

April 7, 2022
Planning Commission Meeting
Virtual Meeting
7:00 p.m.

Commissioners Present: Chairman Julie Jones, Commissioner Jan Kerr, and Commissioner Stephan Moss

Commissioners Absent: Commissioner Marcus Wager

City Staff Present: City Administrator Robert Barnhill
Deputy Recorder Tyra Bischoff

Others Present: Lynn Wilson, Juan Pravo, Rafaela M. Calata, Christine A. Olsen, Drew Wazz, Tristan Hart, Kyrach Hart, Larry Hirschi, Kristan Settlemyre, James Settlemyre, Jeannine Jensen, Boyd Ricks, Ashley Young, Thomas Wood, Brad V. Johnson, Jim Flint, and Brinton Neff

Attended via Zoom: Barney Olsen, Zach H, Blakely, Eileen Johnson, and Melanie Barnhill

1. 7:01 p.m. - Call to Order and Opening Ceremonies

Chairman Julie Jones called the meeting to order.

A. Declare Conflict of Interest, if any

None.

2. Action Items

A. Final Plat Application: Harmony Cove located at approximately 2235 S 635 W Parcels #03-158-0159; 03-158-0169 Applicant: Brandt Miles

City Administrator Robert Barnhill discussed this 20 townhome unit and two single family lot application for the Harmony Cove subdivision. He said because there are already 30 multi units approved at Davis Creek on one access the fire marshal requires that each unit have fire sprinklers in all the units and the two single family homes. He then showed several pictures of the layout of the subdivision. The plat maps showed a public road and public utilities with a cul-de-sac and townhomes. He noted that they have received their preliminary approvals by the engineers and the planning commission. He also remarked that they have done a little preliminary construction at this site. If approved at this meeting they would have 90-Days to fund their escrow for their incomplete improvements and then they can record their plats. In conclusion, Mr. Barnhill reminded the commissioners that this was an administrative item. He also recounted that the review showed that everything was in order for approval.

Chairman Jones noted that the last time the committee reviewed these plat maps they questioned the setback on the houses. She asked if this issue had been addressed. The committee reviewed the plat maps and found they comply with the city setback rule. She then asked about water drainage and detention pond. Mr. Barnhill said that the storm water drains will be maintained by the city, but the pond service maintenance is done by the HOA. The committee then noted that the units will have two car garages and an additional space in the driveway to park two more cars. They will also have a planned visitor parking area.

MOTION: Commissioner Kerr made a motion to approve the Harmony Cove Subdivision with the updates that have been made that seem to meet all requirements. Commissioner Moss seconded the motion.

Roll Call Vote:

Commissioner Kerr, Yes
Commissioner Jones, Yes
Commissioner Moss, Yes

Motion Approved: 3 Yes 0 No

B. Public Hearing – Ordinance 22-D Zone Change from R1/3 and NC3 to DO (Development Overlay) Zone with a Development Agreement located at approximately 1100 W 3600 S Parcels #02-038-0069; 02-038-0004; 02-038-0005; 02-038-0010 Applicant: Jim Flint

City Administrator Barnhill gave background to the attendees about the public hearing. He said the property is approximately 50 acres with a R1/3 zone which currently allows for 38 townhome units. The neighboring properties are agricultural, Highway 89, some commercial, KOA campground with storage units, and some family homes. The development is on the edge of Perry City and Willard City lines and that is where the city zoning stops. There is culinary water available but because of the pipe size the flow does not meet the fire requirements. The proposal does include replacing the water pipeline from 1200 West to the property line to meet the fire requirements. Sewer is available on the property at 3600 South, but the property cannot gravity the sewer at that location, so they are pursuing options to connection at the I-15 mainline. Those items could include a reimbursement agreement. There is not any pressurized secondary water to the property, but they do have ample water rights and they can develop an HOA owned and operated secondary water system. They are asking for a Development Overlay Zone Change which means the current zone would stay in place, but the overlay zone allows them to attach a Development Agreement with their zoning.

