

**TOWN OF NEWBURGH
PLANNING COMMISSION
MINUTES – December 21, 2015**

MEMBERS PRESENT: Rick Hornbeck, Anne Rust Aurand; Tammy Timmel; Jason Brown; Tom Bodkin

ADMINISTRATIVE PRESENT: Chris Wischer, Town Attorney; Tonya McGuire, Town Council Liaison; Christy Powell, Town Manager; Tavi Wydicks, Acting Zoning Administrator

CALL TO ORDER

Mr. Bodkin called the meeting to order. Roll call was taken.

MINUTES

Mr. Hornbeck moved to approve the November minutes. Mr. Brown seconded the motion and the motion carried.

NEW BUSINESS

Mr. Bodkin read "Roles of the Plan Commission" and presented the guidelines for the public meeting.

Major Subdivision Plat – W SR 662, Wal-Mart Neighborhood Market

Mr. Bodkin pointed out that the plat was on display on the overhead screen.

Dan Miletic, civil engineer with Manhard Construction and consult for Wal-Mart on the plat, stated that the plat was previously submitted, Manhard received comments back for changes, and Manhard has addressed these issues. Mr. Miletic stated that the name of the subdivision was changed to Newburgh Village Subdivision and the street name was changed to Village Market Way. Mr. Bodkin asked Mr. Miletic if there were three lots in the subdivision and Mr. Miletic answered yes. Mr. Bodkin stated that lot three is still zoned agricultural and a large portion of lot three is in flood zone A or the legal drain. Mr. Bodkin stated that substantial work would be required to make lot three a buildable lot. Ms. Aurand asked if lot three was part of the property listed in the restrictive covenant and Mr. Bodkin answered and said that it is his understanding yes. Ms. Aurand asked Mr. Wischer if the covenant states that lot three will not be built on and Mr. Wischer responded and stated that there was a private covenant put on by the Williams' regarding the remainder of their property that has restrictions on what can be built there. Mr. Wischer stated that he does not recall exactly what the covenant included. Ms. Aurand asked if the Utility Committee is recommending that the sewer be extended to lot three, and Mr. Wischer stated that yes, the discussion at the Utility Committee is that all lots needed to have access to sanitary sewer. Ms. Aurand asked if there was a particular reason why the Utility Committee thought that sewer needed to be run to lot three, and Mr. Wischer responded and stated that it is because it is showing as a lot and the Town's ordinance would require it. Mr. Wischer stated that it is his understanding that sewer is already available to lots one, two, and four. Mr. Wischer stated that agricultural zoned land has very limited development allowed under the Town's zoning code. Mr. Wischer explained the breakdown of the plat. Mr. Wischer discussed the trail dedication with Mr. Miletic. Mr. Wischer stated that the Town received a drawing showing the correct trail space, but the plat presented at the meeting did not. Mr. Miletic stated that he was not sure why the trail changed, but he will get that corrected. Mr. Wischer stated that the trail dedication language is also missing from the plat, and that will most likely be a condition of approval and Mr. Miletic stated that that would not be a problem. Mr. Wischer stated that another condition of approval would be the Boyken property at SR 662 is dedicated to the Town or Wal-Mart for right of way. Ms. Aurand questioned if the trail was still scheduled to go across the front of the property because she had heard an alternate route was being discussed. Mr. Wischer answered and stated that there was talk about pulling the trail back south off of the road, but it will still cross the front of the property. Mr. Wischer discussed the trail and greenway.

Mr. Miletic explained the plat to the audience.

