

MUNICIPALITY OF MONROEVILLE

PLANNING COMMISSION

MAY 17, 2017

MINUTES

The meeting was called to order at 7:30 p.m. by Vice Chairman Dennis Biondo at 7:30 p.m. in Mr. Diel's stead.

PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

The Pledge of Allegiance was recited at this time and a moment of silence observed.

ROLL CALL

The Recording Secretary, Sharon McIndoe, called roll and the following were present: Dennis Biondo, Kimberly Krivda, Georgiana Woodhall, Anthony Pokusa, Domenic Russo, Paul Hugus and Paul Whealdon. Messrs. Diel and Morgante were absent.

APPROVAL OF MINUTES

There being no corrections, additions or deletions to the minutes of the Regular Meeting of April 19, 2017, a motion was duly made by Mr. Russo to approve them, as submitted and Mr. Pokusa seconded it. Upon a roll call vote, the motion carried unanimously.

OLD BUSINESS

16-4-ST

HASHIM RAZA

The applicant is requesting site plan approval to construct a 4,704 square foot building for retail shops and associated site amenities. The property is located at 2646 Pitcairn Road in the C-2, Business/Commercial Zoning District.

The applicant requested tabling and waived all time limits.

Whereupon, Mr. Russo duly made a motion to table Application No. 16-4-ST and Ms. Krivda seconded it. Upon a roll call vote, the motion carried unanimously.

17-1-ST

THE IMAMIA ORGANIZATION OF PITTSBURGH

The applicant is requesting site plan approval to construct an 8,094 square foot church and associated site amenities. The property is located at 351 Old Haymaker Road in the M-1, Planned Industrial and R-2, Single-Family Residential Zoning District. The application is a modification to previously approved Site Plan Application 14-8-ST and Conditional Use Application 14-5-C.

The applicant requested tabling and waived all time limits.

There being no further discussion, Mr. Pokusa duly made a motion to accept the tabling and Mr. Russo seconded it. Upon a roll call vote, the motion carried unanimously.

17-3-ST

ZOKAITES PROPERTIES, LP

The applicant is requesting site plan approval to construct a 29,430 square foot retail plaza, 7,165 square foot restaurant and associated site amenities. The property is located at 3985 William Penn Highway in the C-2, Business/Commercial Zoning District.

The applicant requested tabling and waived all time limits.

Whereupon, Mr. Russo duly made a motion to approve the tabling and Mr. Pokusa seconded it. Upon a roll call vote, the motion carried unanimously.

17-1-Z

JAMES A. RUTTER

The applicant is requesting rezoning of properties totaling 41.852 acres from S, Conservancy to C-2, Business/Commercial. The parcels are located at 4917 Old William Penn Highway known as Allegheny County Lot and Block Nos. 1244-F-365 and 1244-C-287 and are owned by James A. and Janet Rutter.

Mr. Jack Finnegan, attorney, came forward representing the applicant. He gave a brief summary of the last time they were before the planning commission. He introduced Mr. James Rutter, the applicant, his daughter, Mrs. Jayme Matkozich and Mr. Brian Altmeter from Fahringer, McCarty and Gray. Mr. Finnegan explained the applicant is requesting this 41.8 acre site be rezoned from S, Conservancy to C-2, Commercial. He briefly described the property and felt it is an appropriate rezoning for the area and is not spot zoning. He pointed out they are immediately next to commercial and industrial. He stated the residential area shown in the yellow off McClure Road up to their site is zoned residential but is an undevelopable hillside. He explained how their property adjacent to the Pagoda Drive area is a precipitous slope with a natural buffer and is adequately protected. He pointed out the county line. He stated the use on their property is commercial and it's been that way for 50 years. He suggested the use of the property is mostly commercial, it flows into commercial and is surrounded by Route 22 and McClure Drive. He felt it is a good and natural fit for the site and they do not consider it spot zoning.

Mrs. Woodhall reported that she had requested copies of the cases he previously mentioned verifying that this is not spot zoning so that she could review them. Mr. Finnegan indicated he had them in a file and he can get them to her. Mrs. Woodhall was adamant that she wanted to review them prior to making a decision. Mr. Finnegan apologized but indicated he discussed it with the solicitor and he would provide copies. Mr. Hugus reiterated that it would not help at this time. Further discussion ensued. Mr. Finnegan suggested it would take some time to read them.

