

A regular meeting of the Troy Planning Commission was held Wednesday, February 27, 2019, at 3:30 p.m. in Council Chambers, second floor, City Hall, with Chairman Alan Kappers presiding. Members Present: McGarry, Beamish, Titterington, Wolke and Mahan; Zoning Inspectors Brandon and Watson; and Assistant Development Director Davis.

The minutes of the February 13, 2019, meeting were approved upon motion of Mayor Beamish, seconded by Mr. McGarry.

HISTORIC DISTRICT APPLICATION, 322 W. MAIN STREET, FOR A SIGN ON W. MAIN STREET, OXFORD STREET, AND REAR OF BUILDING; OWNER IS JOHN COOMER; APPLICANT IS HOSPICE OF THE MIAMI VALLEY The staff report (attached to original minutes) noted: the building was established in 1847 and is not on the Historic Register; proposed signage is 3.8 square feet on W. Main Street and 24 square feet along Oxford Street, 6 square feet at the rear entrance; the proposed signage is under the 100 square feet allowed for the building; proposed colors of the signs are the same as the existing signs and are as follows: SW6146 Umber, SW6141 Softer Tan, Met Gold One Shot Enamel, SW6994 Black of Night, SW 6145 Thatch Brown, and SW 6143 Basket Beige, and staff recommends approval based on the findings of:

- The proposed colors will not detract from the historic integrity of the building;
- The proposed colors are suitable with the surrounding character of the Historic District.

The Mayor noted that this would a different hospice organization than already located in Troy.

A motion was made by Mayor Beamish, seconded by Mrs. Mahan, to approve the historic district application for 322 W. Main St. as submitted, based on the exact colors of SW6146 Umber, SW6141 Softer Tan, Met Gold One Shot Enamel, SW6994 Black of Night, SW 6145 Thatch Brown, and SW 6143 Basket Beige, and based on the findings of staff that:

- The proposed colors will not detract from the historic integrity of the building;
- The proposed colors are suitable with the surrounding character of the Historic District.

MOTION PASSED, UNANIMOUS VOTE

PRELIMINARY PLAN, VILLAGES OF CONCORD; PROPOSED BY R L HAWK, LLC. Staff reported: the Villages of Concord plat (parcels # D08-103660 and D08-059144, PT Inlot 7189) is located south of Wayne Street and north of the of the Kroger Development (State Route 55); properties are zoned a mixture of R-5 Single-Family, R-6 Single-Family and R-7 Multiple-Family Residential; in 2000, the Villages of Concord subdivision was approved by the Planning Commission and City Council consisting of a layout that encompassed a private condo community; a portion of the development was completed in the mid-2000s and now the developer is requesting to finish developing the subdivision with single-family lots; and the plan was further discussed:

PROPOSAL:

Area: The entire subdivision consumes a total of approximately 16 acres with 6.5 acres already developed. The developed portion includes 20 condominiums, common area with a lake (2.565 acres), and a clubhouse (1.325 acres). The remaining 10.028 acres of land proposes to include 35 building lots, which are intended to be developed as single-family residences.

Roadways: The two private roadways are already provided and named as Lantern Lane and Paul Revere Way. Five-foot sidewalks will be installed in the subdivision along the roadways. The private roads will be recorded with an Access Easement to allow access throughout the privately owned roads. The private roads will remain private and will not become public roadways.

The development has one access point, which connects to Paul Revere Way to Laurel Tree Court. Paul Revere way does not have access onto Wayne Street because Oakmont Drive was vacated back in the early 2000s. Due to only have one access point; the Fire Code requires a residential sprinkler system, unless an Access Easement is granted to all the lots in the subdivision on the vacated Oakmont Drive section. The developer has placed this note on the Preliminary Plan to address this issue and comply with city codes.

Lots: The development proposes 35 building lots that range from 6,011 square feet (.138 acres) to 24,393 square feet (.560 acres). The proposed lots meet the minimum lot requirements set by the Zoning Code.

Open Space: The developer is not proposing to provide any parkland in the undeveloped portion and requested the Park Board consider fees-in-lieu-of instead of 3% (.3 acres) of parkland required by the Subdivision Regulations. In accordance with the Subdivision Regulations (Section 1117.02), Planning Commission may accept fees-in-lieu-of instead of open space.

On February 5, 2019, The Board of Park Commissioners approved the request to accept fees-in-lieu-of which should result with \$17,500 in the Park and Recreation capital budget. This number assumes all undeveloped lots (35) are developed. The fee will be collected with the submittal of zoning permits for the principal structure.

Note: A current clubhouse exists in the development but will only be used by the existing condos and not the new proposed single-family homes.

Compliance: The City has reviewed the preliminary plan and it complies with the Zoning Code and Subdivision Regulations. In addition, the Comprehensive Plan shows this area to be developed residentially (Figure 14-3 is attached).

