

**CITY OF LEBANON
MUNICIPAL REGIONAL PLANNING COMMISSION**

May 26, 2009

Town Hall Meeting Room

5:00 PM

Members Present:

Robert Schmidt	Rick Jones	Paul White	Mayor Philip Craighead
Pam Black	David Taylor	Joe Hayes	

Others Present:

Seth Rivard	Will Hager	Andy Wright	Regina Santana
Lt. Pat O'Brien	Joyce Allen	Magi Tilton	

Chairperson Robert Schmidt called the meeting to order at 5:00 P.M. David Taylor opened with the invocation followed by Chairperson Robert Schmidt leading the Pledge of Allegiance.

Chairperson Schmidt explained the order of proceedings.

Chairperson Robert Schmidt asked City Planner, Magi Tilton, if there were any changes to the agenda. Ms. Tilton stated there were several changes to the agenda. They would like to move Item #3 under Other Business to be the first item to be considered tonight under New Business and would like to note the Amendment has been changed from what was distributed in your packets to no longer be addressing the R-1A District. We will be bringing a separate amendment to you that would be looking at churches in all of the residential districts. We also would like to remove Item #2 Ford Quick Lane, under New Business. We found is that it had been an auto repair type business in the past and it would still be permitted under a grandfather clause having met the time frame, therefore rezoning is no longer necessary and the applicant has withdrawn the request.

Chairperson Robert Schmidt asked if the Planning Commission members had read over the minutes and requested a motion. A motion was made by David Taylor, seconded by Paul White, all voting aye, except Rick Jones, to approve the minutes of the April 24, 2009 regular Planning Commission Meeting as written.

CONSENT ITEMS

There were no consent items on the agenda.

NEW BUSINESS

1. Zoning Ordinance Amendment – Amendment to allow churches and other places of worship in the R-1A, B-1, B-5, M-2 and M-3 Districts.

Planner, Seth Rivard, explained currently in the B-1, B-5, M-2 and M-3 districts, churches and other places of worship are not allowed either by Use on Appeal or permitted by right. Churches and other places of worship are permitted as a Use on Appeal in most of the residential districts. Churches and other places of worship are permitted by-right in the B-3 and B-4, and M-1 and M-4 districts. Staff believes it is appropriate for churches to be located in these other districts. The B-1

District would allow churches and other places of worship as a Use on Appeal and churches and other places of worship would be permitted by-right in the B-5, M-2 and M-3 Districts.

Planning Commission member, Rick Jones, asked if this was discussed in the Preliminary Planning Meeting.

City Planner, Magi Tilton, stated that we discussed this prior to you having an ordinance. There was some general discussion about churches being in certain districts and a compromise for this has brought about the ordinance.

After discussion a motion was made by Mayor Craighead, seconded by Pam Black, all voting aye, to recommend to City Council for their consideration.

2. Rezoning – Bridge Fellowship – Hwy. 70 and Powell Grove Road – Map 47 Parcel 37 – from Ag to B-1 – 9.15 acres (Ward 6)

Planner Seth Rivard explained this is a rezoning request for property on the corner of Hwy. 70 and Powell Grove Road. The applicant originally requested B-3 and has changed that request to B-1. The Future Land Use Plan identifies this area as Residential Mixed Use, which incorporates all housing types, Low, Medium and High densities, and light commercial activity directly adjacent and accessible to residential areas. The surrounding land use and zoning to the north is vacant property zoned Agriculture, to the south and east large lot single family zoned R-1A, and to the west large lot single family zoned County R-1.

John Dewaal, representing this item, was available to answer any questions.

John McGee, owner of property to the north and east of the property in question, stated he remembers when this went through a year or so ago; and if he remembers correctly, there was a need for sewer to this property. He has not heard of any sewer being available to this property.

John Dewaal explained they are discussing with the City Engineer how to go about this and have a proposal to connect to the pump station at Kensington. They have already met with one neighbor about getting an easement across their property and will make contact with the other neighbor.

Kathy Warmath, Councilperson for Ward 6, explained she had spoken with Dr. Neely and he is very supportive of this rezoning.

Planning Commission member, Rick Jones, stated at the preliminary meeting, basically the rezoning is for the betterment of the financial institution for funding. Are we not setting a precedent letting the financial institute dictate the zoning district?

John Dewaal explained the church is looking at several financial institutions. He stated that it was his idea for rezoning as a way to enhance the property for financing and feels it is a good choice for this area.

Chairperson Robert Schmidt asked how much of the 9.5 acres was to be used for the Bridge Fellowship and what is to be done with the rest of the property.

John Dewaal explained there is no intent to sell off any part of the church property; they have a need for all of it.

After further discussion, a motion was made by Pam Black, seconded by Mayor Craighead, all voting aye, to recommend rezoning to City Council for their consideration.

