designs their house. Mr. Jones said so the tank is buried and the pump is somewhere between the house and the front lot line. Mr. Reinke said yes. Mr. Jones said in his opinion the width to depth ratios can't be modified according to city standards which is typically 1 to 3, yet some of these proposed lots are deeper. Mr. Reinke asked since this is a planned unit development, does that give us more flexibility? Mr. Jones said that may happen in a township but we are a municipality and I don't think it's appropriate. From a PUD standpoint it doesn't appear orderly.

Ms. Izor said I haven't heard mention of rear setbacks; has there been any headway. Mr. Reinke said we do have more open space than the previous plan. We had an environmental study done and had to plan around the regulated streams. We can submit that report. Mrs. Izor said that would be nice. Mr. Reinke said we picked a route for the sewer with a minimum amount of grading and that is what determined the road. He displayed the plan and explained the layout. He said we can add in the setbacks.

Ms. Ables, with Rausch, said there has been a lot of discussion about tree removal and preserving green space. Hypothetically, if a person owned this property and weren't looking to develop it, are there regulations in the city that says you can't cut the trees down. Mr. Rausch has been approached by a couple people who would like to purchase the property and log it out. Mrs. Izor said that would be more of a zoning issue for tree farming. Mr. Brane said if you disturb more than one acre the EPA would get involved. Ms. Ables said she didn't know what the regulations are but the development has been based on preserving the trees because it is what makes the property pretty.

Mr. Rettich said preserving the land was the way this was sold to us the first time and apparently that's no longer the case. You cleared the land for the first plan and now you are changing the plan; so you cut down trees for no reason and now you will be cutting down more trees. Mr. Reinke said the trees add value and beauty to the land so no one is going to pay for a lot that has been totally cleared. We will clear as few trees as needed and some redesign was required due to the streams. Mr. Rettich said so the only solution was to double the number of lots. Mr. Reinke said double the number of houses is because that's the kind of project that will be successful. We will show the setbacks on the plan.

Mr. Jones asked what the next step in the process is if the concept is not approved. Mr. Brane said it is our understanding that the plan goes forward to City Council whatever Planning Commission's recommendation is; favorable or not favorable. Your commission is to make a recommendation to the elected body. There is no provision to modify the existing plan, they needed a new plan, and you are making a recommendation on whether that PUD be established. Mr. Jones said I want to get to a point where we make a recommendation, negative or positive, and we don't just keep coming back for meetings. I'm disappointed in the discussion about removing the trees; to me it seems passive/aggressive. I've never been in a meeting where we've had discussion and basically what I perceive as veiled threats and I find it unprofessional. I'm trying to figure out where this development is going and it's a very deliberate process. I want to get to a point where we can make a recommendation and not coming back three or four times and going back and forth with these statements. I'm just trying to figure out where we are going to go from here.

Mr. Schiff said it sounds like door number one or two but we still have option three since we don't have all the information; this can be tabled.

Ms. Ables said I would like to respond to the passive/aggressive comment; that is not my intention at all. We are getting frustrated and from our perspective we are trying to preserve the green space. As we pointed out we have more green space in this plan than the last plan. If the issue is the three lots, let's talk about that. Every time we get through one issue it goes back to how many trees are we going to cut down. Mr. Rausch isn't interested in selling the land to a logger but I'm telling you somebody came to him and said there are some beautiful trees on that lot – we'll buy it from you and log it out. Mr. Rausch wants to do a nice development. That may have come across the wrong way but my question to you is what if a person bought a wooded piece of property. Is there a regulation that says you can't cut down the trees.

Mrs. Izor asked Mr. Brane if this was titled revision two so there isn't any confusion in the future. Mr. Brane said what you are doing is a planned unit overlay district establishment procedure and your job in that is to recommend to City Council the establishment of that overlay. City Council establishes the overlay pursuant to Chapter 1141. To answer Mr. Jones earlier question, once the overlay is established, the Planning Commission takes over on the preliminary and final plans. There is an overlay in place for which there is no provision for it to be modified.

Mr. Reinke asked if there was a provision for the overlay to expire after one year. Mr. Brane said the overlay never expires if they had returned with a preliminary plan it would have had to been acted on in a certain amount of time. Same for the final but there is no provision for expiration of the overlay which was requested by the property owner and established by Council. Mr. Reinke said so the plan that was approved with the overlay is still effective. Mr. Brane said correct. Mr. Reinke said that plan can't be developed because of the way the streams are. We can go back to the drawing board and show the setbacks in these sensitive areas if that helps promote the plan.

