

Minutes
Regular meeting of the City of Reading Planning Commission
July 14, 2009 at 7:00 pm

Members present:

Ermete J. Raffaelli, Chairman
Brian Bingaman, Vice Chairman
Michael E. Lauter, Secretary
Wayne Jonas Bealer, Assistant Secretary

Staff present:

Andrew W. Miller, Planning Office
Michelle R. Mayfield, Department of Law

Others present:

Peter M. Simone, Simone Collins Landscape Architecture
Eugene F. Long, Bogia Engineering Inc.
Daniel P. Becker, Kozloff Stoudt, PC
Patrick J. Dolan, Dolan Construction Inc.
Rafael Jimenez-Cortes, Sr.
Rafael Jimenez-Cortes, Jr.
David A. Kostival, Reading Eagle Company

Chairman Raffaelli called the July 14th meeting to order, and asked for acceptance of the agenda. Mr. Miller reported the postponement of the "Police Firing Range and Support Building" plan. Mr. Lauter moved to accept the July agenda, as modified. Mr. Bingaman seconded. And the Commission voted unanimously to accept the July 14th agenda.

Subdivision and Land Development:

Volunteer Firemen's Memorial Bandshell Renovation - concept plan (a §303.a review) [0:01.05]

Mr. Simone distributed paper copies of a PowerPoint presentation, and described the several-year background to the project, beginning with the F. X. Browne, Inc. work on the pond hydrology, and continuing with Simone Collins' master plan for City Park. He said they've both been retained, with other firms, for the renovation of the pond and the Bandshell. He reported two presentations to the Historical Architectural Review Board, who expressed their "general agreement" with the plans. He noted one public meeting already, and another scheduled for July 30th. He expected they'd finish the construction drawings by then, and begin construction in September. He said the City has allocated the necessary funding. He said the necessary permits have been requested from the Pennsylvania Department of Environmental Protection and the Berks County Conservation District. Among the goals, they planned: to dredge and repair the pond's bentonite liner, move audiences closer to the stage performances with an amphitheater-like seating arrangement, establish wetland areas with natural plants, connect a well to supply the pond's fresh water, grade a gentle slope toward the water line to encourage safe public interaction, install a floating fountain for aesthetic value and improved aeration of the water, and construct a small plaza area fronting the Bandshell. He proposed removing four existing trees; two for poor health, the others for location conflicts. He explained a small retaining wall planned, 18 to 24 inches in height (lower than would require protective barrier under the building code), bordering the path, with skateboard deterrents. He said the flagpole would be given a more prominent position. He briefly listed the improvements planned for the Bandshell itself: concrete repair, masonry re-pointing, repair of its fountain, and one of several two-tone repainting schemes shown to the Architectural Review Board. He described the planned, cast-in-place LED bollard lighting as having an "art deco feel", while other fixtures would be more classical in style. A canopy structure over the stage, and a movie screen were suggested as possible "bid alternates".

Asked about the recently-installed underground electric lines, Mr. Simone confirmed that they'd have to be reinstalled. Mr. Bealer asked if the bollard lighting was intended primarily for the walking path. Mr. Simone said it was, trying to avoid taller poles that could interfere with views of the stage. He expected only 10 to 12 formal events per year, considering the more passive uses of the Park the rest of the time. Referring back to the electrical issues, he said there isn't enough service currently, and planned an additional connection from the "stable building". He said water has leaked into other conduit, complicating the situation. Mr. Lauter liked the concept of the reshaped

pond, but expressed concern with people swimming in it. Mr. Simone, citing his experience in planning water features without fences, and with the liability carriers insuring them, referred to the grade of the slope as a measure of safety. Mr. Lauter clarified that he was also thinking of the potential damage to the pond and its plantings. Mr. Simone said the plant materials chosen for the edging were primarily high grasses which would at once direct human access to certain preferred points, and discourage Canadian Geese. He contemplated “no swimming” signs, but hesitated in restricting all physical interaction with the water, noting the recreational and educational benefits. He suggested the City consider a zero-depth, spray feature elsewhere in the Park, in order to divert attention. He called the challenge, between encouraging responsible interaction with the water feature and discouraging its abuse, a “very fine line”. Mr. Bingaman asked if the trees being removed would be replaced. Mr. Simone said they will be adding trees and a lot of other plantings. He said new tree locations were somewhat restricted by the need to protect the integrity of the clay pond liner from aggressive roots. Asked about the styles of the lighting fixtures, benches and trash receptacles, he said they’d be looking to set the standard for the whole Park. Mr. Lauter noted the identifiable style around the Veterans’ Grove memorial, and thanked the designers for their efforts at coordination.

225 Penn St. Parking Lot Plan - parking lot land development plan [0:32.07]

Mr. Long distributed copies of an aerial photo to illustrate the project’s location. He said the building occupying the lot was no longer in use, and indicated the driveways on Penn and Court Streets. He proposed demolishing the building, backfilling the basement with its rubble, paving the lot for use as surface parking, and establishing a green buffer strip and shade trees. He said the 32 spaces would provide off-street parking for the “Gateway Building” at 201 Penn Street. He said the earth disturbance would be small enough to preclude the requirement for an NPDES permit or formal erosion and sedimentation control plans, requiring only silt fencing and a rock construction entrance. He acknowledged the Planning Office review, believing everything could be addressed. With regard to the shared driveway, he noted an “existing condition”, and the wall along the rest of the common property line.