Mr. Brian Altmeter from Fahringer, McCarty and Grey came forward to explain the proposed zoning map showing all of the Rutter Property. He stated it is contiguous to existing commercial development on Route 22, the Urgent Care, the U-Haul and two other properties owned by Mr. Rutter. He pointed out the J.D. Byriders Auto Dealership, Murrysville Shops and across from McClure Drive is the former Cochran Automotive. He felt it was a continuation of the zoning and not an island on its own either with its existing uses or any other proposed use that would not be compatible with the surrounding uses.

Mr. Altmeter explained the exhibit clearly shows that this is not an island of a different color which would indicate that it is spotted in the middle of nowhere. He briefly reviewed the relationship of the property to the surrounding area. He reviewed a Bing Photograph of the aerial perspective of the property showing elevations in plain view as well as sectional views. He stated the main part of the business is in the middle of the property with the elevation at 1,170 feet. He added the section line goes from the eastern side through the property to Old William Penn and William Penn Highways and relates to the section on the board. He pointed out that the main part of the business in the middle of the property is at a 1,170 foot elevation. He stated towards Old William Penn it is at a 1,040 foot elevation which is a 130 feet difference and continuing on through to Route 22 is at approximately 1,025 or 145 feet from the existing business uses. He further explained going up the hill there is a small portion of the property at the 1,190 foot elevation and a steep slope to the property line on the side along the Shangra-La Plan and Pagoda Drive at 1,300 feet elevation or 135 feet above the current operations of the Rutter's. He stated the total elevation change from the top of the property to William Penn Highway is almost 300 feet or 280 feet and some of it is wooded and vegetated with steep slopes.

Mr. Altmeter explained they have shown elevations around the property as reference points and the elevation at the end of Pagoda Drive is around 1,145 or 25 feet below the elevation of the current business. He stated the elevation along the Murrysville border ranges from 1,090 to 1,020 or 80 to 150 feet below the elevation. He pointed out that along Old William Penn Highway where the homes are located it is about 80 to 160 feet below the operations of the Rutter's and the elevation along McClure Road is 20 to 70 feet below the elevation of the Rutter's. He explained most of the area on the property has naturally occurring ranges between a four-to-one slope or one foot vertical to four feet horizontal to a natural two-to-one or one foot over two feet which is very steep. He reported most of the surrounding properties in that area are in that range. He explained that anything between four-to-one and two-to-one slopes are marginally developable because of the cost to move the dirt or build retaining walls. He stated the area around the property or around the area that is being used for the business is within that range.

Mr. Pokusa inquired about the horizontal distance from the property line on the left to the 1,229 foot elevation. Mr. Altmeter explained between the property line and the middle of the business is approximately 900 feet and from the middle of the business to William Penn Highway is another 900 feet. He explained the exhibit of the proposed zoning overlaid onto an aerial photograph and pointed out the intersection of William Penn Highway and McClure Road, and Old William Penn Highway with the boundary of the property in black and the proposed C-2 zoning district in red. He pointed out the area between the business operation of Rutter's and the boundary line of Shangri-La and the adjoining

property is very steep which provides a natural buffer of mature secondary growth trees. He stated in the opposite direction is the area between the existing home and the Murrysville border which is more open space, trails and picnic areas that have been created with less slope but wooded and vegetated. He pointed out Old William Penn Highway between the business portion and the homes which has a steep slope and natural trees. He stated in the direction of the U-Haul, Urgent Care, retail and the Bow Wow there are less trees but still a significant slope between the existing use and Old William Penn Highway. He pointed out where the business end of the property is located and the access from the signalized intersection at Route 22 and McClure Road.

Mr. Altmeter then showed drone pictures of the area and briefly explained them.

Mr. Russo questioned the location of the home on the property and Mr. Altmeter pointed it out. He explained it is currently accessed from Route 22 from the M district and there is another access from the residential side at Pagoda Drive. He stated they are requesting the entire property be zoned C-2 and the intent of the home with the open floor plan is for a show room, conference center or meeting area which is consistent with the request to be in the C-2 zoning district with access through the property not off of Pagoda Drive. Mr. Pokusa inquired whether it is currently someone's residence and Mr. Altmeter answered Mr. Rutter lives there. Mr. Russo questioned whether he would move if this is approved and Mr. Altmeter answered affirmatively.