Mr. Barnhill then explained that a Development Agreement is a tool allowed by state statute and local codes to customize the parameters and the codes that addressed specific developments. This allows for some negotiation for a better development. He said the Planning Commission had already viewed the submission and gave their feedback. These feedback items are included in the staff report.

Mr. Barnhill reminded the public that there are rules for public hearings and that they are listed on the back of the agenda. He noted that the staff report listed a few concerns received prior to the meeting and pointed them out for public review. He then said that this public hearing is a legislative item, and the Planning Commission can take the public opinion and information into account. The Planning Commission may take the opinions as a recommendation and forward on to the City Council to make the final decision. He finished his background by showing and explaining the updated map of the proposed development.

Commissioner Kerr asked about streetlights for security in this area. Mr. Barnhill answered her question by noting that only the phasing has changed from the last plan and the streetlights have not been addressed. She also asked about the open spaces being available to the general public. Mr. Barnhill answered that it depends on how the Planning Commission approves the Development

Agreement. He reported that it could be approved with the approval of the overlay zone. Ms. Kerr pointed out the need for approval from the new property owners for any utility line improvements with future developments.

Chairman Jones said that having a stub road to the north along with adding the additional access road will make the property more buildable in the future. She then thanked the public for being there.

Chairman Jones opened the Public Hearing at 7:21 p.m.

Tristan Hart said he lives on Hargus Hill Road, but he likes to call it Rocket Road. He pointed out that it would be a good idea to put stop lights on Hwy 89 with this development. He said he was concerned about increased traffic because he plays football with his family on the road. He indicated that traffic comes off highway 89 onto Hargus Hill Road fast. He then asked where the water was coming from for this development. His main concerns are culinary, wildlife in the area, and the placement of the connecting road with Rocket Road.

James Settlemyre commented that his biggest concern for this project is water. He said he did the calculation with the number of homes in this project. He figured that they would use approximately 2 million gallons of water per month. He is concerned that in the future, the city residents will have to change their landscape because of the lack of water caused by this development. He asked why the developers cannot keep the present 1/3 acre lots for the homes with the town houses on the highway edge of the property. He questioned why the city should allow the overlay agreement to squeeze in more homes, because it is the developers who will walk away with a bag of cash. He said that the city will be left to handle things such as the lack of water or other issues if the HOA fails. Mr. Settlemyre indicated that he owns the KOA campground on 3600 and that street is getting busier. He suggested the developers put an internal road between the proposed houses along 3600 South. The purpose of this would be so they are not backing out onto a busy road. He also pointed out the future of the sewer line and wondered if the city or developer will pay for the expansion on the phases. He concluded that his main concerns are utilities, to keep the proposed development at 1/3 acres (which gives 130 houses instead of 204 to manage the water table), and keep traffic controlled.

Thomas Wood asked if there are plans to widen 3600 South with sidewalks and gutter. He said his family property borders on three sides of this development. He explained that he got out of the military approximately five years ago and purchased this property knowing that the area was zoned as 1/3 acre lots. He moved here to get out of a metropolis and wants to avoid that lifestyle.

Kristan Settlemyre wanted to know if the city is going to increase police, fire, schools, and the other city resources. She wondered if there is enough staff for the increased residents, or if the staff is going to be stretched too thin for their jobs. She questioned what would that look like for the city and how that may affect the current residents impact fees on the utilities.

Dan Warr lives in Willard on the Willard Perry city border. He said Hargus Hill Road is 18 feet wide and his truck takes the whole road when he drives on it. He is concerned that the 24 townhomes will also inundate traffic on that road. He expressed that he does not think this road plan is an approved T-intersection with UDOT. He then asked if the townhomes will be owner occupied or rentals.

A couple of on-line comments from, Zach H and Blakely, stated that at certain times of the day there is congestion with people turning left off Hwy 89. With this added traffic he thinks a light will be needed. Another comment was to pave 3450 south so people will use it more. He stated that he agrees with the comments made about the need for an overlay, where is the water coming from, and how are we going to keep traffic safe on an already busy and fast road.

