

**West Point City  
Planning Commission  
3200 West 300 North  
March 22, 2018**

**Present:** Brian Vincent, Rob Ortega, Korey Kap, Brad Lee, Jake Shepherd, Kent Henderson – City Council Representative, Boyd Davis – Community Development Director, Michelle Bailey - Planning Commission Secretary

**Excused:** Jeff Macfarlane, Jeremy Strong

**Visitors:** Jason Caldwell, Tiffany Forsgren, Donna Payne, Melissa Payne, Josh Hughes, Greg Day, Robert Kelly

**WORK SESSION**

Brian Vincent told the Commission that on Tuesday, March 20, 2018, the City Council passed a moratorium on the PUD ordinance. That will be in place for up to six months. The City Council, Planning Commission and Staff will meet together to discuss this.

**1. Commission Training.**

Brian Vincent said, “Our City has a pretty in-depth Code on Conditional Uses and the direction it gives to the Planning Commission for that. Boyd Davis will review that with us at this time.”

Boyd Davis went through the flow chart that was provided to the Commissioners in their meeting packets. The Rules that regulate Conditional Uses, which a PUD is a Conditional Use, are found in Section 17.70 of the West Point City Code. The Code states Conditional Uses are: “To allow the proper integration into West Point City of uses which may be suitable only in certain locations in the City, or only if such uses are designed or laid out on the site in a particular manner.” They are meant for specific uses that don’t seem to fit into the exact zoning code. They can be used to allow unique things and it gives the Planning Commission the authority to grant conditions. It is an important Code. The first step in the Conditional Use flow chart is an applicant submitting a completed application. The application then goes to Staff to review and also to work with the applicant if there is anything missing. Staff then must decide if that particular Conditional Use will require a public hearing. Not all Conditional Uses require a public hearing; there are four exemptions. 1. Minor home occupations 2. Major home occupations, 3. Accessory buildings, and 4. Accessory apartments. All other Conditional Use applications require a public hearing. There are specific noticing requirements for public hearings. The Planning Commission holds the public hearing and gives people a chance to state their opinions or talk about the issues they may have with that specific Conditional Use application.

When the Planning Commission is considering a Conditional Use application, the Code says: The Planning Commission shall not authorize a Conditional Use Permit unless the evidence presented is such as to establish: A. That the proposed use of the particular

location is necessary or desirable to provide a service or facility which will contribute to the general well-being of the community and the neighborhood, and B. That such use will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity, and C. Comply with regulations and conditions specified in this title, and D. That the proposed use will conform to the intent of the West Point City General Plan, and E. Conditions imposed by the Planning Commission shall be based upon options listed in the Code.

Before considering action on an application, the Commission needs to make sure that it fits all of the guidelines. A rezone needs to take place before an application can be accepted for a PUD. There are three options when taking action. The Commission can 1. Deny the application because it doesn't fit one of the above listed criteria. 2. Grant approval with conditions, or 3. Grant approval as applied. In most cases, the Commission will grant approval with conditions. The Code gives five types of conditions that may be made. A. Conditions relating to safety for persons and property. B. Conditions relating to health and sanitation. C. Conditions relating to environmental concerns. D. Conditions relating to compliance with intent of General Plan and characteristics of vicinity (or neighborhood). E. Conditions relating to performance.

**2. Discussion on a Conditional Use Permit for a PUD overlay for the Sunset Vistas Development, located at approximately 1146 South 4500 West, Kelly Hughes Construction, applicant.**

Boyd Davis stated that there would not be a vote made on this tonight; it is for discussion only. The applicants are here, Josh Hughes, Rob Kelley, and Greg Day, to answer any questions that may arise. Boyd Davis said this is a concept plan which has been submitted. It shows 50 lots with a large area of open space to the west. Some unique things they are submitting with the concept plan are: 1. They have let us know we have one of the top 10 sunsets in the nation; second only to Hawaii. 2. They are proposing street trees lining both sides of the road. 3. They are showing an entrance sign and landscaping at the entrance. 4. They are proposing a pavilion in the open space. 5. They are also proposing a trail system. 5. They are proposing a connecting street into the Simpson Springs project in Syracuse to provide connectivity and that will also be used as their second access for the project. Brian Vincent asked if the access on the south will be an immediate access or something that is planned for the future. Boyd Davis responded that he assumes it will be immediate. Greg Day, the engineer for the project, said he assumes Richmond will start building in the adjacent area soon so when that is completed, the road will probably connect; probably around the end of the year. It depends on the timing of the Simpson Springs project.