Chuck and Jen Masterson, 109 Temple Drive: Mr. Masterson asked Mr. Miletic to point out the trail and Mr. Miletic showed where the trail will be. Mrs. Masterson asked if anything was being proposed for lots three and four at this time and Mr. Bodkin responded and said that it is his understanding that there is not. Mrs. Masterson questioned if something could be built on these lots in the future, and Mr. Bodkin responded and said that it would first have to be rezoned and it is his understanding that if the zoning stays, then nothing will be built on that land for some period of time. Mr. Wischer stated that all the major subdivision relates to is the division of the land, not the buildings themselves. Mrs. Powell stated that the media has made it to sound as though an entire subdivision will be built on lot four, but that is not the case, and as it stands right now the zoning only allows for one house to be built on this lot. Mr. Bodkin clarified that agricultural zoning allows for one house not multiple houses, and for more than one house to be allowed the owner would have to rezone the property. Mr. Wischer read the ordinance regarding agricultural zoned land and stated that up to two houses would be permitted, but they would have to be farm related. Mrs. Masterson asked the commission

about sidewalks on the opposite side of Highway 662, and Mr. Bodkin responded and stated that is not for this commission to decide. Mr. Bodkin stated that there will be sidewalks paralleling Village Market Way, and the greenway will serve as sidewalks for the south side of Highway 662.

Melinda Mitchell, 101 Yorkshire Drive: Ms. Mitchell asked which lots Wal-Mart would be located on and Mr. Bodkin stated that the grocery store would be on lot one and the gas station would be on lot two. Mr. Miletic pointed out the lots to Ms. Mitchell. Ms. Mitchell questioned the points of entrance and Mr. Bodkin and Mr. Wischer discussed the entrances and roadways with Ms. Mitchell. Ms. Mitchell asked why the Town needs Village Market Way and Mr. Bodkin responded and said that lot two has to face a dedicated right of way for the plat to be approved. Mr. Brown stated that there is no other access to lot two without that roadway. Ms. Mitchell asked the commission how much it will cost the citizens of Newburgh to pay for and maintain Village Market Way. Mr. Bodkin responded and stated that the Town of Newburgh will not pay for this road, the developer has to build the road and the maintenance would be no different than any other street in Town. Mr. Bodkin stated that the subdivision ordinance requires the dedication of a public road so there is frontage for every lot. Ms. Mitchell asked who would be building Village Market Way and Mr. Bodkin responded and said Wal-Mart would be building the roadway and the sidewalks along side of it. Mr. Wischer stated that Wal-Mart would have to post a letter of credit in the amount of the cost of the road before they can receive their final plat. Mr. Bodkin clarified that the plat being presented is the preliminary plat, if the commission approves the preliminary plat, then the developer goes forward and either builds the infrastructure or bonds it. The plat cannot be recorded until either one of these are completed.

Hap Hanson, 600 E. Jennings Street: Mr. Hanson asked to clarify that Village Market way is the roadway everyone had been calling the entrance to Wal-Mart. Mr. Wischer stated that it is his recollection that the entrance on the west side was going to be a driveway, but the entrance called Village Market Way was always intended to be a public right of way. Mr. Wischer stated that the site plan that was submitted and approved shows proposed right of way dedicated. Mr. Hanson stated that never once was it referred to as a roadway. Mr. Wischer stated that he thinks that if we went back and looked at the minutes that it was referred to as a roadway. Mr. Hanson stated that he assumes the roadway will be two lanes and Mr. Bodkin stated that seventy feet of dedication typically would be thirty or thirty-six feet wide, which would be two lanes with curb, gutter, and sidewalk. Mr. Hanson asked if there would be sidewalks on both sides and Mr. Bodkin stated that it his understanding that sidewalks would be on both sides. Mr. Wischer stated that the developer will either have to bond or put up a letter of credit for the cost of the sidewalks as well as the roadway, to ensure that if the developer does not get around to putting them in, the Town can pull the funds and complete the work. Mr. Hynes stated that the Town did require that an island is put in for pedestrians using the trail, and also a median proposed on Highway 662. Mr. Bodkin stated that approval of the construction of the roadway is done by Town Council, and the Plan Commission simply accepts and approves the platting of the right of way for the roadway, but the physical layout of the roadway goes to Council, which is why the roadway details are not shown on the plat. Ms. Aurand stated that she would like to revisit the name of the road. Mr. Wischer stated that the roadway name could be changed on the final plat.