Brad Johnson said he is a country boy who moved here 42 years ago. He has always enjoyed walking the street with his wife and feels concern for their safety if the development goes through. They live on 3600 south and this street would be very close to their house. He noted that they paid for curb and gutter 30 years ago but do not have sidewalks. He is also concerned about the water situation and that the townhouses will need to borrow their water.

Chris Olsen lives part-time on 3600 south, and she said she is not for or against any of it at this moment. She wanted to note that agriculture uses more water than residential, but she is not sure about the culinary water. She said it would need to be researched and she does not think it is as big of a concern as people think. She understands that it is awful to see land gobbled up and she wants to see responsible development. She mentioned that she likes to see affordable housing for children. She asked that we just be thoughtful when approaching this. Also, that we use only the facts so we can address the fears and concerns that we all have as neighbors.

Lynn Wilson has five agricultural acres with her backyard in the Perry city limits. She said she moved here 33 years ago to raise her kids and live in this beautiful place. She moved here to be away from neighbors and have more acreage. She mentioned that she understands the need for housing and would rather see larger lots to match the existing houses in the area.

Boyd Ricks asked if Hargus Hill Road was wide enough and said that it needs to be addressed.

Lynn Wilson commented that when a car comes off Hwy 89 onto Hargus Hill Road, a person on the side of the road will almost get hit. She is concerned with what will happen when more traffic utilizes the road.

Tristan Hart wanted to present another concern not yet mentioned about the wetland area on the corner of 3600 south and Hwy 89. He asked if there is a way to put a lock, so the wetland area never gets developed into a park. He is afraid the wildlife will be disturbed if the town houses get built near them. He then asked where the children that live in these townhouses will play.

Jim Flint with Hansen and Associates spoke to address some of the overall concerns. He did want to let the public know that development has to pay for its own way. He explained that the developers are paying for the new sewer and waterline to bring the whole area into better compliance. He discussed the looping water lines and how it will help pressure for the city by having the multiple loops. He indicated that having structures instead of agriculture on property uses less water. He noted that the project was required to meet city standards by widening the roads along the frontages including Hargus Hill Road. Mr. Flint pointed out the public parks on the map and that the wetlands will be delineated and there will be internal private parks. He stated that this project is paying its way and is actually improving the area. He then addressed the townhouse concerns of ownership. He said that the developers' intent is to have the units be privately owned as to keep a single family feel in the area.

Kristan Settlemyre asked how much of 3600 south would be widened.

Mr. Flint said that the development would widen all of 3600 south. He then continued answering other concerns by noting that the shares in water are from north Willard irrigation. He said this development has a pressurized system and cannot rely on city water for secondary water. Secondary water for this area will need to be self-managed.

James Settlemyre spoke up that he is concerned about the culinary water. He then asked if the city would need to drill another well.

Mr. Flint responded by saying that the developers are depending on city engineers to make or give council on the need for city water. He mentioned that he appreciates the questions.

Jeannine Jensen lives on 3600 south, and she pointed out that the road has a bend in it. She proceeded to ask if it was to be made straight as shown on the proposed plan; and if so, where the extra footage for the road will come from. She said when the road was originally planned the additional footage was supposed to come from the south side. She then asked if access and timetable to the secondary water irrigation will be affected. She suggested that the access from Hargus Hill Road to Hwy 89 needs to be squared. She pointed out that it is because a person cannot see over his shoulder well enough to safely enter the highway. She is also concerned about the animal impact of the wetlands.

Lynn Wilson reported that Willard City has a planned subdivision near this area and that there is not enough culinary water for that subdivision.

Mr. Flint addressed more questions by stating the developers will do whatever is best for the roads. They will do a pass-through flow divider for Ms. Jensen and others west of that property. He noted that there is currently a 6inch water line, but will it be replaced by a 12inch line.