The developer submitted some sample pictures of house styles that they are proposing. Staff has been discussing some details and gave a copy of the Staff Report to the applicant so they are aware of any concerns Staff has. It's a 20 acre development. Under the R-1 zone, if they do not qualify for a PUD, they would be allowed to have 2 units per acre. Their concept plan shows 2.5 units per acre. In a PUD, they could go as high as 3 units per acre. Under the base zone, they could have 40 lots on 20 acres. They are proposing 50; so 10 extra lots. Under the base zone, they are allowed to have 18,000 square foot lots. They are proposing an average of 7,700 square feet per lot with the

smallest lot at 6,000 square feet and the largest lot at 13,000 square feet. That is significantly smaller than any lot we have in the City. The smallest single family lots that we currently have are 9,000 square feet. Under the base zone, they are required to have 100 feet minimum of frontage. They are proposing an average of 62 feet of frontage. The smallest frontage would be 55 feet and the largest is 90 feet. That is significantly smaller than the base zone. The PUD requires a developer to do certain amenities to qualify for that extra density. The amenities that qualify for consideration are: 1. Open space. All PUD's must have 25% open space. They are showing 35% of open space. 2. Trail system. They qualify for a 5% increase with this addition. 3. Pavilion. They could get up to 10% for this. 4. Street trees. They get 10% for these. 5. Entrance sign. They get 2% for that. 6. Significant off-site improvements. The Code says they can get 15% for that. The developer is hoping to consider the UDOT improvements that will be required as off-site improvements, as well as the connection to the other subdivision. The hard part about these qualifications is that there are no standards written into the Code. For example, what type of trail qualifies? Corey Kap had a question about the trail. Boyd Davis said that a lot of the trail is shown on the sidewalk and said he doesn't feel that sidewalk should count as part of the trail if it is just a normal sidewalk. The trail could qualify, but will it be paved or gravel? Staff recommends it be paved. The type and quality of the pavilion would need to be specified. Will it just be a picnic table? Or will it be big enough for a family? Will there be landscaping around it? Some of these details need to be ironed out if they are to qualify. The developer is planning to have an HOA to maintain the open space areas.

Boyd Davis said the plans are showing enough improvements, if the Commission accepts the proposals as improvements, to qualify for 52%. On the plan they have proposed, they only need 25%; they have more than what they need. There are other concerns, however. Corey asked how they get credit for off-site improvements because they will have to do those things anyway to complete the project. Boyd responded that there is no definition in the Code regarding what qualifies as an off-site improvement. They also will be required to bring down some water lines. Boyd said his personal opinion is that off-site improvements would be something outside of their subdivision boundary. If UDOT requires them to do turn lanes, and they go outside of their boundary, that would be considered an off-site improvement. Boyd feels the intent is to give the developer a credit if they have to do an expensive off-site improvement regardless of who requests the improvement. Jake Shepherd commented that without the 15%, they still qualify for the density they are requesting.

Staff has a few concerns and some recommendations as to what some of the possible conditions could be. The Commission has three options, they may either deny the Conditional Use, they may approve it with conditions, or approve it without conditions. Staff recommends they approve the application with conditions. The conditions Staff is proposing are to make it more in line with the intent of the General Plan. Staff feels that the size and width of the lots is not in harmony with the intent of the General Plan. Staff proposed the following conditions:

1. The lot widths be a minimum of 85 feet.
2. All building lots be no smaller than 10,000 square feet. (This requirement is less than the base zone requirement of 18,000 square feet building lots to keep lots more in harmony with the intent of the General Plan. The PVFD allows as low as 12,000

- square feet with improvements and amenities, and with the PUD we could be willing to go as low as 10,000 square feet.)
3. Maintained land and enforcement of the CC&R's shall be done through an HOA or another reasonable means.
  4. The junk fill on the property must be removed or no buildings to be located on that area.
  5. Sewer line must be completely located in a road unless approved by North Davis Sewer District.
  6. Developer's Agreement negotiated with the City Council.

