

**CITY PLANNING COMMISSION
MINUTES OF MEETING
September 26, 2019 – 6:00 P.M.
TOWN HALL**

Present: Commission Members – Mr. Melosky, Mr. Malozi, Mr. Barker, Mr. Stellato and Ms. Cohen. City staff included Darlene Heller and Tracy E. Samuelson of the Planning and Zoning Bureau, Eric Evans, City Business Administrator and Michael Alkhal, Director of Public Works. Matt Dorner and Tiffany Wells representing the Engineering Bureau and Attorney Edmund Healy attended as Solicitor to the Commission. Representing the applicants were Abe Atiyeh, Attorney DeFelice, Dominic Villani and Atty. Holzinger. Representing the press were the Morning Call and the Express Times.

1. APPROVAL OF MINUTES – June 13, 2019 and August 26, 2019.

Mr. Stellato made a motion to approve the minutes of the June 13, 2019 Planning Commission meeting. The motion was seconded by Mr. Malozi and passed with a 3 – 0 vote. Ms. Cohen and Mr. Melosky abstained.

Mr. Melosky made a motion to approve the minutes of the August 26, 2019 Planning Commission meeting. The motion was seconded by Ms. Cohen and passed with a 5 – 0 vote.

2. NON-UTILITY CAPITAL IMPROVEMENT PROGRAM – 2020 through 2024

Mr. Evans provided a broad overview of the Capital Plan and the major revisions from prior years. He explained that the Funding / Spending Schedule spreadsheets dated August 28, 2019 were the spreadsheets of sources of cash or funding which will help with the upkeep of the infrastructure, whether it would be replacement or rebuilding.

Mr. Evans presented a Power Point presentation and explained the revenues and spending from prior years to the present.

Mr. Stellato asked Mr. Evans to explain about the status of the golf course - how it is progressing with funding and what has been accomplished. Mr. Evans explained the golf course is separate from the Capital Plan and stands alone as an enterprise fund.

Mr. Malozi remarked the Planning Commission has a representative on the blighted property review committee and asked if there is any change towards the approach of blighted properties. Mr. Evans referred the question to Ms. Heller. Ms. Heller remarked there is a backlog in properties and the City is continuing to work on the list which would be presented to the Planning Commission. She added there are also initiatives to implement components of the blight study. Mr. Stellato mentioned the Goodman building was bought by the City. Ms. Heller explained it was through conservatorship the City took control of the building.

Mr. Melosky made the motion to approve the Capital Improvement Program to be passed onto City Council. The motion was seconded by Mr. Malozi and passed with a 5 – 0 vote

3. SITE PLAN REVIEW

a. (19-004 Site Plan Review) 1838 Center Street - Bethlehem Mews – Ward 14, Zoned I, plan dated August 27, 2019. The applicant proposes to construct four 4-story apartment buildings containing 125 dwelling units on a 5 acre lot in an Institutional Zone.

Mr. Abe Atiyeh, owner of the property, introduced himself. He explained they would like to construct luxury apartments at the Center and Dewberry location. He informed the location is zoned Institutional. He added there was an application before the Planning Commission for a hospital plan years ago, which was approved. He noted that case is pending now in the Commonwealth Court and they are expecting a decision soon on that case.

Mr. Atiyeh stated he has an apartment complex operator who told Mr. Atiyeh if the site is approved for apartments, they would purchase the property and construct apartments.

Mr. Atiyeh advised he is still pursuing the Psychiatric Hospital because of the crisis in our country for psychiatric care. He noted as a second alternative he does have someone who wants to build luxury apartments at that location. He stated he is here to propose an option to allow for 124 apartments in 4 buildings which could be 3 or 4 stories.

Mr. Atiyeh then read from the Zoning Ordinance what is permitted by right in the Institutional zone.

Mr. Atiyeh stated the use he has submitted is the least offensive use for that neighborhood. He remarked that he is bringing in a residential use, apartments, in an Institutional Zone which is surrounded by residential uses and he still has opposition.

Mr. Melosky advised Mr. Atiyeh he appreciates the fact he reminded the Planning Commission members of all the things which are allowed and we are waiting for the site plan presentation.

