

PLAN COMMISSION MINUTES
December 14, 2015

CALL TO ORDER: 6:30 pm

ROLL CALL: Chairman Dean Wolter, Trustee Representative David Baum, Commissioners Bill Shadid, Tim Yokes, Mary Ellen Gray, Peter Nilles and Tony Laszewski were present. Also present were Village Planner Jeff Retzlaff, Village Engineer Brionne Bischke, Village Attorney Brian Sajdak and Planning Assistant Lori Johnson.

PUBLIC INPUT: The following people spoke regarding the Saxony Village proposal on the agenda:

- James Kapus, N114 W15909 Hilbert Lane, suggested removing Building #6, the surface garages, parking lot, and driveway from the southeast corner as well as the extension to Hilbert Lane.
- Loren Doll, W159 N11447 Red Oak Circle, asked what will happen to the runoff if Building #6 is constructed and said he and other residents don't want to see this area developed.
- Don Reinbold, N116 W16137 Main Street, Barley Pop Pub, said he supported development downtown and said the goal is to improve Germantown and help small businesses thrive.
- Dick Kent, N114 W15920 Hilbert Lane, said this is an overly dense development and asked why accommodate the developer rather than the community.
- Scott Pecor, Bubs Irish Pub, N116 W16218 Main Street, said he is in favor of something being done to this property and bringing people into the area.
- Nicki Broetzmann, W163 N11502 Windsor Court, said residents do not want this development and additional multi-family housing. She is concerned with density, traffic and the health of residents because of the brownfield located on the property.
- Dan Wing, N116 W16044 Main Street, said the Plan Commission needs to listen to the residents concerns and consider the history of the past proposals for the property. He said the density has never been proposed this high in past.
- Art Zabel, N97 W156737 Burr Oak Road said development is going to occur, but the argument is what density is allowed. He had concerns with the private driveway and said the street should be public.
- Jason Otto, W156 N11810 Pilgrim Road, co-owner of the Barley Pop said residents have valid concerns but something on Main Street needs to change and development needs to happen so businesses can continue. He hopes something is done that resembles what Germantown will look like in the future.

PREVIOUS MINUTES: ***MOTION Baum second Gray to Approve the minutes from 11-9-15.***

MOTION carried unanimously.

Cambridge Major Laboratories – W132 N10550 Grant Drive. The applicant is seeking approval of a site development and building plan for a 15,000 gallon above ground storage tank. Planner Retzlaff summarized the proposal.

MOTION Baum second Yokes to Approve the site development and building plans for the addition of one (1) 15,000 gal liquid nitrogen storage tank, vaporizer unit and associated distribution lines and equipment, security fencing and bollards at the southwest corner of the building as proposed subject to the following conditions:

- 1. *State approval of and a Village building permit for the concrete pad and tank installation is required.***

Commissioner Laszewski said if the tank was the same color as the building it wouldn't be as noticeable. He added that using Colorado blue spruce trees may be a better choice for screening the tank. Rick Roofe, Airgas, explained the tanks are white to prevent UV light from getting into the tank. Trustee Baum asked for some background on the Park. He said his understanding was the Park was supposed to be more business park than industrial. He said this building started as an office building and is now more industrial. Planner Retzlaff said over time this project has developed and production changed. The Village has been accepting and flexible to accommodate them. He said the southerly part of the Park has been more accepting to these types of uses and the northern half is more business. Trustee Baum asked why a screen wall can't be built. Mr. Roofe said the louvers won't allow sunlight in that is needed to help melt ice on the vaporizer unit. He explained if ice forms it is difficult to get in and move around and added that oxygen deficiency is also a concern. Trustee Baum confirmed that there is no additional space on the property to put the tank.

MOTION carried unanimously.

**JBJ Development for Heritage Place Joint Venture, MC Investments and Land 15, LLC
23.7 acres on Main Street (approximately N116 W16200). Site and Sign Plan
Review/Action for a 172-Unit Multi-Family Residential Development (Saxony Village).**

Scott Bence, JBJ Development and agent for Heritage Place Joint Venture, MCB Investments LLC and Land 15 LLC, property owners, has submitted site development, building and sign plans for a proposed 172-unit multi-family apartment community called Saxony Village on a 22.73 acre parcel on Main Street. Planner Retzlaff summarized the proposal. Scott Bence, JBJ Development, said he had met with various committees and boards and thinks this is a good project saying it provides great pedestrian access, vehicle access, walk ability to Main Street and changes a Brownfield to a green field. Gene Guskowski, AG Architecture, said the development has a modern look with amenities people are looking for and is designed to meet the needs of the potential market.