Boyd Davis told the Commission that if they agree with Staff's recommendations and the developer has to change their plan, they would lose 10 lots and that means they would not be required to do any amenities. That would take them back to the original density. They would still need a PUD in order to cluster the lots and have smaller lot sizes, but they don't have to do any amenities because they are not getting any additional density. Jake Shepherd asked what the intent of the zone is because it is an R-1 and they are within the bounds of the PUD at 2.5 units per acre. Boyd Davis responded that Staff's interpretation of the intent of the General Plan, was to have larger lots and more open space; more space between homes. Jake Shepherd read the purpose of the PUD from the Code. Jake said he doesn't feel that they are requesting anything out of bounds, but the Commission must decide if it is an attractive development. Korey Kap asked if the homes are all slab on grade. Josh Hughes responded that they envision it as a patio home type of community for aging residents that don't want to take care of large lots. Brad Lee asked what the average cost would be to build in that community. Josh Hughes responded that with the smaller lots and smaller frontages they are able to make it more affordable. As it sits, homes would likely be in the high \$200's – low \$300's. Unfortunately costs are going up right now so it's hard to say. Josh continued saying that the builder feels that 60' x 110' lot size give them a good footprint for the home. They can do a deeper home and still have a basic backyard. They feel that size is optimal. They also feel this style is in demand right now. The setbacks in the R-1 zone are 30' in the front, 30' in the rear, and 10' on each side. They are requesting to have 5' side setbacks instead to allow them to build third car garages. Josh said if they are required to maintain 10' side setbacks, they would be limited to two car garages. Brian Vincent asked what the average square footage of a home would be. Josh responded that in the CC&R's they put it lower than it would likely be, and they are fine to bump that up, but a rambler would probably be a minimum of 1,700 – 1,800 square feet and for a two-story home likely 2,500 square feet. Jake Shepherd asked if the proposed park will be a developed amenity. Boyd Davis said the Code is vague on it. Jake responded that the PUD Code says that the amenities must be developed. Jake asked if the park is below the FEMA flood line. Boyd Davis responded that none of the development is in the FEMA flood plain. There is some area that is considered non-buildable because of wetland issues but not because of the FEMA flood plain. Jake Shepherd pointed out that the park must be 100% developed; it can't remain just as "natural landscape" and must be an actual amenity. Josh Hughes commented that when they met with Staff, they left that pretty open because they didn't know if the City would have interest in that eight acres being dedicated back to them for use as soccer fields, or to tie into the regional detention plans etc. They left it open to see what would be the greatest asset to the City. Greg Day said they don't have a specific plan for the park at this time. Boyd Davis said his recommendation is that at a minimum

it is developed around the pavilion. Korey Kap commented that he isn't impressed with the walking trail. He feels that it should go around the perimeter of the property and that the open space should be a nice area that is developed where people can spend time in a nice environment. Jake Shepherd asked how the other commissioners feel about the proposed lot sizes; are they an issue? Korey Kap said he feels they need to be more in line with the zoning. His biggest hang up is the sewer line. It definitely needs to be under a street and not on someone's property.

Boyd Davis commented on the sewer line. He said, as far as he knows, in this area they were just going by elevation; they went as far west as they could with it to still meet the elevation they needed down at the sewer plant. Further north, there were some plats already in place and concept plans so they located the sewer line where they thought future roads would be placed. This area hadn't been platted at that time so he feels they did their best to go right through there. This is where it ends and comes out to 4500 West.

Brian Vincent asked the Commissioners if they are comfortable with the concept plan that is being presented. Korey Kap said he sees pros and cons with it. Brad Lee said he feels that the concept is good. It looks like it will be a classy development. Rob Ortega said he has a lot of questions about what is being proposed. He isn't sure this meets the intent of the R-1 zone but that is still something being discussed as well. Jake Shepherd said their request meets the PUD ordinance in an R-1 zone. He doesn't think the concept is bad. We have a PUD ordinance and its intent is to create greater flexibility for the developer and the buyer. He feels there is a market for a buyer that wants to live in a situation like that. This is within the ordinance, but the concept needs some work. Korey Kap said he thinks it could work, but it needs some work. Brian Vincent said he feels that the public hearing will give them a lot of information as they weigh in on the concept plan as proposed. Jake Shepherd asked what the Commission's responsibility is at the public hearing; do they look at the ordinance the way it stands, or do they listen to the public? Boyd Davis said their responsibility is to uphold the Code. They should not base a decision on public clamor. With a Conditional Use, the Planning Commission has a lot of flexibility. It is not a right to have a Conditional Use, it is a privilege. Rob Ortega said he understands that Jake is looking at minimums, but in the Code under Conditional Uses, Item D states "The proposed use will conform to the intent of the West Point City General Plan." If we don't feel like it is conforming to what the intent of the R-1 was, then we need to make other considerations. The public hearing will be held during the next scheduled meeting.