Mr. Lauter asked if the parking would be metered, and available to the public. Mr. Long said it was intended for the Gateway Building tenants and their clients. Mr. Lauter noted the Parking Authority’s role managing parking facilities in the Commercial Core zoning district. Mr. Long said they were discussing the matter with the Authority.

Mr. Miller thought that construction entrances were generally included within the measured ‘area of disturbance’. Mr. Long agreed, estimating it would bring that measure to about 4,300 square feet, still short of the legal threshold for full erosion and sedimentation control planning.

Mr. Miller reported that there was no zoning permit, and no County Planning review.

Asked about the screening provided, Mr. Long described a small green area and shade trees between the parking lot and Penn Street. Mr. Raffaelli asked if the Penn Street driveway allowed ‘ins and outs’. Mr. Long answered yes. Mr. Bealer wondered if the Pennsylvania Department of Transportation would have any jurisdiction, either on the design or turn restrictions. Mr. Miller wasn’t sure, still waiting on the City Engineer’s review.

Mr. Bealer moved to table the parking lot plan, pending the receipt of some other necessary input. Mr. Bingaman seconded. And the Commission voted unanimously to table the “225 Penn St. Parking Lot Plan”.

King Taco Land Development - final land development plan [0:53.10]

Mr. Becker introduced himself as legal counsel to the land owner. Mr. Dolan recalled the clear-sight triangle at the corner of North 9th and Green Streets as the major issue with the previously-submitted plan. He reported that the building design had since been modified to observe that setback. Asked about other projections, Mr. Dolan noted the 4-foot canopy across the front of the building. He said a service window would allow for pickups from the outside, and that the Zoning Hearing Board allowed for some indoor seating.

Mr. Raffaelli maintained his position, noting the residential zoning, and what he deemed to be invalid variances from the Hearing Board. He complained that the narrow construction was impractical, and especially unfit for a prominent urban corner.

Referring to the landowner’s lawsuit against the Commission for its previous denial, Mr. Miller asked what evidence supported the plaintiff’s allegation that two other City projects had been granted waivers of required clear-sight triangles. Mr. Becker said those answers would develop with the lawsuit, and weren’t appropriate for discussion. Mr. Miller thought it a fair question. Ms. Mayfield called it a matter for litigation. Mr. Lauter, expressing his general agreement with the Chairman’s sentiments, suggested that, when properties are demolished, the infill should respect the character of the neighborhood, a position the Commission made clear when the plan was first presented. Recognizing that the Hearing Board granted variances, and that the City administration had given its

tacit endorsement, he felt that the Commission was forced to approve the project. Mr. Raffaelli contested any inference that the land owner was unaware of the zoning regulations on the subject property. Mr. Becker warned that the Commission was bound by law to respect the Hearing Board's decision. He said the developer had addressed the basis of the plan denial, and that the Commission's approval was now required by law. Mr. Raffaelli countered that the variances were not appropriate, and may be illegal. Ms. Mayfield said the Hearing Board's decision was not challenged with the time limits of the law, and so stood.

Mr. Bingaman moved to approve the King Taco plan, per the clear-sight triangle revision, and a municipal improvements agreement to be provided. Mr. Bealer seconded. And the Commission voted, 3 to 1, to approve the "King Taco" final land development plan, Mr. Raffaelli casting the dissent.

Resolution #37-2009

Other business:

clean-up of the Buttonwood Gateway's "Parcel 3" [1:10.01]

Ms. Mayfield, recalling complaints voiced in previous meetings, reported an improved situation in the Buttonwood Gateway industrial park. She mentioned discussions with City building officials and Our City-Reading, Inc., and distributed photos showing the work. Asked about the waterline required, Ms. Mayfield believed it installed, but requiring further testing. She said Hydrojet's occupancy permit is dependent on it.

§209.1.b.4 review-residential sprinkler systems required, proposed amendment to the International Building Code (ICC) [1:12.54]

Ms. Mayfield reported attending the inaugural meeting of the Pennsylvania Association of Fire Code Officials, who were considering the International Code Council's inclusion of mandatory fire sprinklers in new residential construction as part of the 2009 International Residential Code. She said there is a movement in Pennsylvania's General Assembly, which normally adopts the ICC codes as the Pennsylvania Uniform Construction Code, to strip the provision from the adopted code. Recalling the Commission's previously-expressed concerns regarding fire safety in construction, she presented a model resolution for the Commission's consideration. Ms. Mayfield read...