MOTION Baum second Shadid to APPROVE the site development, building and sign plans for the proposed 172-unit Saxony Village development subject to the following conditions:

- 1. All items and requirements recommended by the Public Works Department/Village Engineer in the December 8, 2015 review memos shall be addressed as part of additional and/or revised detailed construction plans prior to commencement of construction. Final approval for all utility plans, including the need for a developer's agreement with the Village, shall be approved prior to commencement of construction.***
- 2. Approval is subject to Village Board approval of a conditional use permit (CUP) for the proposed development within the Village's 25' wetland setback. In the event CUP approval is not granted, revised site development plans must be submitted for further review and consideration by the Plan Commission.***
- 3. Approval is subject to the DNR and/or ACOE granting approval of the Waterway General permits necessary for the proposed culvert replacement, wetland fill, and storm water basin construction.***
- 4. Approval is subject to the DNR granting approval of the required soil management, vapor mitigation and any other remediation plans, measures, improvements and/or***

other “continuing obligations” required under the “closure letters” issued for the former Jacobus Oil Co. and CMC Heartland Partners parcels.

- 5. The Developer shall provide the following as required by the Fire Department: Fire protection equipment panels and FDC locations to be approved by GFD inspection; GFD-approved stand pipes in each building stairway on every floor in lieu of providing full paved road access around the buildings.***
- 6. State-approved building plans shall be provided with all building permit applications for all of the six buildings (excluding the detached accessory maintenance building and garages that will only require Village-approved plans).***

A lengthy discussion followed. Commissioner Shadid asked if the project is in compliance with the current zoning or offends any policies with the Village. Planner Retzlaff confirmed the proposal is in compliance with existing Village regulations after working through various plan revisions and concerns with staff. Commissioner Shadid stated that he is here to administer the policy, not change it.

Trustee Baum said he was now against this project and does not like the contemporary buildings for this location. He feels that Building #6 on the southeast corner is an appendage that doesn't tie into anything. He did not like the aluminum siding or independent parking structures and feels they are there to negotiate something else. He recommended eliminating those buildings and dropping the total number of units from 172 to 160 units to work more towards what the residents want. He has additional concerns with crossing the wetland and the road connection to Hilbert Lane. He is agreeable with the general layout but asked for the Village Attorney's legal opinion regarding connecting streets. Village Attorney Sajdak summarized the provisions of Chapter 18 that talk about certain improvements. Discussion followed. Planner Retzlaff said the plan would need to be modified to meet Village standards if a public street is required. He said a public street would appear on various maps and GPS systems thereby creating the potential for more through traffic across Hilbert Lane by linking Main Street to Hilbert Lane. Retzlaff pointed out other developments including Blackstone Creek, Riversbend and development west along Main Street that all have private streets connecting to a public street with no problems. Trustee Baum said the development is now missing things that made it a benefit to the Village.

Chairman Wolter asked for clarification from the Village Attorney regarding Section 18 confirming that this development is not a subdivision so the connectivity of a private road to public road does not apply here. Attorney Sajdak said the requirements of Chapter 18 do not specifically apply because this development is not a subdivision, but this body could turn to this Section as a form of guidance. Chairman Wolter asked if the connection to Hilbert Lane would be needed if the building in the southeast corner is removed, thereby eliminating the public street connectivity and thoroughfare. He said there would be additional queuing and traffic at Main Street with Castle Drive becoming an outlet. He agreed with Planner Retzlaff saying a public street would draw people to it. Trustee Baum was concerned with all the traffic from the development using Main Street and said a new traffic study would be needed.

Mr. Bence said the materials on the building in the southeast corner are the same as his building on Fond du Lac Avenue. He said this building is not visible from the other 5 buildings and is more accommodating to the buildings on Hilbert Lane. He indicated he could mimic the architecture on the other buildings but did not want to eliminate the 6th building. He said he would be disappointed if a public street was required because that was never discussed previously.

Commissioner Yokes questioned the need for the surface stalls for building #6. Mr. Bence explained the average parking allowance he uses for this type of development is 2.5 cars per unit. The additional parking allows for parties, snow storage and move in/move out parking. Commissioner Yokes said he was in favor of the road connecting to Hilbert Lane but questioned if the road design could decrease in width. He was not sold on the architecture stating he would have preferred 3-story buildings. Chairman Wolter explained the 3-story buildings were removed because the PDD was not approved.

Commissioner Nilles did not care for Building #6 and asked if the developer was intent on keeping it. Mr. Bence said the land was usable and that building is part of the project.

Commissioner Laszewski said there was some compelling history that this project was always approached using net density, not gross. Chairman Wolter said this project falls under the old code definition and the Plan Commission decides what to approve. He explained that some previous planners had interpreted the code differently than Planner Retzlaff. He said the Village Attorney's opinion is that because of how the code is actually written the Village has the ability to consider this project based on gross density. Planner Retzlaff said that the previous proposals for this property were submitted before the current Comprehensive Land Use Plan map and policies were adopted in 2004 and that the current 2020 Land Use Plan for the Village shows this area as mixed-use intended for development of a higher quality and higher density residential housing that would lend further support to the commercial district. He indicated that it is not appropriate to consider previous proposals for development of this property submitted before the current comprehensive plan was adopted because we now have a plan in place to guide current and future decisions.