### **The Work Session was reconvened following the Regular Meeting**

Jake Shepherd said he is sympathetic to what the public has to say, but he feels we need to understand the PUD ordinance better. Boyd Davis said the Payne's were here tonight with concerns. To the west of their property is John Diamond. He has several concerns as well. He called Boyd to discuss some of those concerns. There is an agreement between the property owner and John Diamond regarding some things they are obligated to take care of for John. Mr. Diamond will be very involved in this process. Jake Shepherd said if they are trying to buy back density, the trail needs to go all the way around the perimeter of the property, they need an improved park, etc. If they are asking for higher density then we need to hold them to it. Jake commented that he is more concerned with

that than he is with lot sizes. Jake asked how we ensure that they complete all of the amenities as required. Korey Kap said he is confused about the access on the south end. How are they considering that an access? If Richmond doesn't go through with their project, they are then messed up. Boyd Davis responded that the developer addressed that when they said they can only build up to 30 lots until that access is done. Jake Shepherd said that's why he feels all of the amenities need to go in at the same ratio. Where it is a PUD, we can tell them they must develop the whole project at once and not in phases so the amenities are completed as well. Brian Vincent commented that if they lose their density, then they are not required to do the amenities. If we require them to do bigger lots, then they don't have to do any of the proposed amenities. Rob Ortega said he would rather see them put in the amenities and the Commission have some control over those and what they look like than worry about the lot sizes. Korey Kap and Brad Lee both agreed with that. Brad Lee commented that if the sewer line must be in the road, the developer will have to reconfigure the development anyway. All of the Commissioners agreed that the sewer line must be under a road and not a private property. Jake Shepherd asked if the City is interested in owning the proposed park. Boyd Davis said they are not. Jake commented that the PUD ordinance has been in place for a long time and there haven't been any issues until just recently. But regardless of the moratorium, they have to consider this proposed subdivision under the current PUD ordinance. Brad Lee said he feels they are pricing people out of the community. Not everyone can/wants to build on a large lot. We need some variety in house prices to allow some of the younger generation to stay in the community that they grew up in. Korey Kap said, "I think we can all agree that this can work, but this plan needs some work." Rob Ortega was wondering what they plan to do differently to the sidewalk that they are saying will be part of the trail. Boyd Davis responded that there is a trail in Syracuse that this will connect to, but they aren't proposing to do anything different to the sidewalk; it will be a standard sidewalk. Everyone agreed that they want the trail to be around the outer perimeter of the subdivision rather than through the subdivision. The street trees were discussed. Brian Vincent said it would be difficult to get two trees on a 55 foot frontage. It was suggested that those trees should be put in the park rather than lining the streets.

Brian Vincent brought up the number of lots, lot sizes, setbacks and frontages and asked for opinions from the Commissioners. Korey Kap said he feels like they have enough to overcome with the sewer line. He said he is ok with the density but he wants to see the amenities in there. Boyd Davis said the PUD ordinance is specific in saying what items must be done to qualify for the density. Right now, they are putting in more than required; they would only have to do half of what they are proposing. The Commission has the ability to determine if what they are proposing qualifies. It is the Commission's responsibility to hold a developer to the standards set in the Code.

## REGULAR MEETING

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Prayer:** given by Jake Shepherd
4. **Approval of Minutes from March 8, 2018.**

Brad Lee made a motion to approve the minutes from the meeting held on March 8, 2018, as written. Rob Ortega seconded the motion. All voted aye.

5. **Public Comments:** None given
6. **Planning Commission Comments**

Jake Shepherd said he feels they need to have further discussion on the subdivision application that is before them.

Brad Lee had no comments.

Korey Kap said he feels they need to have a public hearing and let things develop a little more. Korey also thanked Staff and expressed appreciation for their hard work.

Rob Ortega said he is open to having further discussion on the subdivision. He also thanked Staff.

Boyd Davis said he was not at the City Council meeting when the moratorium was put in place. He was told there was little discussion on it, it was just put in place.

Brian Vincent asked the Commission if they could stay for a few minutes to continue discussion on the proposed subdivision. All of the Commission agreed to continue discussion.

7. **Adjournment**

Jake Shepherd made a motion to adjourn at 7:34 p.m. Brian Vincent seconded the motion. All voted aye.

  
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Chairperson – Brian Vincent

  
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Secretary – Michelle Bailey