Jeannine Jensen asked for clarification if the sewer access does not happen, if this agreement is not authorized. She also wondered if the yellow on the proposed development map is the area that will be managed by an HOA.

Public Hearing closed at 8:03 pm

City Administrator Barnhill proceeded to address the questions from the public hearing. He began by explaining that Perry City culinary water comes from three wells and one spring. He said the city has rights to another well that can be rehabilitated and are currently looking into developing another well. The city engineers feel that the city has enough water for the proposed build out, but the delivery system needs to be enhanced. He talked about road improvements and that the developers are only responsible for the side of the road of their development. On Hargus Hill Road they would widen the asphalt, then put a sidewalk with curb and gutter only on the development side of the road.

Mr. Barnhill continued in addressing the concerns on impact fees by reminding the public that the City Council has been firm that the developer will need to pay their own way. For example, when a new home is built there is a large impact fee included as part of the building permit cost that can be

used for future infrastructure needs. The ongoing maintenance fees come from monthly utility fees and property taxes. Another question he discussed was that the sewer plant was being paid off by the sewer impact fee collected on these new home building permits. He said this fee is still being collected on new development because it was necessary to build a new sewer treatment plant for the new growth. Therefore, the new growth needs to pay for most of that utility.

There was talk about owner occupied units and Mr. Barnhill said that the city code can only go so far to enforce ownership. The code for this area does not allow for apartments but it does allow for townhomes, with the individual structure and the land underneath it to be owned separately. He noted that only the HOA can preclude rentals. He then mentioned that because of the secondary water system, the entire development would have to be maintained and operated by the HOA. He said that in the proposed development, the parks are set apart as easements and will be protected from further development.

The concern for 3600 south was noted and Mr. Barnhill said the city engineer will need to further review the widening and improving of this street. The engineer will need to provide the detail of what it will look like. The developers are only responsible for their side of the street so the city will need to evaluate if the other side needs to be done and use tax funds to do it.

Mr. Barnhill said that this was the required public hearing and then the next step is for the developers to submit their preliminary subdivision application. After their submittal there will be one more letter sent to the neighboring public for an additional meeting but not another public hearing. This notification will be sent to make this developing process transparent and will allow written comments to be received before the meeting. He reiterated that his office is open, and he is available to have discussions about these questions.

Chairman Jones proposed to address more public questions. She mentioned that Highway 89 was managed and maintained by UDOT and therefore all stop lights on that road must be approved by the state. She continued by saying that the townhouse placement, adding an internal road, easement along Highway 89, the width of the road with the possibility to change it to a T-intersection will have to be discussed at a later time. She thanked everyone for their attendance and participation in this meeting and recommended they attend the other upcoming town meetings.

Commissioner Kerr asked if the townhomes along Highway 89 will have off street access because the map is not clear. She was told they will have some type of road in front of them. The townhomes on Hargus Hill will be accessed from the road.

Commissioner Stephan Moss asked what size the lots will be for the single-family homes on the west side. He was told they are going to be between 1/3 and 1/2 acre lots.

MOTION: Commissioner Jan Kerr made a motion to table the Ordinance 22-D Zone until they have a discussion with UDOT and the overlay impact. Commissioner Stephan Moss seconded the motion. This will be on the Planning Commission Agenda, May 5th.

Roll Call Vote:

Commissioner Moss, Yes

Commissioner Kerr, Yes
Commissioner Jones, Yes

Motion Approved: 3 Yes 0 No

C. Public Hearing – Ordinance 22-E Zone Change from R1/3 to R1 and/or DO zone with a development agreement located at approximately 1200 W 2250 S Parcel #03-157-0017

Applicant: Brinton Neff

City Administrator Barnhill explained that this zone change was presented at the last meeting. He said that the property is approximately 30 acres in size and zoned Agricultural Limited. Adjacent zoning includes Agricultural and R1 residential. He pointed out that most of the surrounding properties are agricultural with a few scattered residences in the area. The applicant is requesting a change to the R1 zoning district or the DO zoning overlay for residential development.

