

**DRAFT  
MINUTES  
VILLAGE OF SUNBURY  
PLANNING AND ZONING COMMISSION  
September 28, 2020**

Mayor Tommy Hatfield called the Sunbury Planning and Zoning meeting to order at 6:30 p.m., on September 28, 2020.

Members present: Tommy Hatfield, Joe St. John, John Lieurance, Joe Gochenour and Rick Ryba. Greg Elliott was in attendance at 7:25 p.m.

Also present – Dave Parkinson, David Brehm (6:40), Allen Rothermel and Steve Pyles.

The meeting was started with a moment of silent prayer and the pledge of allegiance.

**Public Hearing — 121 SR3, Sunbury Mills Plaza Out Parcel C – Side Yard Setback**

Mayor Hatfield convened a public hearing for a variance application to decrease the side yard setback from Development Consulting Company to construct a car wash on out parcel C. Those testifying related to this agenda item were sworn in virtually.

Jody Freeman explained the need for side yard reduction to 20' to allow the construction of the car wash on the out parcel. This side yard reduction is for the yard adjacent to Sherwin Williams.

Mr. Parkinson stated he will provide comments at the meeting.

Exhibits were introduced with reference to the One Drive files labeled as Exhibit A-D.

Mayor Hatfield asked for other public comments, hearing none the hearing was closed.

**Public Hearing – MTB and EMME Holdings – Rezoning**

MTB Fourwinds, LLC and EMME Holdings LLC are requesting a rezoning of 53.007 acres located south of Fourwinds Court from Not Zoned to Planned Commercial District (PCD).

Mayor Hatfield opened the public hearing, Aaron Underhill was noted as representing the applicant. There were no public requests for attendance virtually and no individuals at the town hall to present comments in person.

Witnesses were sworn in for the public hearing.

Mayor Hatfield allowed Mr. Underhill to present the rezoning request upon behalf of the applicant.

Mr. Underhill noted a previous informal discussion with the commission and then summarized the history of the annexation of this property and the work to finalize a development agreement that takes transportation access and other elements into account. The purpose of this rezoning and PCD is to reflect the development agreement and take future events, flexibility and site constraints into account. He did note an eight-acre option to develop age restricted multi-family housing. Any specific projects would come through the Planning and Zoning Commission as a stand-alone site plan. He anticipates the first site plan may be for a hotel use, but that once zoning is established there will be other plans that may come forward,

Mayor Hatfield asked for comments from Mr. Parkinson, he reserved his comments for the meeting portion.

Mr. Brehm noted the exhibits he would like to include in the public hearing contained on the Zoning OneDrive, Mr. Underhill concurred to inclusion of those exhibits.

With no others present to testify, Mayor Hatfield closed the public hearing and moved into the regular meeting of the Commission.

## **REGULAR Meeting**

### **Variance - 121 SR 3, Sunbury Mills Plaza, Out Parcel C - Side Yard Setback**

Development Consulting Company is requesting a variance from side yard setbacks to construct a car wash.

Mr. Parkinson shared his report on this variance. A 45' setback is required by code due to the length of the building needed for a car wash, this would be the first variance granted in the Sunbury Plaza PCD. Sherwin Williams is the building to the north of this lot and it is constructed on that lot in the northern area so this would not appear to have an adverse impact upon their site in his opinion. There are no other engineering concerns driven by this variance.

Mayor Hatfield asked for board input on the variance, Mr. Ryba asked if Sherwin Williams expressed any reservations about this, Mr. Pyles noted they had been notified by mail, but no comments have been made.

Mr. Parkinson responded to a question from Mr. Brehm about the distance between the proposed car wash and the Sherwin Williams building stating it was approximately 60 feet north of the property line making the buildings 80 feet apart. Mayor Hatfield responded that is relatively normal in that area.

Mr. Brehm indicated Sunbury is in receipt of an email indicating Kroger's and Sunbury Plaza approval of the architectural review, but the amended real estate agreement is pending. Mr. Freeman stated he will follow -up on that matter.

