

**Minutes**  
**Regular meeting of the City of Reading Planning Commission**  
**February 24, 2015 at 7:00 pm**

**Members present:**

Ermete J. Raffaelli, Chairman  
Michael E. Lauter, Secretary  
William F. Cinfici

**Staff present:**

Andrew W. Miller, Planning Office  
Deborah A.S. Hoag, Department of Public Works

**Others present:**

Daniel H. Laudenslayer, Tarson LLC  
Miguel A. Herrera, Milan Consulting Group  
Leopoldo Sanchez, Super Natural Produce  
Kelvin Sanchez, Super Natural Produce  
Delmin Then, Super Natural Produce  
Francis G. Acosta, City of Reading  
Carole B. Snyder, City of Reading  
Matthew J. Mack, Ludgate Engineering Corporation  
Glenn S. Worgan, HAR Associates LP  
Patrick J. Dolan, Dolan Construction Inc.  
Pablo Tejada, Olivet Boys & Girls Club of Reading & Berks County  
W. Bradford White, Olivet Boys & Girls Club of Reading & Berks County  
Michelle A. Katzenmoyer  
Michael D. Hartman, DH Enterprises Inc.  
Rafael Abreu, Jet Set Restaurant LLC  
Stephen F. DeLucas, Reading Eagle Company

Chairman Raffaelli called the February meeting to order, and asked for acceptance of the agenda. Mr. Cinfici moved to accept the February 24th agenda, as presented. Mr. Lauter seconded. And the Commission voted unanimously to accept the February agenda.

**Subdivision and Land Development:**

Super Natural Produce – final land development plan [0:00.51]

Mr. Laudenslayer mentioned updating the ‘existing conditions’ representation of the building, before he first surveyed it, and the challenge of working from the available aerial mapping. Asked if he was seeking a partial waiver of those requirements, he said he provided as much detail as is possible. He said he added the adjoining property-ownership information, additional zoning notes, adjusted ‘area and bulk’ numbers, and notes reflecting the extent of construction ahead of the plan. Asked about the stability of the retaining wall, between the western property line and the adjacent alley, he mentioned having taken photographs and offered to seek a structural assessment. He said it’d been in place for forty years, and presents a quarter of an inch ‘out of plumb’ in its four-foot height. He said the proposed landscaping may require some added drainage piping, and agreed to detail it with the plan revisions. Ms. Hoag questioned the addition of the chain-link fence, concerned that its posts may impact the wall’s structure. Mr. Laudenslayer said it was there, as of his December 29th visit, and deferred to his client regarding the details. He suggested its assessment be included as a condition of a plan approval. Mr. Raffaelli asked for an update of the building-code issues. Mr. Miller understood there to remain several issues and inspections for the building officials. He asked if there were any specific problems with his last review letter, besides the existing conditions requests. Mr. Laudenslayer felt he had addressed the other comments. Ms. Hoag asked about stormwater management documentation. Mr. Laudenslayer said the whole site was paved, wondering if he must still submit comparative numbers if achieving a slight reduction in impervious cover. Ms. Hoag asked that something documenting that change be provided. Asked about a possible right-of-way encroachment, mentioned at the January meeting, she said the parking spaces at issue had since been removed from the plan. She asked if the coverage and setback measures had been approved by the Zoning Office. Mr. Miller said they hadn’t reviewed the current plan, and he was instead relying on the Zoning Hearing Board’s decision. Having checked that the other members were through their questions, Mr. Raffaelli characterized the unusual circumstance: work having commenced, whether by present or recent owners, without the required plans, permits and inspections. He hoped

that they'd resolved some of the issues, and assured answers on the rest. Referring to a staff recommendation for a conditional approval, he warned that any pressure on City staff to overlook procedures wouldn't be tolerated by the Commission, and that, if approved, everything from there forward must be compliant and satisfactory to the inspectors. He said that employees are not to be intimidated in the performance of their responsibilities to the community. Mr. Cinfici appreciated the recent cooperation of the applicant, while sensing a pattern in his experiences with some more-recent projects. He questioned the legal extents and assumptions of a plan approval by the Commission, especially where the line between the existing and proposed features is ambiguous. He wondered what real penalty results from such a violation.

At Mr. Miller's suggestion, Mr. Lauter moved to grant a final plan approval, conditioned on a revised plan for recording that satisfies the latest reviews of the Planning Office and Public Works Department, to include a stormwater management narrative, a professional assessment of the retaining wall's structural integrity, and that any intended drainage infrastructure through it be detailed on the plan, with consideration given to a modified placement of the landscaping based on that assessment. Mr. Cinfici seconded. And the Commission voted unanimously to conditionally approve the final plan for 'Super Natural Produce'.