If the R1 zoning designation is not granted, the developer would like to propose an alternative to obtain the same density. They have explored the conservation subdivision option and found that, in their opinion, the cost burden is significant while the benefit is non-existent. They also see a paradox in turning over significant open space when the adjacent city park is lacking in maintenance and improvements. They propose the following of providing a fee in lieu of open space as part of a development agreement

We would like to propose a zone change to R1 (¼ acre lot). We feel this conforms with the general plan of Perry and utilizes the ground efficiently. We propose entering into a development with the city that will help with our zoning but help the city pursue and further their plans in bettering the city's parks. We propose that with the allowance of R1 zoning that the agreement will be that every lot in this subdivision will pay \$3000 instead of \$2000 in park impact fees. The developer will also pay the total amount at time of recording the plat and will be reimbursed as impacts are paid in the future. We Propose these monies be earmarked for the Dale Young park across the street to maintain and fix the nature park up to what the plans are.

Chairman Jones opened the Public Hearing at 8:35 p.m.

James Settlemyre commented that he is concerned for the available water with another dense development. He also asked if it is legal to have the developers who do not want to take care of the open space on their own development, instead be able to give money for another property.

Brinton Neff is the owner of this property and the person who is applying for this R1 zone change. He said that the Planning Commission recommended the R1 Conservation Subdivision idea. After some research, it was found that the natural ground does not accomplish what they believe the city council wanted. Mr. Neff mentioned that if they do not provide the open space, which uses more water, that those resources may be used to improve the city park across the street from this development.

Larry Hirschi said he lives below this property and that water can be a problem. He asked if they would have storage ponds.

Lynn Wilson asked what the houses around this property were zoned. It was told to her that the area is residential R1 zoning.

Kristan Settlemire asked if there is other recreation in the area or if Dale Young Park is the only local green space. City Administrator Barnhill stated that there are industry standards and Perry City's Park acreage exceeds that standard. This part of the city is well covered but we need to work to improve the parks we currently have.

Chairman Jones closed the Public Hearing at 8:43 p.m.

Commissioner Kerr asked if 2250 south will be paved with a sidewalk, curb, and gutter. She also asked if the city would require any new developers to do the same. City Administrator Barnhill said the developers would have to pave enough to pass inspection and the details will be worked out with the city engineer and fire marshal. He noted that the north side of the development will still have a soft shoulder. There are deferral agreements on a couple of properties on the north side that at a later date will need to pay to have the sidewalk, curb and gutter installed. Chairman Jones made a comment that the impact on 1200 west will need to be pretty substantial and about the water detention requirements with a development agreement.

Commissioner Moss asked if the future plan of the city for residential meaning R1. City Administrator Barnhill said it is for residential, but it is not specific to a zone. Commissioner Moss then asked how many houses can be put in this area with R1 zoning. It was answered that with the current zoning they could do about 64 houses but with the R1 zoning they can build about 80 homes.

Commissioner Moss said that we have the zone requirement to keep the impact down. City Administrator Barnhill said that the developers want to follow the Residential R1 requirements. He noted that City Council's specific reason for not granting R1 was to push for open space. He said the developers proposed to add an additional \$1,000 per house for park impact fees instead of having open space. He continued by explaining several different options that have been presented, which the committee can approve.

MOTION: Commissioner Jan Kerr made a motion to recommend approval to city council to allow R1 with overlay zone and the additional \$1000 per house park impact fee. Commissioner Stephan Moss seconded the motion. It will go to City Council on April 28.

Roll Call Vote:

Commissioner Kerr, Yes
Commissioner Jones, Yes
Commissioner Moss, Yes

Motion Approved: 3 Yes 0 No

D. Public Hearing – Ordinance 22-C ADU Amendments

City Administrator Robert Barnhill said this was to make an amendment to the city's Accessory Dwelling Units (ADU) that were proposed by a city council member. The proposed plan is to remove the following sentence in the ordinance.

