

Minutes
Regular meeting of the City of Reading Planning Commission
May 12, 2009 at 7:00 pm

Members present:

Ermete J. Raffaelli, Chairman
Michael E. Lauter, Secretary
Wayne Jonas Bealer, Assistant Secretary
Frederic dep Rothermel, Jr.
Brian Bingaman

Staff present:

Andrew W. Miller, Planning Office
Michelle R. Mayfield, Department of Law
Charles M. Jones, Department of Public Works

Others present:

Joseph E. Dolan, Dolan Construction Inc.
Lawrence G. Grybosky, Spotts, Stevens and McCoy, Inc.
Kimberly M. Fasnacht, Spotts Stevens & McCoy, Inc.
Robert P. Stackhouse, Stackhouse Bensinger Inc.
Kevin M. Gaffney, Albright College
Edward R. Kappenstein, Albright College
Michael D. Hartman, McCarthy Engineering Associates, PC
Gregg A. Bogia, Bogia Engineering Inc.
Albert R. Boscov, Reading Hospitality, LLC
Adam Mukerji, Reading Redevelopment Authority
Lawrence H. Lee, Reading Parking Authority
Sun-Hee Hwang, Timothy Haahs & Associates, Inc.
Daniel F. Luckey, Reading Redevelopment Authority
David A. Kostival, Reading Eagle Company

Chairman Raffaelli called the May 12th meeting to order, and asked for acceptance of the agenda. Mr. Lauter moved to accept the May agenda. Mr. Bingaman seconded. And the Commission voted unanimously to accept the May 12th agenda.

Subdivision and Land Development:

Review the **final** land development plan for **King Taco Land Development**, a restaurant proposed at that parcel known as 501 North 9th Street [0:00.29]

Mr. Dolan, carrying twelve plan sets for signatures, thought the Commission familiar enough with the proposal for what he described as a “small, take-out restaurant”. He believed the plan to have been revised as directed by the Planning Office’s May 4th review, except for the required clear-sight triangle, for which he requested a waiver. Mr. Miller recalled discussing that issue at a previous meeting, recognizing the one-way-north direction of travel on North 9th Street as a possible mitigating factor. Mr. Jones indicated his satisfaction with the plan and the municipal improvements agreement, provided an additional 5% is included to cover inspection costs. Mr. Dolan agreed.

Asked about the zoning and master plan guidelines for the area, Mr. Miller confirmed that it was a Residential 3 (R3) zoning district. Asked about the off-street parking shown, Mr. Dolan referred to the three spaces, allowed by variances from the buffering/landscaping requirements. Asked about the need for off-street spaces in a restaurant without inside seating, Mr. Dolan likened the operation to a Chipotle Mexican Grill or the Horn & Hardart Automats once popular in Philadelphia; a “buffet line” for occasional walk-in customers. He said the owner is already preparing “a ton of meat a week” from his vending cart. Mr. Miller clarified that permission for indoor seating was granted with the second zoning appeal. Mr. Rothermel wondered about the on-street parking demand in the neighborhood, and the sense of eliminating two or three on-street spaces for the large curb cut serving three off-street spaces. He objected to the removal of publicly-available spaces, for privately-controlled ones, especially without a net gain. Mr. Miller noted that the shown placement of the wheel stops creates a shallow parking stall. Mr. Bingaman asked about solid-waste handling. Mr. Dolan indicated the position of a 6-yard dumpster in a fence-

enclosed area, and also served by the curb cut.