There were no other questions from the Commission.

Mr. St. John made a motion to approve the variance, second by Mr. Ryba. The motion was passed with five ayes of members present.

### **Rezoning - MTB and EMME Holdings**

MTB Fourwinds, LLC and EMME Holdings, LLC are requesting a rezoning of 53.007 acres of parcels #4172300101600 and #4172300101700 located south of Fourwinds Court from Not Zoned to Planned Commercial District (PCD).

Mayor Hatfield introduced this item and requested Mr. Parkinson provide his thoughts. Mr. Parkinson stated the applicant had provided a good introduction; he has provided two detailed memos in reviewing the proposal. Some areas of his comments were addressed, others the applicant chose to stay within the originally proposed plan.

Mr. St John requested a summary of the divergences requested.

Mr. Underhill stated there are nine technical divergences.

#1 - Building Size and Office Use – with this location, it provides opportunities for larger office buildings and they are requesting no limitation from the code limit of 3,000 s.f.

The various divergences were displayed.

#2 – Building Heights – the applicant is requesting a maximum height of 85 feet with various buffers and setbacks. Mr. Underhill noted that there are property uses, such as data centers which would exceed the code limit of 35 feet. He also mentioned distribution centers are building typically beyond the code limit height.

#3 – Building Setbacks – The applicant noted the internal conditions of the site and public right of way for the street corridors necessitated setbacks that made the area impractical to build and develop effectively.

#4 – Side and Rear Yards – The applicant stated it was a related issue to setbacks and is requesting a reduction for outparcels from 10 to five feet for minimum pavement setback.

#5 – Permitted Uses – The applicant is proposing up to eight acres to be used as age restricted (55+) housing.

#6 – Continuance of Existing Sign. The applicant noted there is an existing sign that exceeds current code for height. They are proposing to continue to use, maintain, repair and replace the existing highway sign as they have long-term contracts for that monument sign.

Mr. Ryba asked if there were any new signs, Mr. Underhill responded that it would be for the current sign or a replacement if it was damaged in a casualty event.

Mr. Brehm stated that if the sign had available spaces an application could be taken for that space without variance, and that the existing monument sign would be conforming instead of grandfathered to allow for a catastrophic loss and rebuilding of the sign. This was the best option dealing with the existing sign and giving the applicants and tenants of that sign some certainty that it could be a continued use.

#7 – Plat Approval and Construction Commencement – The applicant is asking for relief from the code deadlines for plat and construction for the reason the development agreement requires Sunbury to build an extension to Four Winds Drive once the market brings a project to finance this extension. An extension may be foreseeable, and this divergence provides both parties with flexibility based upon how the property develops.

#8 – Minimum Size of First Development Phase – The applicant believes that the extension of Four Winds may be incremental and that the first use of Subarea 1 may not need the entire 5.2 acres. This divergence would allow that subarea to be split and developed incrementally to the benefit of both Sunbury and the developer.

#9 – Minimum Side and Rear Yard Setbacks – The applicant and engineer identified this issue could be impacted by the code. The applicant is proposing a reduction because of the existing and future thoroughfares surrounding and running through the site as the current code impairs flexibility and the availability of land for development.

Mayor Hatfield asked to clarify if the rezoning and PCD approvals are separate given the overlapping nature of the two issues.

Mr. Brehm asked Engineer Parkinson if there are any other divergence that were required. Mr. Parkinson said he believes all divergences needed have been requested.

Mayor Hatfield reviewed the application and didn't have further questions. He asked if others had questions.

Mr. Gochenour stated he did not have questions but made the observations that there are many divergences; no restrictions on building size, a five foot setback is close, eliminating a time requirement are all large requests.