#### Resolution #4-2015

Mr. Raffaelli stressed that the City intends to promote development, and the importance of continued interaction with the staff. Ms. Snyder introduced herself as the City's Managing Director, and offered her perspective on the situation, feeling the applicant intends to do the right thing. She affirmed the Chairman's admonition regarding any intimidation of staff, and expressed her confidence that the Chief Building Official and the Fire Marshal wouldn't approve anything without safety assurances. She offered her availability to any subordinates experiencing such pressures.

#### Homes at Riverside – final land development plan [0:28.59]

Mr. Mack recalled his recent interaction with the City staff, and noted the review letters from the Planning Office and Public Works Department. He characterized their remaining comments as technical edits. He described the location of the project, a 47-unit apartment complex and community building, and a reduction in impervious cover from what exists as a parking lot. He said they've obtained the necessary zoning relief, and offered additional façade and floor plan details. He explained the arrangement of off-street parking in garages and spaces at the rear of the buildings, and additional capacity available on the perimeter streets. He mentioned the sidewalk installation and intersection upgrades proposed as part of the construction. Asked if the garage spaces were physically divided between the occupancies, he confirmed they were, but for the six expanded and 'accessible' garages. Ms. Hoag advised further consideration of a proposed 'drop' connection to an existing manhole, and its adequate diameter for access and maintenance. She asked for additional information on the curb ramp installations, and acknowledged a pending sewage facilities planning module. Asked if they had reduced the overall residential density of the project, Mr. Mack said no such changes we made since receiving the zoning variance. Mr. Miller noted that it was the basis of the preliminary approval, and asked if the applicant had any issues with the latest review. Mr. Mack said they did not. Ask about the total parking space count, he said '82', between garages and off-street spaces. Mr. Cinfici alluded to some questions raised in the County Planning Commission's May 2014 review. Mr. Miller explained that the first submission suggested townhomes, and that their comments seemed to have assumed a 'fee simple' ownership of the units. Asked about the rental rates, Mr. Worgan explained that the two- and three-bedroom units would measure 1180 and 1545 square feet respectively. The two-bedroom handicapped-accessible units would rent between \$301 and \$350 per month, with the standard two-bedroom units ranging between \$753 and \$870 per month. The three-bedroom units would rent between \$904 and \$1044 a month. Those rates include utilities (in contrast with a representation made at the April 22, 2014 sketch presentation). Mr. Cinfici wondered what determined a need for more apartment units in the City, and how they'd be marketed. Mr. Worgan said his research indicated a 'great need'. He offered numbers reflecting the 'net rents' when considered without the utilities, figuring: \$174 to \$194 per month, for the two-bedroom-accessible units; \$626 to \$777, for the two-bedroom standard units; and, \$750 to \$889, for the three-bedroom units. Asked about the subsidies, he mentioned the construction financing, but nothing in terms of the operation itself. Mr. Raffaelli asked for information on the geothermal heating and air-conditioning design. Mr. Worgan said they typically install a well for each unit, with a mechanical closet inside. Mr. Raffaelli, referring to the floor plan distributed, recognized a common pump room for each 'building'. Mr. Worgan said he wasn't prepared or qualified to answer specific questions about the design. Mr. Mack said the architect will design and order the final drilling locations, which he understood to be placed underneath the buildings. Asked if they were of an open- or closed-loop design, and about any back-up systems, he deferred to the architect. Mr. Raffaelli stressed the need to provide reliable access, for maintenance purposes. Mr. Miller, hearing of it for the first time, said they'd need to provide some detail on its placement, vis-à-vis the other land development features. Mr. Mack said they could add the well locations, at least. Asked about the entrance/exit routes for the units, Mr. Worgan said

each unit will have entrances from both the street side (front) and through the garages (rear). Mr. Lauter wondered how the assigned parking arrangements and potential violations would be enforced. Mr. Worgan explained that it would be a formal term of the leases. Asked how it would be resolved if an offending vehicle wasn't that of another tenant, Mr. Worgan assumed it would be enforceable against their host, and suggested a possible requirement that guests park on the street. Mr. Lauter felt the plan was still short on parking, practically. Asked for his recommendation, Mr. Miller repeated the concern of the excessive density, but recommended a conditional, final plan approval.

On Mr. Miller's suggested terms, Mr. Lauter moved to approve the final plan, subject to revisions satisfying the latest Planning Office and Public Works Department reviews, including additional curb ramp details, and details on the location and characteristics of the geothermal system and its associated wells. Mr. Cinfici seconded. And the Commission voted 1 yea to 2 nays, defeating the motion, and effectively denying the 'Homes at Riverside' final plan.