Mr. Bealer recognized the lengthy review path the plan had taken, but noted an inconsistency between the proposed land use and the guidelines of the Comprehensive Plan. He thought the Zoning Hearing Board should realize what the convoluted ruling on the appeal says about the proposal. He considered the vacant lots, neighboring to the north and, owned by the Reading Redevelopment Authority and Our City-Reading, Inc. He lamented the Redevelopment Authority's focus on commercial and industrial development to the exclusion of residential opportunities, suggesting that this approximately quarter-acre vacant is as large an opportunity for residential redevelopment as any within an already developed area. He complained that the plan heeded none of the guidelines on use or dimensions, feeling 'the process' had erred, without any consideration of more appropriate uses for the site. He further questioned granting a land development approval to an applicant already violating the rules on vending carts. Mr. Raffaelli indicated his agreement, his similar understanding of the Comprehensive Plan, and his frustration with the Hearing Board's interpretation of the law. Mr. Miller suggested challenging the zoning decision, based on his interpretation of the Planning Code's §914.1. Mr. Dolan predicted that the Commission would likely be challenged in response. Mr. Rothermel cited the Subdivision and Land Development Ordinance's §105, requiring developer's to comply "with reasonable conditions laid down by the Planning Commission... so as to conform to the Master Plan and... to protect and provide for the safety and general welfare..." He noted the inconsistencies with adopted land-use policies, and the safety risks of the frequent movement of cars across the sidewalk. Mr. Dolan said he was "unfortunately at the mercy of zoning". Mr. Miller felt that a mischaracterization, as the developer had sought special permission for the proposed design. Mr. Dolan referred to the owner's living made from a trailer, and a recent ordinance on vending having essentially put him out of business. He said they've been pursuing the restaurant plan for more than two years, prior to that ordinance, and spent a "fair amount of money going through the process". Mr. Miller challenged the implication that the Planning Commission had delayed the plan's review, reminding that the applicant gave inconsistent testimony between his presentations to the Hearing Board and the Planning Commission. Ms. Mayfield asserted that the vending law had only been amended, and not in a way that changed the legality of his particular vending operation. She added that any activities conducted on private property are, and have been subject to the Zoning Ordinance. Mr. Bealer noted other available commercial spaces, with adequate off-street parking, within two blocks of the proposed site. Realizing the Commission's reluctance to approve the plan, Mr. Miller suggested a motion challenging the Hearing Board's justification for the variances, and an appeal of its decision. Ms. Mayfield advised that the Planning Code's time limits on challenges had expired. Mr. Rothermel countered that, without a review at the April meeting, they hadn't been given the opportunity. Ms. Mayfield acknowledged that, but maintained the stringent calendar for plan decisions. She dismissed the general administrative and intent statements of the ordinances due to the little weight given them by the courts, but offered to research it further. Mr. Miller offered the Land Development Ordinance's §22-403.2.D, regarding the "procedures" of Zoning Ordinance specifying standards of 'hardship'. Ms. Mayfield again referred to the 30-day time limit. Mr. Bealer deemed the requested waiver of §22-502.6.G to be the remaining issue.

Mr. Bealer moved to waive the Subdivision and Land Development Ordinance's §22-502.6.G, which requires 75-foot clear-sight triangles at all street intersections. Mr. Rothermel seconded. And the Commission voted 1 aye to 4 nays for the waiver, defeating it, Mr. Bealer casting the lone assent.

Resolution #26-2009

Mr. Miller then suggested a motion to deny the plan based on its failure to conform to §§22-502.6.G and -601.2, which requires a completed subdivision improvements agreement. Ms. Mayfield advised omitting the latter section, as the Commission typically approves plans prior to those agreements being formalized. Mr. Dolan said they may be able to trim four feet and comply with the clear-sight triangle, though he sensed the Commission's opposition to the project generally. Mr. Miller recalled that the Commission's position had been made clear from the plan's first presentation forward. He said he'd welcome a court review of the Hearing Board's decision, recalling an opportunity for challenge months earlier. He felt the Hearing Board, at times, appeared to delight in frustrating the Commission, and criticized the lack of support from the administration and governing body in the redress of problems long identified by the Planning Commission, specifically the Hearing Board's practice of granting "use variances".