Judith Moore, 310 W Water Street: Mrs. Moore asked if the Town has control over the quality of the road. Mr. Bodkin stated that the Town has standards that must be followed and will inspect the construction.

Dr. Kristina Setzekorn, 200 West Main Street: Mrs. Setzekorn stated that she heard the commission say that sewer would be extended to all of the lots, and she questioned who pays for the sewer extension. Mr. Bodkin stated that the developer will pay for the sewer extension. Mrs. Setzekorn verified that the Town will only have to maintain the street and questioned what the cost to maintain the street will be. Mr. Bodkin stated that he is not sure what the exact cost to maintain the street will be. Mrs. Setzekorn questioned if the Town was just going to assume this cost, and Mr. Bodkin stated that it will not be more expensive to maintain this roadway than it is Jennings Street, and Mrs. Setzekorn argued that everyone drives on Jennings Street and it is for more than one business. Mr. Bodkin stated that the ordinance does not require the developer to maintain publically dedicated roadways. Mrs. Setzekorn stated that in addition to the \$53,000.00 legal fees, the Town is also piling on road maintenance. Mr. Bodkin asked Mrs. Setzekorn to address issues with the ordinance, not issues that are not relevant to the plat. Mrs. Setzekorn stated that it does not seem like the Town has a lot of fiscal responsibility with the Town tax payers money, and Mr. Bodkin stated that both parcels would be reevaluated for property tax purposes once they are built on which will increase the property tax the Town receives. Mr. Bodkin stated that once the road is built and taken over by the Town, the Town will receive gas tax money from the State to help cover maintenance for the road, just like every other road in Town.

Ms. Wydicks stated that all certified mail return receipts were received, except for four, which the Town does have the white pay receipts postmarked prior to December 10, 2015 for, so notice requirements have been met. Ms. Wydicks stated that there is some AE zoned flood plain on lot three, and a portion of the west side of lot three is in the legal

drain. Ms. Wydicks stated that the base flood elevation is 382. Ms. Wydicks stated that Casey's to the North is zoned C-4, Windsor Point is zoned R-2, to the east and south is residential and vacant land, all zoned R-1, and Mulzers to the west is zoned M-2 which is industrial and located in the County. Ms. Wydicks stated that drainage plans were approved at the November 16, 2015 Storm Water Management Board meeting, and the subdivision plat conforms to the Subdivision Control Ordinance with minor typographical corrections as noted by staff.

Melinda Mitchell, 101 Yorkshire Drive: Ms. Mitchell asked the Commission if anything has been done with the Government program Waters of the U.S., which deals with any changes to the land or drainage. Mr. Bodkin stated that the Town is aware of the Waters of the U.S. program, the Town deals with it in the sewer department daily, and this property will have to deal with this program as part of the construction. Mr. Bodkin stated that the Town is also a MS4 community, which is an even more restrictive program, so those issues will be dealt with in regards to the construction. Mr. Bodkin stated that the Town is aware of all of the government requirements, and will require the developers to adhere to these guidelines.

Mr. Bodkin stated that as chairman, he would entertain a motion as follows:

1. The easements labeled Public Utility Easement, or PUE, shown on the plat for AT&T and cable be renamed phone and cable easements.
2. The easement labeled bikeway, walkway, greenway easement shall have the following dedication certificate on the plat, "Easements marked as bikeway, walkway, and greenway easements are hereby dedicated for the exclusive use of the Town of Newburgh for the construction, relocation, use and maintenance of the public roadway, sidewalk, greenway, drainage facilities and other uses associated with the public greenway.
3. The Boyken piece of property be reflected on the dedication prior to the approval of the final plat.

Mr. Brown moved to approve the plat as per the conditions laid out by Mr. Bodkin. Mrs. Timmel seconded the motion.