Mayor Hatfield asked if he had recommendations. Mr. Gochenour suggested limits to divergence #1 and #7 should be established. There was a discussion on limiting the time related to filing a plat and commencement of construction. Mr. Underhill suggested

a timeframe of five years is acceptable to the applicant with the option to request an extension. Mr. Brehm advised that with the applicant proposing a five-year timeframe with an ability to seek an extension, that would be a realistic limit given the complexity of this development and the road infrastructure complexity and construction requirements. The ability to allow five years and an approval-based extension would be reasonable. Mr. Gochenour stated that would be acceptable to him.

There was also a discussion about size limitations for office uses. The applicant offered a maximum of 12,000 sq. ft. per acre. During the discussion, the location of the parcel being rezoned, and the appropriate size needed to market to a possible large office user was examined. Mr. St. John offered that 3,000 sq. ft. is a relatively small building and is amenable to larger office users in terms of economics and the potential value to the community given the location. Mr. Gochenour clarified his reservations are about an unlimited divergence.

Mr. Brehm stated that he sees the need for a limit, but also that a small building may not be the best use for the area or the community. He stated 10 to 12k sq. ft. per acre is a reasonable limit in that area.

Discussion continued with the applicant, the engineer and others offering views. The discussion settled in the 10-k sq. ft./ acre given the location, the uses to be attracted and the parking and other facilities that would need to be provided for a large office complex.

Mayor Hatfield asked to clarify if the rezoning and PCD approvals are separate given the overlapping nature of the two issues. After discussion, it was decided that both the rezoning and PCD development plan could be dispensed with in one action.

Mr. Brehm stated they could be voted as one approval. He also noted that the vote should include amendment to divergence #1 for 10,000 sq. ft. per acre for office uses and divergence #7 would have a time limit of five years with the option to request an extension with the approval of the Commission.

Mr. St. John made a motion to approve the rezoning and development plan as amended, second by Mr. Ryba. The motion was approved with five ayes and one abstention from Mr. Elliott.

### **Major Site Plan and Building**

Richland Engineer Limited has submitted an application for the construction of a car wash on behalf of IMO US South LLC. The proposed location is Outlot C, a vacant lot to the south of Sherwin Williams, in Sunbury Mills Plaza. This item was tabled at the 8/24/20 meeting.

Mayor Hatfield opened the discussion and requested Mr. Parkinson present his review. He stated there were significant review questions and that the applicant's engineer did a

good job responding to those comments and he takes no exception with the revisions submitted as part of the review process.

There was also a discussion of bricks and brick veneer. The applicant responded that they are intending to use full brick construction and match the standards of the plaza architectural requirements. He clarified the intention is to use full brick and not a veneer type product.

Mayor Hatfield clarified with the engineer that his comments had been satisfied. He agreed they had.

Mr. St. John made a motion to approve the major site plan and building, second by Mr. Elliott. The motion passed with six ayes.

Mr. Pyles noted that Fire Department had the plans under review.

Mr. St. John rescinded his motion to indicate a contingent approval pending Fire Department and final engineering and legal review, second by Mr. Elliott, the motion passed with six ayes.

### **Preliminary Major Subdivision Plan and Plat Review**

V3 has submitted a major subdivision plan and preliminary plat on behalf of Civenco for Magnolia Park. Magnolia Park is a 40-lot subdivision located at Cheshire Road and Big Walnut Way.

Mayor Hatfield started this discussion with a staff report. Engineer Parkinson noted this is a resubmittal of an expired preliminary plat. There were some slight revisions to the plan, including the addition of three lots going from 37 to 40 total lots. Engineer Parkinson described changes made from the original plat. He noted the locations of the additional lots and noted the conservation easement and other easements were added to preserve features and trail connections. He also noted the applicant had narrowed a portion of Big Walnut way consistent with the golf course and Price subdivision plan.

Mayor Hatfield asked if the applicant wanted to make comments. Andrew Gardner from V3 introduced himself and noted the Engineer's accuracy in his report. He added they found some drainage elevation issues and did some changes to storm drainage which freed up land for some additional lots. He noted that cost estimates for the infrastructure is significant and during their preparation for submittal they identified some potential additional lots to help with the development cost estimates and thought that this could be an opportunity to discuss this change with the Commission. He then offered to take questions.