3. Rezoning – Gary McNabb – Tuckers Gap Road – Map 80 Parcel 17.00 – from R-1A to B-3 – 12.4 acres (Ward 4).

Planner Seth Rivard explained the Future Land Use Plan identifies this area as Commercial/Office intended to provide commercial activity that accommodates the office and business facilities where residents work and commute to daily. The applicant owns the property to the east that has been approved for the Hartmann Plantation Apartments. The property to the south was rezoned from R-1A to B-3 in 2008. The surrounding land use and zoning to the north is vacant property zoned R-1A, to the south and west vacant property zoned B-3, and to the east vacant property zoned RM-6 with a site plan approved for apartments.

The property owner, Gary McNabb, was available to answer any questions.

After discussion a motion was made by Rick Jones, seconded by Joe Hayes, all voting aye, to recommend to City Council for their consideration.

4. Final Plat – Habitat for Humanity Property – E. Market and N. Owen Street – 0.76 acre – 5 lots (Ward 2)

Planner Will Hager explained the property is located on the northwest corner of East Market and Owens Street. It creates five lots and the plat now complies with that district. Since this does create five lots the requirement for sidewalks will apply. The existing sidewalks present along East Market will probably need to be rehabbed. Staff recommends several conditions be included in any approval of this Final Plat.

Planning Commission member Pam Black asked when the sidewalks would be completed and/or repaired. She is aware that Habitat for Humanity will not be able to complete them all at once.

City Planner Magi Tilton explained as each house is built the sidewalk in front of that home would be required to be redone and/or completed.

After discussion, a motion was made by Pam Black, seconded by David Taylor, all voting aye, to approve the Final Plat, subject to the following conditions:

1. Sidewalks along E. Market will need to be repaired and new sidewalks shall be provided along Owen St. by the developer prior to Certificates of Occupancy being issued.
2. Subject to Engineering, Cross Connection and Fire Department requirements.

5. Site Plan – Hartmann Plantation, Section 1, Phase 1C – Tuckers Gap Rd. – 22 Units (Ward 4)

Planner Seth Rivard explained this is the third phase with 22 units. The parking, landscaping, building materials and sidewalks along Tuckers Gap Road, all comply with the Preliminary Site Plan. Staff recommends several conditions be included in any approval of this Site Plan.

Gary McNabb, representing this item, was available to answer any questions.

Planning Commission member Pam Black asked City Planner Magi Tilton if we had talked about what happens if the fence falls down; can we not make them fix it?

City Attorney Andy Wright explained if it was on the approved Site Plan, then yes we can make them repair it.

After further discussion, a motion was made by Joe Hayes, seconded by Rick Jones, all voting aye, to approve the Site Plan subject to the following conditions:

1. Fire hydrants shall be provided spaced no further apart than 500 feet.
2. Subject to Engineering, Cross Connection and Fire Department requirements.

6. River Oaks PUD – Hwy. 70 & Palmer Road – One-year Time Extension

~~City Planner Magi Tilton explained this PUD was approved in January of 2007 with three phases of single-family portions being approved in August, September and October of 2007. The applicant is requesting a one-year extension on those approvals.~~

The sidewalks were already proposed. There is nothing in our regulations that require anything more that would cause the PUD to not comply with our current regulations. Staff suggests that the one-year extension begin August 28, 2009, based on the date that the first final plat would expire.

Bert Williams, with Civil Site & Design, representing this item, was available to answer any questions.

After discussion a motion was made by Pam Black, seconded by Rick Jones, to approve a One-Year Time Extension beginning August 28, 2009.

OTHER BUSINESS

1. Zoning Ordinance Amendment – Amendment to sidewalk requirement related to the expansion of existing sites.

City Planner Magi Tilton explained in the packets was the Zoning Ordinance Amendment regarding amending the sidewalk requirement relating to the expansion of existing sites. The amendment would modify the percentage of renovation and/or expansion at which sidewalks would have to be installed. The percentage would be increased from 25% to 50%. Staff looked at site plans this afternoon and there were none 25% or less. We had quite a bit of discussion on this issue during our Preliminary Meeting.

Chairman Robert Schmidt asked if the question before the Planning Commission is: Do we increase the percentage from 25% to 50%?

Planning Commission member Pam Black asked why it is necessary to change the percentage.

Councilperson for Ward 6, Kathy Warmath, explained we are struggling with this. I know the vision is to have a walkable community, but you run into parts of the city that will never have sidewalks. The last two or three meetings we have had several individuals to come up and some we have waived and now we have another to come up in the same area and that makes it a case by case decision; that makes a bad policy sometimes. The problem is really in the manufacturing areas, and the bottom line is, our vision is still a work in progress. Until we get to an absolute, we are struggling and penalizing people for growth. Ms. Warmath respects the Planning Commission's ideas and thoughts on it, but it is still a work in progress.

Chairman Robert Schmidt stated he agrees with Pam Black, why do away with 25%, why take it out in case there is that one individual who might fall in that category. If we haven't used it yet then why take it out unless you can show me that the 25% would fall into a commercial area where you may or may not want sidewalks; that is his and the Planning Commission's issue with this. He does not see any reason for it.