Mr. Atiyeh stated it is a 4 story residential use for the neighborhood and he feels it complies with the 3 residential zones with which they adjoin. He noted the site plan is the same site plan which he presented before. He remarked the Planning Commission looked at it and said everything was OK, except it wasn't zoned right. He added they have an NPDES permit and a PennDOT permit in place. He is asking that the Planning Commission recommend favorably that the use is more compatible with the surrounding neighborhood than all the Institutional uses he has mentioned.

Mr. Melosky clarified that in 2010 the Zoning Hearing Board denied 102 units and the overall density at that time was 2100 sq. ft. per unit. Ms. Heller agreed. Mr. Melosky remarked that those buildings were 3 stories and in 2019 Mr. Atiyeh is asking for 4 stories with 125 dwelling units. Mr. Melosky asked Mr. Atiyeh if there is anything else in his presentation for this site plan review.

Mr. Atiyeh noted after reanalyzing the site they realized they can comply with everything within the zoning ordinance, except use. He said he could build 125 independent living units and it would not have to be approved because it is permitted by right. He added he wants to build apartments and not an assisted living facility because that market is oversaturated.

Mr. Malozi asked if assisted living was approved in 2008. Mr. Atiyeh agreed, but he stated the market fell and it was too risky. Mr. Malozi noted a few months ago Bethlehem Manor was looking to expand and wondered if that is still on the table. Mr. Atiyeh remarked they were denied.

Mr. Melosky noted in the September 20, 2019 letter from the City Engineering Bureau, it mentions the plan lacks much of the information necessary for a through engineering evaluation. Mr. Dorner remarked the site plan does not have any utilities shown, including stormwater, which is a big issue. Ms. Heller advised this is just a site plan review. A lot of comments in this letter originate with the history of the site since some of the prior plan reviews were important. She added the City would agree that a residential use could be appropriate at this site, but 125 units are more than double the density of the residential development that surrounds the site. She

mentioned that looking at compatible development, the number of units would have to come down for us to support a residential project. She noted it is not the residential nature of the development but the density of the development that is most important.

Mr. Barker expressed that he supports the use and the City is in need of apartments.

Mr. Melosky asked Mr. Atiyeh if he would be opposed to lessening the density. Mr. Atiyeh responded he would consider lessening the density. He noted he is asking for 25 units per acre and instead of independent living, allow for high end luxury apartments.

Mr. Stellato noted Mr. Atiyeh was down to 96 units in January 2017 and in December 2016 he withdrew from the Zoning Hearing Board hearing his appeal. Mr. Atiyeh remarked he lost in front of the Zoning Hearing Board because he wanted 102 units and then backed off from the 96 units.

Mr. Atiyeh remarked he would settle at 96 units if the Commission would consider that request.

Mr. Malozi advised the Planning Commission's concern is the density. Their purview is with the sketch plan and to focus on the layout, traffic and neighborhood compatibility. Mr. Malozi noted it is factual that the property abuts the RS & RG zoning districts. RS is single family homes and RG is medium density, which is 4000 sq. ft. per dwelling unit. He added what is being presented is 1742 sq. ft. per dwelling unit. He noted it would not be compliant for high density. He added in terms of its compatibility with the neighborhood it is not compatible with the two other nearby zoning districts.

Mr. Atiyeh stated he feels he has presented a reasonable compatible use with the neighborhood based on what could be developed in the Institutional zoning district.

Mr. Melosky advised the Planning Commission's job is the site plan review which Mr. Atiyeh presented. He quoted from Article 1322 that their role is to forward their review to the Zoning Hearing Board including comments for use. He added the Planning Commission may recommend conditions of approval that should be considered by the Zoning Hearing Board or the Planning Commission may recommend disapproval.