Mr. Raffaelli asked for the first phrasing of the suggested motion. Ms. Mayfield repeated her caution about the phrasing of the resolution, and the civil rights action (Section 1983, Civil Rights Act of 1871) risked by acting against legal counsel. Mr. Raffaelli repeated his request, and upon hearing it, moved to deny the "King Taco Land Development" plan based on its failure to satisfy the Subdivision and Land Development Ordinance's §22-502.6.G,

requiring 75-foot clear-sight triangles at street intersections, and §22-601.2, requiring a completed municipal improvements agreement. There was no second to advance the motion.

Mr. Raffaelli then moved to deny the “King Taco Land Development” plan based on its failure to satisfy the Subdivision and Land Development Ordinance’s §22-502.6.G, requiring 75-foot clear-sight triangles at street intersections. Mr. Rothermel seconded. And the Commission voted 4 to 1 to deny the King Taco plan, Mr. Bingaman casting the dissent.

Resolution #27-2009

Mr. Jones, leaving the meeting for another appointment, offered to answer questions. He said he was satisfied with the latest DoubleTree Hotel plan, and its improvements estimate. Mr. Rothermel asked if he saw any problem in combining playgrounds and parking lots, considering the chemicals that leak from cars. Mr. Jones thought it could be a concern, but noted other examples of the combined use.

Review the **final** land development plan for the **Play Lot at Grace and Pansy Streets**, a new playground and parking lot proposed on that parcel known as 412 Pansy Street [0:55.19]

Mr. Grybosky requested plan approval, believing the plan to be compliant and complete, but for the signatures which would be provided on record plan sets by the June meeting. Additional discussion followed regarding some final administrative steps, including the municipal improvements agreement. Mr. Raffaelli felt the pervious paving material set the aggregate in an exposed orientation that could cause injury. Ms. Fasnacht countered that the material was approved for playground surfacing.

Mr. Bingaman moved to approve the final plan, provided the required corrections were made. Mr. Lauter seconded. And the Commission voted unanimously to approve the final “Play Lot at Grace and Pansy Streets” plan.

Resolution #28-2009

Review the **final** land development plan for the **Albright College Outdoor Athletic Courts**, six basketball courts over 103 off-street parking spaces proposed for that 1.7-acre parcel known as 1716 North 12th Street [1:00.51]

Mr. Stackhouse recalled the April presentation, and some modification of the landscaping plan as the Commission had recommended. He said he received a zoning permit. Asked about the marking of the individual parking stalls, he indicated the partial striping proposed, so as to delineate the spaces without interfering with basketball court markings. Mr. Miller reported his satisfaction with the revised plan.

Mr. Bingaman moved to approve the final plan. Mr. Bealer seconded, noting the typical condition of compliance with the Planning Office’s review. Ms. Mayfield reported that an acceptable improvements estimate had been provided. Mr. Bingaman concurred with the conditions on his motion. And the Commission voted unanimously to approve the final “Albright College Outdoor Athletic Courts” plan.

Resolution #29-2009

Review the **parking lot** land development plan for the **Brentwood Industries Parking Area**, 40 off-street parking spaces proposed on that 12-acre parcel known as 615 Brentwood Drive [1:05.23]

Mr. Hartman described the orientation of the proposed lot, at about 4 to 5 feet lower in elevation than the existing lot. He noted the trees proposed, meant to screen the parking to views from the US422 by-pass. He said stormwater detention and infiltration would be handled by one of Brentwood’s proprietary products (StormTank™ Stormwater Storage Modules), which would, in turn, serve as demonstration project. Discussing the tree varieties chosen, Mr. Rothermel recommended smaller, ornamental trees arranged to screen the parking, but without blocking views of building. Mr. Hartman agreed to give it further consideration.

Mr. Rothermel moved to approve the parking lot plan, subject to the comments made by the Planning Office, and a staff review of the final landscaping plan. Mr. Lauter seconded. And the Commission voted unanimously to approve the “Brentwood Industries Parking Area” plan.