#### Resolution #5-2015

Mr. Worgan reminded the Commission of the Mayor's support for the project, and that offered by the City in its financial commitments. He mentioned their 'substantial investment', and the other funding sources already secured. Mr. Miller considered the possible outcomes. Mr. Raffaelli suggested they address the Commission's concerns and reapply. Mr. Mack asked if it were about anything other than the density. He recalled the previous presentation (Super Natural Produce) having 'many more issues' and still receiving its approval. Mr. Raffaelli affirmed that density was the issue. Mr. Mack insisted that, with the zoning approval, the issue was 'off the table', and questioned whether any other section of the ordinances were at issue. Mr. Miller agreed with the Commission's position on the density – a clear policy aim of the Comprehensive Plan – but again recommend approval based on the conditions he listed. He predicted consequences if the Commission based its denial on the density issue alone, referring to the zoning appeal. He regretted that procedure, and the pattern of the Zoning Hearing Board's decisions, but alluded to the roles defined by the State statute. He said the Commission's own preliminary approval, and the City and County financial commitments, would only weaken the Commission's legal footing. He believed the law compelled the Commission to approve the plan. Mr. Cinfici acknowledged the applicant's cooperation and investment, but staked *density* as a valid concern of a planning agency. He moved to reconsider the prior vote. Mr. Lauter seconded, if only for the reasons specified by the staff and the perspective of a prior experience of the Commission. Mr. Miller assured that the reasons for the Commission's opposition would be adequately documented in its records. And the Commission voted 2 to 0 to reconsider its previous vote.

Mr. Lauter again moved to conditionally approve the final plan, subject to the same conditions regarding the latest staff reviews, the curb ramps and the geothermal wells. Mr. Cinfici seconded. And the Commission voted 2 to 1 to conditionally approve the 'Homes at Riverside' final plan.

#### Resolution #6-2015

#### Pendora Park Olivet Boys & Girls Club – preliminary land development plan [1:11.28]

Mr. Dolan presented the plan, as the design engineer was unavailable. He understood an earlier issue regarding the disclosure of deed restrictions to have been resolved. Ms. Hoag said her review, completed earlier that day, had gone directly to the engineer. She summarized some of its comments, including issues with the methodology used in the stormwater and floodplain studies, and the form of an indemnification statement. She suggested the latter issue might be more-appropriately resolved between the attorneys. She questioned what appeared to be a seven-inch drop between the emergency exits and the designed grade. After a brief consideration, that difference was determined to be from the revised vertical datum, and the adjustment of the elevation contours. Some spot elevations had yet to be corrected. Mr. Dolan said the only other changes were a repositioning of the loading area and a handicapped space, and a slab-on-grade 'patio' in place of the rear deck. He said Olivet is willing to offer the City indemnification, in whatever language is deemed acceptable, alluding to challenges and uncertain variables in the calculation of flows from a theoretical dam breach. Mr. Raffaelli asked how they intended to resolve a finding in the recent title search, limiting the use of the property to 'street, park or playground purposes, and for no other purpose, object or design whatsoever.' Mr. Dolan suggested that the Olivet Club's recreational facility would be consistent with 'the spirit' of that restriction. He mentioned the existing clubhouse, and its similar purpose. Mr. Raffaelli offered his support for the Olivet mission, but considered it a 'private party', in contrast, and recalled a previous experience where a similar restriction prevented the City from building a fire station on land they owned. Mr. Miller noted that City Council had already approved the use and lease. He recognized the arguable subjectivity of the restriction's wording, alluding to his own interpretation of what it meant. He suggested the Commission's role was to require its disclosure, albeit somewhat preempted by the governing body's action. Mr. Cinfici wondered if the plan's approval should be made subject to the interpretation and opinion of the City's Solicitor. Mr. Miller noted that the Solicitor advises City Council, though unsure of what information they had

available at the time of their consideration. He clarified that the Commission wasn't granting or denying the permission to use the property. He didn't recall the exact language or terms of the restriction cited in the fire station case, and hesitated to compare the circumstances. He suggested a rarely-exercised provision of the Pennsylvania Municipalities Planning Code (§303.a), giving the planning agency an opportunity to review proposed uses of public grounds and buildings, and offer recommendations based on comprehensive plan objectives, might have revealed the issue earlier. Mr. Lauter considered the Commission's role, thinking it proper to ask the question, but ultimately the Olivet Club's problem if challenged. Mr. Raffaelli felt a heightened responsibility because of the City's *ownership*. Mr. Lauter recalled the early concerns and opposition voiced by the neighbors, assuming the City and Olivet Club had performed their 'diligence'. Mr. Cinfici thought it reasonable to note the concern, and request additional input as a part of the approving action. Mr. Dolan suggested another 'hold harmless' statement absolving the Commission. Mr. Miller thought that a possible resolution, and deferred to the attorneys, characterizing the issue as a question of what the gifting party intended. He considered the land development plan to all but meet the 'preliminary' requirements, and recommended its conditional approval.