Commissioner Gray had no problem with crossing wetlands and liked the connection to Hilbert Lane. She liked the architecture and urban feel of the development but had some concerns with the clubhouse saying it didn't seem to have the same character as the other buildings. She said the landscape plan needs some shade trees.

*MOTION to Amend Gray second Shadid to add 6 shade trees to the landscape plan.
MOTION Withdrawn.*

Discussion continued.

MOTION to Amend Baum second Nilles that the exterior appearance on the architecture on the renderings be switched from a flat roof to a gable roof.

MOTION to Amend carried (6-1 Gray).

MOTION to Amend Baum second Nilles to remove all the development on southeast corner of the property, the 12 unit apartment building and the two 10 unit garages.

Commissioner Gray said the developer has a right to develop the land and he can put an apartment building on it. Chairman Wolter explained Trustee Baum doesn't want to see a building on that end of the site plan.

MOTION to Amend carried (6-1 Gray).

MOTION to Amend Baum second Nilles to eliminate the connection to Hilbert Lane and a new traffic study be done showing a single way in.

Trustee Baum was concerned that because of the overwhelming denial of the PDD by the Village Board, he doesn't think the permit to allow the wetland crossing will be approved and he would like to see a plan that doesn't have that connection. Planner Retzlaff asked if a revised traffic study will be needed because the original concern was how the existing street system can support this amount of development. Attorney Sajdak said if a revised traffic study is wanted, it should be included in the motion. Planner Retzlaff asked Trustee Baum if the Village Board approves the wetland crossing permit and the connection would he accept the current site plan alternative. Trustee Baum said the Village Board has final say on the wetland crossing and Hilbert Lane connection. Chairman Wolter said that review process is removed through this motion. Trustee Baum withdrew the motion to amend.

MOTION to Amend Withdrawn.

MOTION to Amend Baum second Shadid that the connection of the entrance drive lane to Main Street be widened up so there's a left turn lane, a right turn lane and an inbound lane.

MOTION to Amend carried unanimously.

Mr. Guszkowski, asked if the Plan Commission would be open to exploring a design that would have a combination of flat and pitched roofs. Trustee Baum said that design would not tie into the neighboring developments, but he's open to looking at that possibility. Attorney Sajdak clarified the motion is to approve the plan as presented with a motion to remove the flat roofs and add gable roofs. He said it doesn't mean it needs to come back to the Plan Commission for review.

MOTION to Amend Wolter second Baum to lower the density to 6 units per acre, taking it off of the 7.2 making available units buildable at 142.

Chairman Wolter said this body has the ability to approve up to 8 units per acre and this proposal is currently proposed at 7.2. He indicated his motion is to take it to 6 units per acre taking it under 150 and addresses some of the concerns from residents and others about density in the area.

Scott Bence said looking back at the August 10th meeting minutes the biggest topic was how many connections there were and where will the connections go. He asked what changed from that meeting. He stated 172 units is his breaking point for the total number of units because the environmental costs and easements to Main Street are very expensive. He said he is willing to make a commitment and finish the project and do it right, but he needs 172 units. He said the Comprehensive Plan tells you to put the highest number of units there and reducing the number of units is not consistent with the Plan. He said developers use the Plan as a guideline. Business owners here are looking for development and he is supplying the need. He said he has invested money and time, listened to residents and had many meetings with Village officials and staff only to have the plan picked apart at this meeting.

Attorney Sajdak said this body doesn't have the benefit of holding a public hearing prior to taking action but they likely have reviewed the notes and minutes of previous meetings and

received guidance as to what happened at the public hearing. So it is appropriate for them to consider those issues that have been raised. He said he didn't believe the master plan says to maximize every possible unit out of the space available. It just says to put in a high quality, high density development within the location. High density is going to be relative and this body is setting that bar to what they feel is appropriate to the area.

Mr. Bence said when he started this project a year and a half ago the Village called him and asked what his plans were. He said his plan was for 172 units and in the next 6 to 7 months, through the Village's input, he changed the plan to the Village's liking. He added units, he added a regional pond, and he acquired the brownfield land all because that's what the Village was asking for. His plan didn't look like this plan. All the public hearings held were needed because of what the Village wanted and because 80 people out of 32,000 complained, the plan now needs to change. He said he is excited about the architecture and the walk ability of the project and is disappointed after all the effort he's gone through.

MOTION to Amend carried (5-2 Yokes, Gray).

MOTION to Amend Baum second Shadid that the parking ratio be 2.5 to 1.

MOTION to Amend carried unanimously.

MOTION to Amend Yokes second Shadid that both signs be design #2 as shown on sheet G230.

MOTION to Amend Fails (5-2 Yokes, Shadid)

MOTION to Approve as Amended carried unanimously.

ANNOUNCEMENTS: None

ADJOURNMENT: There being no further business, the meeting was adjourned at 9:38 p.m.

Respectfully submitted,

Lori Johnson
Planning Assistant