Resolution #30-2009

Other business:

review the draft April 14, 2009 meeting minutes [1:18.42]

Mr. Bealer noted some editing requests previously submitted by email. Mr. Bingaman moved to approve the April minutes. Mr. Lauter seconded. And the Commission voted unanimously to approve the April 14th meeting minutes.

Resolution #31-2009

§207 nominations-2009 Planning Commission office holders [1:19.38]

Mr. Lauter reported the nominating committee's recommendations, as follows:

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

Mr. Rothermel moved to close the nominations and elect the slate of officers proposed. Mr. Bealer seconded. And the Commission voted unanimously to elect the slate of candidates, as proposed.

Resolution #32-2009

Subdivision and Land Development: (continued)

Review the **final** land development plan for the **DoubleTree Hotel & Garage Project**, a subdivision, a convention-center hotel, its accessory uses, and a municipal parking structure proposed for that parcel known as 701 Penn Street [1:21.48]

Mr. Bogia introduced the project representatives in attendance, and described the general layout of the proposed buildings. He acknowledged the Planning Office's review, and offered to answer the Commission's questions. Mr. Raffaelli asked about compliance with the land-use ordinances. Mr. Miller needed to check the revised plan sets before answering. Asked about the status of the municipal improvements agreement, Mr. Bogia explained that the Law Department had asked that the improvements estimates be prepared separately for the Hotel and Garage projects. They since have been, and the amounts accepted by the Public Works Department. He expected the attorneys would formalize the agreement shortly. He said the Conservation District approved the earth-moving plan a day earlier.

Mr. Lauter revisited the traffic circulation concerns, particularly the anticipated cueing across the 7th Street railroad tracks of eastbound vehicles from Penn Street awaiting the left turn into the Hotel/Garage complex. Mr. Bogia said the 'stop bar' was repositioned, giving room for two vehicles to safely stack for the turning movement. He couldn't guarantee that it wouldn't happen, but noted the width of Penn Street allowed room enough for through traffic to get around cued vehicles. He said he consulted with the City Engineer on the traffic planning, and understood Penn Street, in the future, would remain open during events at the Sovereign Center. Pedestrian crossings of Penn Street would be focused toward the 7th and Penn corners, making it easier to control.

Turning to the Garage design, Mr. Hwang claimed the footprint and entrance/exit points remained unchanged since the last presentation. He said an additional level of parking is being considered, which would provide a total of 921 spaces, an increase of about 50 over the original design. He said the stair/elevator tower would reach 100 feet above grade. Mr. Lee called the project "a success story" for the Reading Parking Authority. He said the construction bidding, already favorable but rejected due to technical defects, came in the second time at \$400,000 less. A third round, advertised for the expanded alternate, came back at \$11.3 million for the seven-level construction originally planned, and just under \$12 million with an eighth level. He said the Parking Authority had originally budgeted for a \$14 million project. He apologized for the change, but noted the increasing value of "construction dollars" in a slowing, and more-competitive economy. For contrast, he mentioned that the Second and Washington Parking Structure (recently renamed the "Albert Boscov Plaza") cost \$9 million, \$2 million over its budget. Mr. Boscov added a potential lack of capacity and flexibility for certain events and nearby office uses as additional motivation in pursuing the additional level. He apologized for presenting without details of the Hotel plan, explaining that Hilton asked for some revisions. He repeated their preference to get the Garage under construction ahead of the Hotel. Ms. Mayfield asked if they were seeking a phased approval. Mr. Bogia said that wouldn't be necessary, confident that any franchise-directed changes would not affect the exterior or layouts of the buildings.