Ms. Jamie Matkozich, daughter of the applicant, came forward to review the events from previous meetings. She gave a brief overview of her history with the property growing up and explained that she is very fond of it. She wanted to see the property grow and expand and continue to be a positive portion of the Monroeville business district. She stated without the C-2 rezoning she was uncertain how the property would look because the growth would depend on the commercial activity. She explained her father currently lives in the house but he plans to vacate if this is approved. She felt this could be a positive thing and a destination spot in the community. She envisioned the house becoming an office space which lends itself to showroom type activities. She was hopeful this would move forward so she could develop a business plan to make this a positive growth location in the community.

Mr. Biondo questioned what is stopping them from growing the business under the current zoning. Ms. Matkozich answered what they are currently doing is outside the conservancy and felt it would simplify the process. She explained it needs to be changed in order for her to come up with a business plan and to financially plan for the future it needs to be zoned appropriately to legitimize the growth.

Mrs. Woodhall inquired whether the applicant could get a variance for a commercial use on a three-acre parcel of the property and Mr. Finnegan answered affirmatively. He added variances are difficult to prove and he felt this was the cleanest way to do it. He explained they could ask for relief under an ordinance for a special exception, variance or nonconforming use but that it has evolved over 50 years as a commercial business. He indicated it is consistent with the surrounding area and there is a significant buffer zone from the residential area. He reported the municipality has significant protections with respect to developments. He felt this would be better for the municipality and the

business. Mrs. Woodhall inquired how much property they needed to do what they want to do and Mrs. Matkozich answered all of it. Mr. Finnegan explained the applicant wants to develop the property properly and there is plenty of buffer space between the setbacks and natural topography for protection. He suggested it would give the municipality more control because of the rules and regulations required for any commercial development. Mrs. Matkozich added it looks like a large area where the business is operating but they do not have any room to spare and in order to grow they have to start to utilize the area where the house is located and the more eastern parts. She suggested it would be a good thing for the community.

Mr. Russo inquired whether both parcels are S, Conservancy and Mr. Altmeter answered affirmatively. Mr. Russo questioned what was stopping them from using that under the same protocol that has been used in the past. He stated both parcels are the same zoning and could be used in the same manner. Mrs. Matkozich explained the things she wants to do to grow the business are outside the S, Conservancy parameters. Mr. Russo asserted it is currently a nonconformance but nothing can be done. Mrs. Matkozich stated she cannot make it grow without adding to it. Mr. Russo pointed out both pieces of property are zoned the same and questioned what is stopping them from moving over to the other area of the property. Mrs. Matkozich pointed out the areas along McClure Road and Pagoda Drive that are not buildable because of the steep slope. She stated the slope going down toward William Penn Highway is grass where no structures can be placed but they can expand in toward the housing at the eastern part of the property. Again, Mr. Russo asked what is stopping them from doing it now under the S, Conservancy district. Mr. Rutter answered it is the difference in topography and how the ground is situated. He explained it is impossible to continue any growth in the business without having the C-2 zoning. He stated the only area of property that can be used for growth is the eastern portion because of the topography, the lay of the land and elevation. He explained they already have several trails and a playground for his grandchildren, the house and three ponds. He indicated the C-2 zoning is the only way to develop this property into a destination facility that has pony rides and wildlife experiences. He stated the three-acre area mentioned earlier cannot be done because the house is on 15 acres. He briefly explained the property and how the C-2 zoning would allow them to utilize the entire property. He added they need to do a master plan for the property and they cannot do it one acre at a time.

Mr. Finnegan explained whatever happens with the property it has to be done through a permitted process approved by the municipality. He stated that would not happen within the conservancy zoning classification for the rest of the property. He explained that is the only natural way for the property to be expanded properly. He asserted the most controlled and organized way for the municipality is through that zoning classification where there are significant regulations. He reported it would be a more controlled progress under the commercial zoning.