Mr. Lauter moved to approve the preliminary plan, conditioned on a final plan satisfying the latest Planning Office and Public Works Department reviews, and that the parties' respective legal representatives convene to discuss a resolution of the deed restriction issue. Mr. Cinfici seconded. And the Commission voted unanimously to conditionally approve the Olivet Club's 'Pendora Park' preliminary plan.

**Resolution #7-2015**

#### Jet Set Restaurant Parking Area – parking lot land development plan [1:49.03]

Mr. Hartman reported that he'd added additional zoning notes to the plan, and drafted a cross-access easement between the owners of 124 and 126 South 9th Street. He believed he'd addressed the remaining Planning Office comments. Ms. Hoag distributed a draft of the forthcoming Public Works Department review. Mr. Hartman intended to record the plan, deed and easement simultaneously, but suggested recording the easement in advance if preferable. He said he'd clarify a possible encroachment issue concerning a parking arrangement on 112 (114?) South 9th Street, and thought they might be applying for their own highway-occupancy permit. He intended to consult the Plumbing Inspector regarding the trench drain design, and add details. He said he'd follow-up with the Law Department about the municipal improvements agreement, and would incorporate the highway-occupancy permitting plans into the full set. A reference to the easement would be noted, once it is recorded.

Mr. Cinfici moved to approve the parking plan, based on its satisfaction of the latest Planning Office and Public Works Department reviews. Mr. Lauter seconded. And the Commission voted unanimously to conditionally approve the 'Jet Set Restaurant Parking Area' plan.

**Resolution #8-2015**

#### **Other business:**

#### §609.c review-conditional use procedures ordinance (amending the Zoning Ordinance's Part 12) [2:00.52]

Mr. Miller said he didn't have much to add, sensing the need for additional legislation to implement their preferred procedure. He said he was aware of City Council's dissatisfaction with the former 'administrative-hearing officer' reviews of the conditional-use applications, and understood the practice to have been suspended for the last couple years. He thought the administration was aiming to renew that effort, having previously awarded a contract to another attorney assuming the role. It was apparently never executed, but he was unsure of the circumstances. He didn't object to anything in the present bill, but expected another amendment to follow.

Mr. Lauter moved to recommend City Council's passage of the amendment, and follow-up with the legislation necessary to implement the alternate procedure. Mr. Cinfici seconded. And the Commission voted unanimously to recommend adopting the amendment, removing the 'administrative-hearing officer' role in the review of conditional-use applications.

**Resolution #9-2015**

#### review the draft 2014 Planning Commission Annual Report [2:07.15]

Mr. Miller explained that he was seeking an approval of the report's general content, and a review of the section detailing the members' community involvement. He said he'd have to submit the report by that Friday (February 27th), in order to meet the March 1st statutory deadline.

Mr. Cinfici moved to accept the draft 2014 Annual Report. Mr. Lauter seconded. And the Commission voted unanimously to approve their 2014 Annual Report

**Resolution #10-2015**

#### review the draft January 27, 2015 meeting minutes [2:10.28]

Mr. Lauter moved to accept the January meeting minutes, reserving an opportunity for any corrections offered by absentee members. Mr. Cinfici seconded. And the Commission voted unanimously to accept the January 27th meeting minutes.

**Resolution #11-2015**

Mr. Miller reported on a renewed interest in completing the 'Aramark Parking Lot' plan, for 1100 Schuylkill Avenue, and offered some background on its denial at the March 2009 meeting. He also expected a 'revision-to-record' plan of the 2012 'Gehris Self Storage' project at 612 McKnight Street, for extra parking spaces recently approved by the Zoning Hearing Board. He said members may notice an off-street parking expansion at 117 Marion Street, designed just shy of the Planning Commission's review threshold. He mentioned a new employee entrance proposed for the Berks County Services Center at 633 Court Street, on its Washington Street side, and some sidewalk encroachment and pedestrian crossing concerns.

§513.a approval reaffirmation-Mimmo's Restaurant Additions [2:14.34]

Mr. Miller requested the Commission's reaffirmation of the Mimmo's plan, having passed the 90-day recording deadline set by the Pennsylvania Municipalities Planning Code. He said they were still finalizing the plan revisions, and expected a record set the following month.

Mr. Lauter moved to reaffirm the final plan approval for the Mimmo's expansion. Mr. Cinfici seconded. And the Commission voted unanimously to reaffirm their October 28th final plan approval, Resolution No. 34-2014, for the Mimmo's Restaurant Additions.

**Resolution #12-2015**

Mr. Lauter moved to adjourn the February meeting. Mr. Cinfici seconded. And the Commission adjourned the February 24th meeting. - 9:20p