Mr. Rothermel commented on the mass of the Garage, when compared with other parking structures and other adjacent buildings. Mr. Miller expressed concern about the still unanswered questions of layout. Mr. Boscov characterized it as an issue of internal arrangements. Mr. Miller reminded of the building code concerns related to the Hotel's proximity to the existing Evangelical Church. Mr. Bogia said they'd board up the Church's windows. Mr. Miller thought that oversimplified. Mr. Boscov believed it could be resolved, noting the Church has a masonry wall and small windows. Ms. Mayfield likened the situation to that between the R/C Theatres and the Front and Washington Garage. Mr. Boscov regretted the architect's absence. Mr. Miller asked if a canopy covered the loading dock, noting a 'green roof' overhang depicted on the erosion and sedimentation control plan. Mr. Bogia

said depends on how one reads the plan, referring to the landscaping plan. Mr. Miller asked for the façade renderings and sample materials of the Hotel. Mr. Boscov said they'd be provided later, explaining that the architect was concerned Hilton might require changes. He estimated the construction time of the Garage at 12 months, versus 16 months to complete the Hotel. Mr. Miller asked if the Parking Authority was ready to build. Mr. Lee said the bids came in earlier that day, and expected to award the contract May 27th. He said the winning contractor was ready to begin June 1st, and that he had already notified those leasing spaces on the surface lot of its imminent closure. He claimed to have completed an agreement of sale with the Redevelopment Authority, and cleared the construction with Norfolk Southern Corporation. He reported the financing secured, the land development approval being the "last hurdle". Mr. Miller asked if that meant an approved plan would be recorded in a timely manner. Mr. Bogia said yes. Ms. Mayfield asked if construction documents had been submitted for the building inspectors' review. Mr. Lee said they hadn't yet. Mr. Hwang mentioned the "one-stop" meeting. Ms. Mayfield said the building inspectors have 30 days to review the architectural plans. Mr. Bealer wondered about a phased approval. Mr. Miller said the Commission had to act on the form of the plan submitted. Mr. Boscov insisted the building footprint wouldn't change. Mr. Rothermel asked about the signage. Mr. Boscov said they'd present it later, again apologizing for the architect's absence.

Mr. Rothermel asked about traffic controls planned for the North 8th and Court Streets intersection. Mr. Bogia reported consulting with the City Engineer, and agreeing to remove the on-street parking along south side of Court Street from its bridge over the railroad to the Garage entrance. Mr. Lauter thought parking was already restricted in that section. He asked about the color and lighting planned for the Garage. Mr. Hwang said it hadn't changed from the last presentation. Mr. Lauter asked for details of the Hotel façade and colors. Mr. Boscov still hoped for a complimentary palette between Hotel and Garage. He said the LED accent lighting was still under design, and around a limited surface area for its display. Mr. Miller recalled earlier promises to show elevations and building materials with the final plan presentation. Mr. Bogia promised to return and present the details. Mr. Boscov said there wouldn't be any problem changing anything objectionable to the Commission.

Mr. Raffaelli called the situation "unique"; half of the project ready to go, and the other not. He argued that the application should have been made on separate plans. Mr. Miller expected that revisions to the plan could be indefinite, returning for additional staff reviews and presentations whenever the developer deemed necessary, as was the experience with the Goggleworks Apartments plan. He warned that the identifiable building code issues may change this layout of the buildings. Mr. Boscov maintained that it would not, declaring the unanswered questions to have more to do with Hilton's requirements for the ballroom than anything else. He said he had no problem with any conditions attached by the Commission. Mr. Lee pled the time commitments to use the \$8.7 million borrowed by the Parking Authority. Mr. Mukerji noted a finite arrangement for the interim financing. Mr. Bogia said he had to prepare a common plan, for what is currently a single parcel, and to demonstrate the two structures could coexist on the shared foundation. He thought everything identified in the Planning Office reviews to have been satisfactorily addressed. Mr. Rothermel reminded that the Zoning Administrator must approve any proposed signage. Mr. Boscov said it would be attractive, in keeping with Hilton's standard program. He held out the possibility that they may still be granted the Hilton "flag". Mr. Raffaelli repeated his position on the inappropriateness of the combined land development application, contesting the assertion that the existing ownership forced its combination. Mr. Lauter understood the background, but agreed that once the diversion of the scheduling was realized the project would have been more-appropriately presented as separate applications.