Mr. Russo inquired whether the same process would have to be followed if a building was built in an S, Conservancy District and Mr. Finnegan answered affirmatively if it would be allowed in that district. He explained the best way to do it is to rezone then it can be controlled. He felt a building would not be allowed to be built in an S, Conservancy district. He stated it is a slowly developing operation for over 50 years and he was uncertain whether it was nonconforming. Again, he indicated

the rezoning is the cleanest and most progressive way to do it. He added it gives the municipality more control of the site and cleaning it up.

Mr. Pokusa questioned whether there is maximum lot coverage for future use if it is changed to C-2 and whether areas for nooks for stones and mulch for this business are accounted for as part of that lot coverage or whether it is just physical structure. Mr. Hugus answered the zoning table would be used under the C-2, Business/Commercial with setback requirements. He stated it would have to be viewed as a whole and not parts.

Mrs. Matkozich asserted if the house is changed into an office or showroom she would have to meet all the requirements. She explained if she going to use it as a retail space it would be outside the parameters of the conservancy. She felt it would be a cleaner and smarter process to change it to commercial.

Mr. Biondo read a letter into the record from Fourth Ward Councilman Jim Johns in support of the rezoning (see attached).

Mr. Hugh Cook came forward representing his family on the 4900 Block of Old William Penn Highway. He explained he is on the downhill side of the conservancy. He indicated he is aware of the growth over the past 50 years and questioned their current zoning that has allowed them to have this vast operation over the years. He stated the parcel started out as a mountain trail up over the hill but the owner has pushed off, filled, and cleared to expand to the existing business. He pointed out it has been fine up to this point but now he wants to jump to the C-2, Business. He could not understand how the current operation conforms to the C-2, Business zoning and he pointed out the municipal table has nothing about manufacturing or commodity distribution. He stated the aerial view is like a small landfill with stacks of pallets, hundreds of yards of top soil and stone piled at the top of the hill. He explained there is no manufacturing clause in the C-2, Business section and this business is recycling the pallets and a manufacturing process with distribution.

Mr. Cook stated with all the traffic he felt it is empty promises because the property owner is still in the residence. He inquired whether there would be a time allotment for vacating it and questioned whether a plan has been imposed for zoning for occupancy concerning handicapped accessibility or parking. He could not understand how it could fit into this one zoning clause and felt the manufacturing process does not fit into that area because of the requirements under the C-2. He suggested if the property is rezoned it should fit into the operation so the inherent responsibilities can be held and he mentioned the pallets being recycled and questioned whether or not they have been in touch with hazardous waste. He was concerned about the concentration of the process and he questioned the long-term affect at the manufacturing facility. He reported he is on the downhill side of this property and was concerned whether the dyes in the mulch blow downwind and whether his family has been subjected to unknown factors over the past 20 years. He wanted the guidelines and restrictions to fit the process and accommodations of this facility and he wanted to know the responsibilities they would have in the zoning guidelines. He questioned whether the property owner would be responsible for air pollution, traffic control and road damage.

Mr. Cook requested as a homeowner downwind of the property that the planning commission impose the guidelines to see fit for the operation that they are requesting. He suggested there are a lot of unanswered questions concerning the type of use that will be made of the property. He felt what should be considered is that this is all hearsay and good promises.

Mr. John Edd, a resident of Pagoda Drive, came forward to express his concerns. He referred to the statement made earlier about the steep slope from the Rutter's Property to Pogoda Drive and stated there is an access road from Pagoda Drive into their operation. He felt it would be a more attractive way to get into the site than the current one which is a 130 foot difference in elevation. He asserted this could potentially allow for a lot of traffic in the residential neighborhood. He suggested the entrance be blocked with a locked gate. He reported it is currently open but not used very often.

Mrs. Matkozich felt it is a valid concern for the increase in the traffic impact. She explained no one is allowed to use that entrance and it is immediately addressed if it is. She reported they were not even allowed to use it when they originally started the business and she assured him that they would completely prohibit the use of that entrance for business and it is strictly used for the resident. Mr. Pokusa inquired whether there is anything posted that it should not be used and Mrs. Matkozich answered there is a gate with "No Trespassing" signs. Mr. Edd pointed out the gate is never closed. Mrs. Matkozich indicated she has to use a remote to get in. Mr. Edd reported he recently saw a business owner down from Route 286 come to get mulch going through their neighborhood.