Mr. St. John asked about street names as there is an existing road that uses the term "Big Walnut". The applicant agreed to work with staff on alternatives.

Mr. St. John then asked about the additional lots, specifically lot 7 in Phase 1. He asked to have that lot removed and resolve the matter with two additional lots.

There was a discussion of what was previously planned for lot 7 and the open space planned for the development. Mr. Gochenour expressed his interest in usable open space as much of the planned open space is wet.

Mr. Alfaour, representing the applicant, responded that the need for additional lots to offset the cost of the developing the land is important.

Mr. St. John responded he is willing to approve the additional lots related to the drainage idea, but he is unwilling to approve the lot #7 addition because it takes from open space.

Mr. Gochenour asked if the private sale land to an adjoining property owner is included in density calculations. Mr. Gardner responded it was not.

Mr. Brehm asked about the trail system portrayed in the plan, is it correct that it would be a self-contained trail crossing two streets. For background, it shared some land to the south of this development and has the potential for trail connectivity. The applicant replied they will look at that connectivity at detailed design. Mr. Brehm clarified there would be connectivity between Lot #19 and #20, the applicant confirmed there would be an access easement.

Mr. Gochenour asked about installing trails in the wet area. The applicant responded it may end up being a combination of asphalt and raised walkway once they get to detailed design. Mayor Hatfield asked if it was new? The applicant responded it is reflective of the previous design. Mr. Gochenour was also concerned about tree loss.

Mayor Hatfield made a motion to approve the Preliminary Subdivision Plan and Plat with the plan condition to eliminate Lot #7 from the plat. The applicant asked about the process if a resubmittal with that lot elimination would be necessary. Mr. Brehm clarified that the applicant could agree to that elimination, would not be required to return until the final plat was ready for action, but that there would be a legal and engineering review to assure that change was made, or they could ask for a vote of the Commission for the preliminary plat as presented. Mr. Alfaour agreed to eliminate the lot instead of another hearing of the plat. Mr. Gardner said their intention would be to take out the lot and adjust other lot lines to assure they do not have irregular lots. He stated the applicant was in agreement with this change.

Mayor Hatfield asked for other comments or questions.

Mayor Hatfield clarified and made a motion to approve the submission with the elimination of Lot #7 and making lots #1-6 as they were originally submitted in the previous preliminary plat that had expired. Mr. Brehm clarified, contingent upon legal

and engineering review. Second by Mr. Ryba. No further comments or questions. There were five ayes, Mr. Gochenour voted nay. The preliminary plat was approved.

### **Appointment of Planning and Zoning Commission member to serve on Community Investment Area Housing Council.**

Mayor Hatfield asked Mr. Brehm to summarize, he stated we have a need for a member of the Commission to serve on this board. Mayor Hatfield provided some context that this board will deal with tax abatements under the community investment area.

Rick Ryba volunteered to serve. Mayor Hatfield made a motion to appoint Mr. Ryba. The motion was seconded by Mr. St. John. There were five ayes to approve the motion, Mr. Ryba abstained.

### **Motion to approve Minutes of the August 24, 2020 Meeting**

Motion to approve by Mr. Ryba, second by Mayor Hatfield. Minutes were approved with six ayes.

### **Zoning Report**

Mr. Pyles briefly shared the zoning report and offered to take questions.

### **New Business**

Mr. Parkinson offered his assistance in reviewing applications and stated he can pass on comments from the Commission to the applicants prior to the meeting to improve the application. Mr. Elliott requested that getting plans before the Friday before the meeting would be helpful. There was discussion about getting materials to the Commission earlier and controlling deadlines on applications that are undergoing review and revisions.

Next Meeting Date – October 26, 2020

### **Motion to Adjourn**

Motion by Mayor Hatfield, second by Mr. Ryba. Six ayes, the meeting was adjourned at 8:48 p.m.