Discussion: Ms. Aurand stated that this is the first time the Boyken property has been brought up, and asked the commission to talk about it. Mr. Wischer stated that the condition is that the piece of property owned by the Boyken's needs to be shown as dedicated roadway or the Boyken's would join the plat and make the dedication. Ms. Aurand discussed the right of way and roadway with Mr. Wischer. Mr. Wischer stated that the purpose is to add to the Town's right of way, and the Town engineer requested for the developer to acquire this piece of land. Mr. Wischer explained that the condition states that this piece of property will be acquired prior to recording the final plat.

Motion passed with four ayes and one nay. Those voting aye were Rick Hornbeck, Tammy Timmel, Jason Brown, and Tom Bodkin. Anne Rust Aurand voted nay.

REPORTS

Staff

Ms. Wydicks stated that in October, there were ten projects with a total valuation of \$109,999.54 and seventeen permits were issued with total fees collected of \$1,030.00. Ms. Wydicks stated that in November, there were thirteen projects with a total valuation of \$150,520.00 and thirteen permits were issued with total fees collected of \$770.00.

NEW BUSINESS

Minor Subdivision Plat – Lawson Minor

Ms. Wydicks stated that the Lawson Minor Subdivision is a two lot minor subdivision, both lots are zoned R-1, and all of the surrounding properties are also zoned R-1. Ms. Wydicks stated that the drainage plan was approved at the November 16, 2015 Storm Water Management Board meeting. Ms. Wydicks stated that the owner of lot three is giving a portion of the back of their lot to the owner of lot two, and both lots meet the zoning code requirements for lot size after the subdivision. Ms. Wydicks stated that the minor subdivision conforms to the Subdivision Control Ordinance with minor corrections as noted by staff. Mr. Bivens, Engineer for the Lawson Minor Subdivision, stated that this subdivision is basically a lot line adjustment. Mr. Bodkin explained the minor subdivision process. Mr. Bodkin asked where the parcels were located and Mr. Bivens responded and said Darby Hills.

Mr. Brown moved to approve the Lawson Minor Subdivision with technical corrections as noted by staff. Mr. Hornbeck seconded the motion and the motion carried.

UNFINISHED BUSINESS

Update Zoning Maps

Mr. Hynes stated that CEI provided a contract to Mrs. Powell for the updated zoning maps. Mr. Hynes stated that there have been several changes since the map was last updated in 2008. Mr. Bodkin stated that the flood plains have changed as well and Mr. Hynes stated that there have been some studies done by FEMA that have changed the floodplain maps significantly. Mr. Hynes stated that CEI submitted an hourly rate contract. Mrs. Powell provided the commission members with a copy of the contract.

Mr. Brown moved to recommend to Council engage CEI to update the Town's zoning and flood plain maps. Mr. Hornbeck seconded the motion and the motion carried.

Master Plan Update

Mr. Wischer stated that he and Mrs. Powell still need to work on this and will get some ideas together for the January meeting.

Discussion – Items of Interest to Any Plan Commission Member

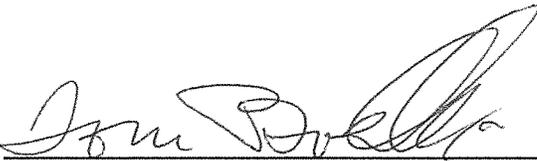
Ms. Aurand questioned if there was any news regarding the Plan Commission minutes from the April and June meetings and public hearings. Ms. Wydicks stated that Nancy Lybarger has the tapes and was supposed to start working on them the beginning on November. Mr. Wischer stated that when Nancy Lybarger stopped doing the minutes, he took the tapes to his office, but his office did not have the equipment to listen to the tapes. Mrs. Powell stated that she will look into the status of them. The commission agreed to look into hiring a court reporter to complete the minutes.

January Plan Commission Meeting

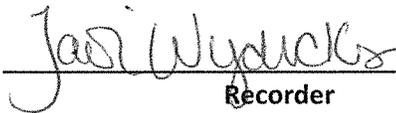
The commission agreed to cancel the January meeting.

ADJOURN

Mr. Brown moved to adjourn the meeting. Mr. Hornbeck seconded the motion and the motion carried.



Chair



Recorder