“The Garden Cottage shall be designed and constructed as to be compatible with the architectural components of the primary dwelling (i.e., exterior materials, color, and roof pitch).”

He said the reason was that they want the structure to conform to the color and style of the house. However, there is a conflict as the city does not require it for an accessory building. Another proposed change was in the setback requirements, and a new state requirement that accessory apartments shall not be charged an impact fee.

Chairman Jones opened the Public Hearing at 8:58 p.m.

Chris Olsen asked if accessory dwellings are allowed everywhere in the city. She also asked if licenses are required for them. She then asked if there can be more than one accessory dwelling in the home. City Administrator Barnhill reviewed the rules for the accessory dwelling, including that a permit is required and only one per property is allowed.

Kristan Settlemire asked about the setbacks with a garage that might be grandfathered in for an accessory building. There was a discussion about future problems with setbacks and how the planning commission can be proactive now.

Chris Olsen asked and received clarification that the house in Perry needs to be the primary place of residence in order to have an ADU.

Chairman Jones closed the Public Hearing at 9:04 p.m.

The committee discussed the setbacks further with City Administrator Barnhill.

MOTION: Commissioner Kerr made a motion to recommend approval as displayed. Commissioner Moss seconded the motion. It will go to City Council on April 28.

Roll Call Vote:

Commissioner Kerr, Yes
Commissioner Jones, No
Commissioner Moss, Yes

Motion Approved: 2 Yes 1 No

E. Public Hearing – Ordinance 22-F Land Use Chart and Associated Regulations

City Administrator Robert Barnhill mentioned that this is to update the Land Use Chart. He pointed out the few changes proposed.

Chairman Jones opened the public hearing at 9:13 p.m.

No comments.

Chairman Jones closed the public hearing at 9:14 p.m.

Commissioner Kerr asked about the fruit stands and their associated regulations. City Administrator Robert Barnhill explained some of the requirements for fruit stands and what they can sell. Commissioner Moss asked if they could further discuss the chart at a later date.

MOTION: Commissioner Jan Kerr made a motion to table the Ordinance 22-F Land Use Chart and Associated Regulations. Commissioner Moss seconded the motion.

3. Discussion Items

Mr. Barnhill said he had a conversation with someone today about being on the Planning Commission so there may be an additional member joining soon. He mentioned that the city was approved to receive grant money to connect the local trails through the city.

4. Approval of the Minutes

A. February 3, 2022, Regular Meeting

Line 200 typo “statures” to “statutes”

MOTION: Vice Chairman Stephen Moss made a motion to approve the February 3, 2022, meeting minutes with the noted change. Commissioner Jan Kerr seconded the motion.

Roll Call Vote:

Commissioner Kerr, Yes
Commissioner Jones, Yes
Commissioner Moss, Yes

Motion Approved: 3 Yes 0 No

5. Discussion

A. Future Projects

City Administrator Barnhill said to revisit the Land Use Chart and that he will come up with a few ideas.

B. Report on past-approved Planning Commission Agenda Items

None.

C. Report from Commissioner regarding last Council Meeting (March 10 & 24, 2022 Meetings)

City Administrator Barnhill said the bond issuing for the purchase of the new city hall building was the most pressing item in the past meetings.

D. Make Assignments for Representative to Attend City Council Meetings (April 14 & 28 Meetings)

Commissioner Kerr said she can go to the April 14, 2022, meeting. Commissioner Moss said he will go to the April 28, meeting.

6. Training

A. Staff

None.

7. Public Comment

None.

8. Review Next Agenda and Adjourn

A. Items for May agenda (next meeting May 5, 2022)

- Agreement with updates for Perry Hollow
- Preliminary plans around Nielson apple fruit stand

B. Motion to Adjourn

Motion: Chairman Jones made a motion to adjourn the meeting.

All Commissioners were in favor. The meeting ended at 9:31 p.m.