- *Whereas*, analysis of fire injuries and fatalities conclusively show that the majority of such incidents occur in residential properties;
- ... every major fire safety conference in the last 90 years has called for improvements in the area of residential fire safety;
- ... the United States Fire Administration (2008) has stated "The USFA fully supports all efforts to reduce the tragic toll of fire losses in this nation, including the proposed changes to the International Residential Code that would require automatic sprinklers in all new residential construction.";
- ... the Fire and Life Safety Section of the International Association of Fire Chiefs (2008) resolved "No other action can possibly be more responsible for saving citizen and firefighter lives and personal property than adding residential sprinkler protection to our homes.";
- ... America Burning Re commissioned (1999) recommended "No tactic or strategy should detract from the requirement for sprinklers." and "Smoke alarms should always be the locality's second option.";
- ... efforts are underway to block the requirement for residential sprinklers in the Commonwealth of Pennsylvania;
- ... the City of Reading Planning Commission feels that the fire fatality and injury rates in the Commonwealth of Pennsylvania are unacceptable; and,
- ... every major fire safety organization recognizes that the installation of automatic sprinklers will have a definitive long-term effect on reducing such losses.
- *Now, therefore, be it resolved*, the City of Reading Planning Commission supports the requirements for the installation of residential sprinklers and opposes any attempt to block said mandate in the Commonwealth of Pennsylvania.

Ms. Mayfield clarified that the requirement, if adopted, would cover all new residential construction, regardless of occupancy level. Asked if the resistance was related to the expected costs, she mentioned a heavy lobbying effort.

Mr. Bealer recalled a severe house fire in Lower Heidelberg Township that prompted a Township supervisor to convene an advisory panel to consider a similar rule by ordinance. He said Fiorino Grande sat on that

panel, and warned of an additional \$4000-6000 cost per home. Mr. Bealer likened the homebuilders' resistance to the automobile industry's initial resistance to mandatory seatbelts. Ms. Mayfield said other potential savings, namely homeowners' insurance premiums, must also be calculated. Mr. Bingaman noted the potential for malfunction and leakage adding to the potential costs. Mr. Miller asked that the Municipalities Planning Code §209.1.b.4, giving the Planning Commission an advisory role in building code issues, be included in the language of the resolution. Mr. Raffaelli felt a better first step would be requiring masonry firewalls, extending through the roof, in all party wall construction, which would address noise/privacy concerns as well as fire containment.

Mr. Bealer moved to accept the resolution, as worded, and with the applicable Planning Code section cited. Mr. Lauter seconded. And the Commission voted unanimously to support the Fire Code Officials' efforts to maintain the residential sprinkler requirement.

Resolution #38-2009

Mr. Raffaelli asked about progress on a traffic impact ordinance. Ms. Mayfield mentioned having materials for the Commission's review, to be distributed at the August meeting, if not before.

Mr. Bealer remarked that the Blighted Property Review Committee would hold its first certification hearing¹, Thursday July 16th. He said the Committee will likely certify the subject properties as blighted, beginning a 60-day countdown, during which their owners must abate the nuisance, or face a September 16th determination hearing. If so "determined", the Committee would then move to take the properties through eminent domain. At that point, the Planning Commission will have an opportunity to weigh in on the fate and reuse of those properties. Mr. Miller asked if the Redevelopment Authority was ready to do its part as custodian of those acquired properties. Mr. Bealer intended to confirm that situation.

Mr. Bealer reported that members of the Vending License Board will meet with the "Downtown 20/20" study group, July 25th, to consider vending machines and how to regulate them in the Commercial Core. He noted a complaint from one of the downtown cart vendors about the permitted hours of operation; 9:00a to 8:00p daily. He said Miguel Colon, operating in front of 625 Cherry Street, asked that the restrictions be changed, citing a loss in morning coffee sales. Some additional discussion followed. The Commission raised concerns, but no firm objections.

rescheduling the Commission's regular meeting times (vis-à-vis the Zoning Hearing Board's) [1:34.47]

Mr. Miller suggested the Commission act on the change of meeting date, as discussed at the June meeting. Discussing when it would take effect, Mr. Bingaman advised that sufficient time be given as a courtesy to applicants intending plan submissions. Mr. Raffaelli suggested September. Ms. Mayfield noted the fourth Tuesdays' proximity to the Thanksgiving and Christmas holidays, wondering how that might affect travel plans and meeting attendance. Mr. Miller said he had checked the Planning Code deadlines, Berks Community Television's availability and the Penn Room reservations.

Mr. Lauter moved to reschedule the regular monthly meetings of the Planning Commission to the fourth Tuesdays, at 7:00p prevailing time, beginning September 22nd and continuing thereafter. Mr. Bingaman seconded. And the Commission voted unanimously to reschedule their meetings to the fourth Tuesdays of each month.

Resolution #39-2009

review the draft June 9, 2009 meeting minutes [1:43.55]

Mr. Lauter moved to approve the June minutes, as presented. Mr. Bingaman seconded. And the Commission voted unanimously to accept the June 9th minutes.

Resolution #40-2009

Mr. Lauter moved to adjourn the July meeting. Mr. Bingaman seconded. And the Commission voted unanimously to adjourn the July 14th meeting. – 8:48 pm.

¹ Per Mr. Bealer's correction: July's meeting of the Review Committee was for "determination". The September date is the certification hearing.