Planning Commission member, David Taylor asked City Planner, Magi Tilton, how long has this sidewalk ordinance been in effect to get those figures you are showing us?

City Planner, Magi Tilton, explained this is from the last approximately two years. This is just for expansion; it has nothing to do with a brand new site.

Councilperson for Ward 6, Kathy Warmath, states she respects whatever you come with, but what this does to us the City Council, is we have to do a case by case with each case having its own issues. We basically now have an issue with a sidewalk going nowhere, which is a large expenditure for that business. We have to treat them all the same. It is a bumpy road and you do with it how you want to, she feels that it will be back in their corner. We need to treat people the same.

Councilperson for Ward 3, William Farmer, explained that he was the one to make the motion to send it back to the Planning Commission. We look to you for guidance; you are the people guarding the vision of what Lebanon will look like. He asks Planning Commission to deal with sidewalk problems and when you send one in-lieu of, a waiver or whatever; make sure a recommendation is sent along with it to let us know your thoughts. That's what he would like for the Planning Commission to do; it will help us a lot.

Chairperson, Robert Schmidt, explains it is the understanding of this Planning Commission that we have two options; either we recommend that pay in-lieu of or they put sidewalks in. He did not know we had an option in saying or recommending it be waived.

City Attorney, Andy Wright, explained, this discussion came up at City Council regarding Joseph Storehouse debate, and you are correct Mr. Chairman, the sidewalk ordinance that City Council passed provides for two courses of action; they install sidewalks or payment in-lieu of, there is no third option. His best recommendation would be to amend our current sidewalk ordinance and provide a third option, so that in a total waiver or money to be paid this body could make that recommendation and send it on to City Council.

Councilperson for Ward 3, William Farmer, at this time, stated he wanted to go on record saying he does not like that recommendation. He would appreciate you put in-lieu of, or put sidewalks in, only those two options.

Chairperson, Robert Schmidt states; there again he would have to ask the city attorney if according to these two option in the Sidewalk Ordinance, can we recommend a waiver of the whole thing.

City Attorney, Andy Wright, explained at this point he could not recommend this Planning Commission to ever send a recommendation of a total waiver up to City Council. If it does not exist then this body can not do it. His advice to the City Council is you do have the ability to amend on the fly or amend on the total as you go, because it is your legislation. No one wants to make the tough call, but if someone has to make it at least we have some enabling ordinance providing for that option. We risk potential litigation if an enabling body does not make that decision.

Mayor Philip Craighead, mentioned in regards to our Sidewalk Ordinance, it has a lot of holes in it and we are going to have to look at it and decide the areas we absolutely want to have sidewalks or like Tater Peeler Road or Maddox Simpson that would be a long time in coming because of cut in curb and drainage, etc. Other issues are where a large road frontage, but a small business on the corner or where sidewalks would cost more than development would cost so there are many things that we are going to have to discuss. We are all going to have to go back to the drawing board on sidewalks and look again at the whole issue.

John Dewaal, suggests that the Board of Zoning Appeals may be the appropriate body for offering relief from the sidewalk requirements on site plans.

Planning Commission member, Rick Jones, stated should we not just scrap this whole sidewalk issue in our Zoning Ordinance that we have now.

Councilperson for Ward 6, Kathy Warmath, explained she would like if we could do something in the near future to just get some very selective, not case by case, but in these areas we want 100% sidewalks, no discussion. Just help us on this one that is all she asks.

After discussion a motion to deny was made by Rick Jones to leave the ordinance as it is now at 25%, due to the fact from day one he has had issues with sidewalks and he is not going to vote on a bad ordinance, seconded by Pam Black, reason being she is not in favor of changing our whole zoning ordinance for one complaint, all in favor except Mayor Philip Craighead voting no. Motion passed.

Mayor Philip Craighead, mentioned again that we are going to have to look at this again because sidewalks at some places just don't make sense especially out there on Tater Peeler Road and others places like that. We are going to have to sit down and rethink this through.

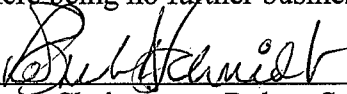
2. Adoption of Planning Commission By-Laws

City Planner, Magi Tilton, explained that we have a set of by-laws that are at least five years old. We have looked at these by-laws as well as some in the surrounding areas and have made several changes and re-worded some of them. The changes are as follows: Article 2, Section 3 was amended based on a question raised at the preliminary meeting after a discussion with the City Attorney. The amendment is consistent with Robert's Rules of Order and allows the Chairman discretion to vote either on every item or only to break a tie, this discretion is intended to fit the

personality of the Chairman. The amendment also encourages the Chairman to not make or second a motion without saying that the Chairman cannot make or second a motion.

A motion was made by Rick Jones, seconded by David Taylor, all voting aye, to approve the changes to the Planning Commission By-Laws.

There being no further business to come before the board the meeting was adjourned at 6:05 p.m.



Chairperson, Robert Schmidt



Date