Mrs. Woodhall inquired whether the municipality can control that access and Mr. Hugus answered negatively. He explained it is an access point to their property and they have the right to use it and anyone in the future has a right to use it. Mr. Finnegan agreed they have the right to use it but there is a gate. He stated if it is rezoned the applicant is giving control over to the municipality so the entrance will be required from Old William Penn Highway. He was uncertain why it has been opened but it will be addressed. He further reviewed the entrance. He felt it was not a big problem and it would be addressed immediately.

Mr. Rutter reported there are weight limit signs from McClure Road to Shangri-La Drive to Logan's Ferry Road to prevent ingress and egress and they can prohibit any kind of traffic. He stated it was never meant to be used as an access except for him. Mr. Russo inquired whether he would have a problem with permanently barricading it if this approved and Mr. Rutter answered negatively. Mr. Russo pointed out there would be no traffic in and out of that entrance. Mr. Rutter suggested it could be used for emergency purposes only. Mr. Hugus explained these are site plan issues and should be discussed at that time and this is strictly a rezoning. He mentioned how anything said is not binding to a rezoning. He explained none of that discussion is binding on a rezoning of the property. Mr. Finnegan agreed but suggested the conversation concerning Pagoda Drive was Mr. Edd's concern about traffic access and he stated that would be addressed immediately with or without the rezoning. Mr. Hugus pointed out that cannot be attached to the rezoning application and Mr. Finnegan agreed. He suggested the rezoning should be considered on whether it is a good fit and appropriate. He stated it is a commercial use and felt the residential areas will be well protected and the municipality will have more control than it does currently. He explained the spot zoning issue by definition is a small tract of

land or lot. He stated the M-1 is more spot zoning than this ever will be and must be treated differently than the property. He pointed out this property is a little different than the surrounding properties. Again, he stated it is not close to spot zoning and he reviewed the definition.

There being no further discussion, a motion was duly made by Mrs. Woodhall to deny Application No. 17-1-Z and Mrs. Krivda seconded it. Upon a roll call vote, the motion carried with four affirmative votes and one negative vote. The voting was as follows: Mr. Biondo, Mrs. Woodhall, Mrs. Krivda and Mr. Russo voted affirmatively; Mr. Pokusa voted negatively.

Mr. Hugus explained this will move on to council and the public hearing will be June 8, 2017 and the decision will be made June 13, 2017. Mr. Biondo explained the planning commission will make a recommendation to council to deny the application.

NEW BUSINESS

17-2-SUB

UNISOURCE PROPERTIES, LP

The applicant is requesting final subdivision approval of Tax Parcel 855-F-355 to create two proposed lots labelled "1-A" and "1-B"; Lot 1-A consists of 0.4384 acres and Lot 1-B consists of 0.2887 acres. The property is located at 501 Beatty Road in the R-2, Single-Family Residential Zoning District.

Mr. Ray Gusty from Fahringer, McCarty and Grey came forward with the applicants. He briefly reviewed the location of the property as being at the intersection of Beatty Road and Old Haymaker Road. He stated Jobe Funeral Home is directly across the street. He reported this is a simple two-lot subdivision and Lot 1A will be over 18,700 square feet in size and Lot 1B will be over 12,500. He stated both lots exceed the minimum lot size for an R-2 zoning district which is 7,500 square feet. He reported they have addressed the review comments from the engineer.

There being no further discussion, Mr. Russo duly made a motion to approve Final Subdivision Application No. 17-2-SUB and Mr. Pokusa seconded it. Upon a roll call vote, the motion carried unanimously.

17-1-C

ZOKAITES PROPERTIES, LP

The applicant is requesting conditional use approval for a cut and fill operation totaling approximately 147,000 cubic yards of earth. The property is located at 3985 William Penn Highway in the C-2, Business/Commercial Zoning District.

The applicant requested tabling and waived all time limits.

Whereupon, Mr. Pokusa duly made a motion to accept the request for tabling and Mrs. Woodhall seconded it. Upon a roll call vote, the motion carried unanimously.

ADJOURNMENT

There being no further business to come before the planning commission, as this time, a motion was duly made by Mr. Pokusa to adjourn the meeting at 8:36 p.m. and Mr. Russo seconded it. Upon a voice vote, the motion carried unanimously.

Respectfully submitted,

Ed Diel
Chairman

ED/sam