Mr. Boscov explained that the developing a hotel is a risk in the current economic climate, considering the higher vacancy rates associated with it. He affirmed the Governor's commitment, having secured \$12 million in State grants, leveraged with another \$8 million in private investment, and a temporary reinvestment of the State sales and entertainment tax liabilities. He called the project an "anchor" for Penn Street that, combined with its upcoming relighting later in the year, would make a real impact.

Ms. Mayfield reminded that any conditions applied to the approval relied on the voluntary cooperation of the applicant. Mr. Bingaman moved to grant final approval, conditioned on its compliance with the latest Planning Office review, and presentations of the Hotel's façade materials and signage designs. Mr. Bealer seconded. Ms. Mayfield questioned the street addresses arranged for the project. Mr. Bogia answered: 701 Penn Street, for the Hotel, 750 Court Street, for the Garage, each approved by the City Engineer. And the Commission voted unanimously to approve the final subdivision and land development plan for the "DoubleTree Hotel & Garage Project".

Resolution #33-2009

Other business: (continued)

§609.c review-the “municipal-use district” proposed zoning amendment [2:30.58]

Mr. Bealer wondered if “municipal waste-transfer station” should be included as a permitted use. Mr. Miller recalled several other uses contemplated for the district. He said the schedule proposed was acceptable to Public Works personnel, and could later be amended if needs arise. He said many municipalities exempt their uses from zoning regulations altogether, but thought it better to make an effort at codifying them. Mr. Bealer noted the Commission’s general preference for having City initiatives follow some review process, citing park improvements as a prime example. Ms. Mayfield mentioned that the district created is already wholly-owned and -operated by local government. Mr. Bealer requested additional punctuation in the “recycling operations” definition.

Mr. Bingaman moved to recommend City Council’s adoption, with the requested punctuation. Mr. Bealer seconded. And the Commission voted unanimously to recommend passage of the “municipal-use district” zoning amendment and map change.

Resolution #34-2009

Mr. Lauter asked for clarification of the King Taco decision, wondering if a denial based solely on intersection sight lines should be supplemented. Ms. Mayfield said the Commission could rescind and restate the action, but in any case must cite specific sections of the ordinances violated. Mr. Lauter thought the clear-sight triangle an issue easily overcome by a design modification. Mr. Rothermel recalled that the legal counsel asked for an opportunity to further review, and advised against adding on policy statements. He described the responsibility of the Zoning Hearing Board to consider comprehensive planning in their judgments on variances. Mr. Miller lamented the design focus of the Zoning Ordinance, at the expense of meaningful guidelines in the Subdivision and Land Development Ordinance. He characterized the Land Development Ordinance as little more than a checklist of information required to be shown on a plan, and doubted the land-use ordinance revisions currently underway would do much to change that balance.

Mr. Rothermel, with pictures in-hand of the construction debris at the Buttonwood Gateway industrial park, wondered what enforcement actions had been taken. Ms. Mayfield said she brought the matter to the Chief Building Inspector’s attention, who is working determine the ownership and ultimate responsibility for the mess.

Mr. Rothermel cited a newspaper article regarding a “Downtown 20/20” planning meeting meeting, and asked for further explanation. Mr. Bealer said he attended what he characterized as “basically a press conference”.

Mr. Bealer reported that the Vending License Board is formed and meeting, with himself as chair, on the fourth Tuesdays at 1pm in Council Chambers. He said they will be considering the vending machines in the Commercial Core, in addition to the food carts. The Downtown Improvement District will assist by cataloging the ‘global positions’ of each. He anticipated some amendments to the ordinance, in order to clarify some ambiguities. He named John Giardiello (Engineering), Mark Stump (Police), Brad Reinhart (Codes), Tonya Butler (Law), Michael Rivera (Chamber of Commerce) and Charles Broad (Downtown Improvement District) as the other members of the License Board.

Mr. Bingaman moved to adjourn the May meeting. Mr. Lauter seconded. And the Commission voted unanimously to adjourn the May 12th meeting.