Mr. Schiff asked if it was possible to reconfigure the lots in a way that doesn't increase or significantly increase the number of lots but avoid the problems your original engineer apparently missed. Mr. Reinke said we would have to realign the streets which is what we did here. Going back to the number of lots, being in the R1AA zoning, they are all less than 9,000 square feet. We have to have more lots so people can afford them. Mr. Schiff said not from a cost effectiveness, can you build on this property 42 or

thereabouts lots but avoid the problems your engineer missed with respect to the streams. Is that doable? Mr. Reinke said yes; I can get 84 in there or 40.

Mr. Rettich said I have the same concern Mr. Wiser mentioned earlier; staff has requested traffic information from them and we still haven't received that. Are we actually able to vote on this, making an informed decision without that information. Mr. Schiff said you theoretically could make a decision without all the information. I know the administration and staff has concerns about the traffic issue and my advice is to keep in line with what the issues of the staff and administration are and table it until you can get that. Some of the information could have been provided tonight but staff has to have time to review it.

Mr. Reinke said this is a 66 page traffic study we provided weeks ago. Mr. Rettich asked if it included all the information staff requested. Mr. Reinke said the only thing it didn't include we didn't get until about two weeks ago. Oakes didn't get in touch with their traffic engineer so we went out and had someone assess it. We paid the money and had them do the study. These are not normal things to do for this level of intensity. We will do it, we've already started it, but it really wasn't necessary per ODOT regulations.

Mr. Wiser said since we don't have all the information we need, I suggest we table this until it is completely done.

Mrs. Izor asked for a summary of the outstanding information – information of the injector pumps, the traffic study, alignment with the economic development plan, and lot ratios.

Mr. Jones said looking at the map, the closer the lines are together the steeper the grade is. Looking at the lines, it looks more conducive to a 40 lot subdivision rather than 84. It seems like you've made it harder to place homes by increasing the number of lots. That's my observation.

Mr. Brane said with regard to the injector pump info, what else do we want to see or know. Mrs. Izor said just the general specifications. Mrs. Berry said maybe the manufacturer or sales brochures. Mrs. Izor mentioned alignment with the economic development plan. Mr. Brane said it is on the application but everyone I ask about it gives me a blank look so I have to suggest it doesn't exist or didn't go through. I will check on it.

Mr. Brane said on lot ratios, do you just want to see those established? Mr. Jones said just see if the lots meet the width to depth ratio. The way I read the subdivision regulations there is no allowance for modification even with a PUD. That's how I read it. I would like to see a map of the lots where it meets the width to depth ratio. Mr. Brane said even if he comes back with more lots. Mr. Jones said I guess but I don't see how he could do that with the existing topography. Mr. Brane said typically it's stated in terms of minimums so if somebody wants to have a bigger lot than that typically it's okay. Mrs. Izor said I understand the concern and I'm wondering if there is information to help us better understand this. Mr. Jones said it looks like a jigsaw puzzle right now; I would suggest reconfiguration so they are all in a similar direction.

Mrs. Izor said the three lots in question aren't even 100 feet from Cherry Street; isn't it possible to tie into the sewer there. Mr. Reinke said there is no sewer there. Mr. Wiser said the three lots that are going to have the pumps, is that designated as a flood plain? Mr. Reinke said no and pointed out the flood plain on the map.

Mrs. Berry asked if they knew how many lots did not meet the lot ratio. Mr. Reinke said no but we can check it. I would suggest that once the homes are built you won't see the lot lines. We can go through and put building areas on each lot if you think that would be helpful.

Mrs. Izor asked if Mr. Brane had all the information he needed to summarize what was still needed. Mr. Brane said for the injector pumps we need specifications and sales brochures, the traffic study received and reviewed by the traffic engineer, find out about the economic development plan, and the question about lot ratios being in compliance. Mr. Jones said let the Law Director do that. Mr. Brane said if he locates the pads will that help your lot ratios question. Mr. Jones said as long as it looks more uniform like a PUD. Mrs. Izor said we also asked that the nonconforming lots be identified.

On a motion by Mr. Wiser, seconded by Mr. Rettich, it was moved to table case RZ21-02 until all requested information is received and reviewed. On call of the roll: Mr. Wiser, yes; Mr. Rettich, yes; Mr. Jones, yes; Mrs. Izor, yes; and Mrs. Berry, yes. Motion carried.

Ms. Ables asked if they wanted the environmental study that was done. The board agreed yes.

ADJOURNMENT:

With no further business, the meeting adjourned at 8:09 p.m.

_____
Jeffrey Jones
Chairman, Planning Commission

_____
Keith A. Brane
City Planner