Recommendation: Staff has reviewed the proposed Preliminary Plan and it appears to comply with the Zoning Code and Subdivision Regulations. However, the Declaration Creating and Establishing a Plan for Condominium Ownership for the Villages of Concord, portrays ambiguous language pertaining to the applicant's authority to provide easement language on common areas of the development. In light of this, staff suggests that this item be discussed, and then tabled, to allow for all unit owners to receive a notice from the Planning Commission to allow them to be aware of this Preliminary Plan proposal. It is suggested that this matter be heard again at the next scheduled Planning Commission meeting.

Mr. Kappers commented that he represented Mr. Hawk in 2000 but has not represented him since that time; when he became aware of the proposed preliminary plan he discussed with Mr. Davis the declarations and pointed out a couple of things not shown – the vacated part of Oakmont Drive is not controlled by Hawk and controlled by the independent owners, he sees the access easement as a problem with reference to access easement as he does not believe Mr. Hawk can provide access over private street; Mr. Hawk is not a unit owner or a member of association, the use of the common areas are only for benefit of the association owners, not for others, and he does not think Mr. Hawk can grant across the private drive; the unit owners may not know about it or may not have met; Mr. Hawk does not have the right to control Home Owners Association, which should have expired in 2014 unless action was taken; and he received a letter from one of the unit owners that indicated un-ease about rumors regarding the development of the property.

Mr. Titterington asked if these concerns have been shared with the Director of Law, and was advised that they have but staff has not received the final recommendation of the Director of Law.

Mr. Kappers stated that he is an attorney, and he prepared the condominium documents, but he is not rendering legal advice.

Mr. Wolke asked if the proposed subdivision is land locked, and Mr. Kappers commented that it appears to be so to him based on where the public thoroughfare ends and there are some lots that are on private roads that he does not believe the developer controls.

Mr. Titterington asked how that would be remedied, with Mr. Kappers stating he believes each HOA member has to be contacted for permission as each HOA member has undivided interest in the common area, that the HOA has powers under the declaration to amend the declaration, they have certain rights, could even terminate the association making private streets public, according to the declarations this is an expandable condominium that indicates that the dev had seven years to expand to add properties to the condo regime, and the developer could have developed and sold off lots in the seven years, plus the declarations provide for an additional seven years so the developer had a total of 14 years from 2000 and that timeline has passed.

Mr. Wolke commented that he understands staff is recommending action be tabled until there is a recommendation of the Director of Law, and it was stated that is correct.

Mr. Kappers commented there would not be a public hearing, but he would like the property owners to get a notice about the next Commission meeting to have an opportunity to provide input.

Jeremy Tomb, with offices at 125 W. Main stated he represents Mr. Hawk, he has met with Mr. Davis and Law Director Kerber and through exchanged emails have addressed all that Mr. Kerber asked be addressed (Mr. Davis interjected that was regarding meeting subdivision regulations and zoning), regarding the HOA documents were provided that Mr. Hawk could execute documents on behalf of the HOA and Mr. Kerber did not raise any questions about that documentation. He further commented that the plat is not landlocked, there is a road and Mr. Hawk is trying to get a secondary access so as not to provide residential sprinkler systems. Mr. Tomb commented that there is not a new HOA or new registrants, and Mr. Hawk is in an undisputed position to have authority to sign despite any public records, that Mr. Hawk owns six built units and, with his brother, controls a majority of the area; and he would find it odd if the HOA did not feel it was better to go to a lower density as that should have a positive impact on the value of the properties of the current owners.

Mr. Kappers looked over some ownership information and commented that that some appear to be vacant land. Mr. Tomb commented that they are under the Troy Investment Group as an LLC that owns them and some are built on. In response to Mr. Kappers, Mr. Tomb stated that there is no indication what the HOA amended the declarations to allow Mr. Hawk to proceed with the application, and that he does not think that is pertinent to the consideration. Mr. Tomb commented there is a Resolution from the HOA, which is controlled by Mr. Hawk, regarding this application, and Mr. Kappers stated he has a problem with that. Mr. Kappers stated he believes it is critical to hear from the Director of Law regarding the HOA declarations.

A motion was made by Mr. Kappers, seconded by Mrs. Mahan, to table this application for some additional input from the Director of Law.
MOTION TO TABLE PASSED BY UNANIMOUS ROLL CALL VOTE.

Mr. Kappers requested staff to send a notice to the Villages of Concord owners regarding the application and that the matter will be on the next Commission agenda.

COMMISSION CONSIDERATION OF CONSULTANT TO PROVIDE GUIDELINES REGARDING HISTORIC DISTRICT APPLICATIONS. At a recent meeting, there was discussion about establishing some guidelines that may be of assistance to the Commission and applications for historic district applications. A proposal was provided, which staff will pursue.

TRAINING OPPORTUNITIES. The Commission received a flyer regarding up-coming training opportunities for Commission members.

There being no further business, the meeting adjourned at 3:59 p.m.

Respectfully submitted,

_____ Chairman

_____ Secretary