Chad DiFelice, Atty. from Goudsouzian and Associates, is representing a number of the neighbors objecting to the uses Mr. Atiyeh has presented. He noted Mr. Atiyeh indicated numerous times there were plenty of opportunities for him to use this land under the current permitted uses listed in the ordinance, but Mr. Atiyeh just doesn't want to do that. He added they have been down this road with the apartments and now he wants to add an additional 30 apartments from the 96 apartments which were denied. He added the request was not only denied by the Planning Commission and the Zoning Hearing Board, but by two separate courts that approved the decision to deny the application and the variance use. He added we are going down the same road that we've been through before. He noted legally he was not sure if this application would be permitted, due to res judicata, since it has been decided, it is the same person and the same use. He is not really sure; especially since earlier this week Mr. Atiyeh indicated to the newspaper he was 100% sure he was going to get through litigation that is currently ongoing in the County Court for the Psychiatric Hospital. Atty. DiFelice sees what Mr. Atiyeh is trying to do. He is trying to strong arm the Planning Commission, saying he can do all these various things, but he doesn't want to do those things. He has had this property for this long; he knows the other uses he mentioned that he could develop there just don't work for him, for whatever reason, whether it won't be as profitable, etc. He added he lived in this city for almost 20 years and 125 apartments at that location, where Bethlehem Catholic is located and you wait at the stop light at Dewberry Avenue proves this location could not support another 125 apartments with 1 ½ cars per apartment. The ingress and egress is not going to work there and

where is the stormwater going to go from all those apartments. He added water is already running down across the street into these neighbors' properties. He added it is a great idea and he would love to see nice apartments there, but it is not going to work in that particular area and Mr. Atiyeh knows that. He remarked that is why he is applying for this use again, trying to get these apartments approved with a new board. He added Mr. Atiyeh did it 7 or 10 years ago and he is trying to do it again. He is not sure why we are going down this road with apartment use when Mr. Atiyeh has just named numerous uses and he identified people that would be very interested in things like urgent care or hospitals. He remarked Mr. Atiyeh has people interested in buying it now for apartments and that is why he is trying to squeeze it through. He stated that is not what the board is here to do, to allow Mr. Atiyeh to do whatever he wants with this property.

Christine Ussler, 1949 Main Street, stated whatever uses are approved for the site or constructed she wanted to be on record with her concern about the stormwater drainage. She showed a copy of a photograph and a site plan sketch analysis of the stormwater flows in the area. She added all of the water now on Center Street at that low point goes into an inlet. A pipe system which is under Northfield Apartments collects more water from Main Street and flows under her driveway through her property. Currently it is stressed to the limit. She presented another photograph she took while standing on her front porch of the storm water inlet at her driveway which she believes was at its maximum limit. It is not able to take any more water. She explained it is like a river coming down the side of their property. She urged however this property gets developed the major concern has to be the stormwater. She stated there are also geological issues where infiltration is a problem because you are building on a Karst formation.

Susan Glemser, 2132 Sycamore Street, who lives in the neighborhood is not against apartments, but against high density living.

Mr. Barker made a motion for the approval of 1838 Center Street with 96 units. The motion was seconded by Mr. Melosky and was denied with a 3 – 2 vote.

Mr. Malozi made a motion to deny the requested variance for 125 units, but would consider a reduction in density from the 125 units in the current proposal and all comments in the Planning Commission letter to be forwarded to the Zoning Hearing Board. The motion was seconded by Ms. Cohen and passed with a 5 – 0 vote.

3. ZONING MAP AMENDMENTS

- a. South Side of Blake Street from Single Family Residential District (RS) to Medium Density Residential District (RG).

Mr. Barker at this time recused himself from the review of this project.

Atty. Holzinger reviewed an aerial and described the neighborhood. He reviewed the land development that would be proposed for the site, which includes 2 story condos in townhouse styles. He reviewed a covenant that would be placed in each deed to maximize height at 2 ½ stories. They would be 2 bedroom, 2 bathroom units and 26 units in all. The developer would offer to redo Linford Street as part of the development which would cost approximately \$200,000.

Glenn Breidenbach, 2314 Henderson Street, represents the neighbors on Henderson Street. He feels this is the most acceptable plan and supports the rezoning as proposed.

Mary Anderson, 2324 Henderson Street, supports the project. She believes it would be a good fit and should be approved.

Tim Rippert, 1039 Decatur Street, adjoins the project. He supports the plan and feels it is a very good proposal.

Mr. Malozi made a motion to recommend the proposal to City Council with inclusion of open space, buildings containing 2 ½ stories, and the inclusion of stormwater and infrastructure improvements. The motion was seconded by Ms. Cohen and passed with a 4 – 0 vote.

The meeting adjourned at 8:00 P.M.

4. DISCUSSION ITEMS

There were no discussion items for this meeting.

ATTEST:

Darlene Heller, Commission Secretary