

MINUTES
Goshen Planning Commission
July 5, 2022 at 5:30PM
Goshen Community Building, 244 Clark Street

Call to Order: Chair Tom Hennelly called the meeting to order at 5:30PM.

Roll Call and Declaration of Quorum: James Gardner, Tom Hennelly, Mike Hill, Liz Mashie, Levon Ogden, Lisa Skiles, and Scott Stokenbury were present.

Approval of Agenda: The agenda was reviewed. City Attorney Hogue asked for a correction to item 5B: Parcel listed as #770-09956-001 should be #001-09956-001. Hogue also asked to add a date certain for the publication of the Planning Commission agenda. Tom Hennelly stated Ken Smith would speak during Public Comments to make a brief presentation on the park.

Levon Ogden motioned to approve the agenda with noted changes. Second by Scott Stokenbury. The motion carried.

Approval of Minutes: Liz Mashie motioned to approve the June 7, 2022 minutes. Seconded by James Gardner. The motion carried.

NEW BUSINESS

5A. Minor Subdivision: William & Liz Schubert, 555 Hale Road, Parcel(s) #770-17371-004 & #770-17564-007: Cody Harbour, Bates & Assoc spoke. The request is to split the 9+ acre property into two sections. Hennelly asked why this was not requested as a property line adjustment, simply moving the lines that separate the two parcels.

The noted 23-ft access will be changed to a 30-ft. access. The reason this is split is into two parcels is because of the section line. Hennelly stated this will be a Minor Subdivision, and parcels should be identified as "Lots", not "Tracts". The title of the page should be changed from "Tract Split" to "Minor Subdivision". Hennelly also stated the access easement doesn't go all the way to the road. The access easement needs to be shown all the way to the road.

Tom Hennelly asked for public comment. None was offered.

Liz Mashie noted the adjacent property and asked about tandem lots. How many other houses are accessing Hale Road through this drive? Harbour was not sure, but he believed it was one other house. One of the Commissioners noted Google Earth indicated this would be the third house on the drive. Harbour clarified that no more than three tandem lots can share the same drive, without making it a subdivision.

Hennelly motioned to approve this Minor Subdivision, with the access easement extended out to Hale Road, the parcels to be labeled as "Lot 1" and "Lot 2", and the 30' adjustment. The motion was seconded by Lisa Skiles. The motion carried.

5B. Property Line Adjustment: Stalaker Rev. Trust Goshen-Tuttle, Parcel(s) #770-17371-001, #770-17372-001, #001-09956-001, #770-17371-003: Alan Reid summarized the request. Stalaker's property was originally four parcels, and would like to adjust it to three parcels. Each parcel will exceed the minimum acreage bulk area requirements for Goshen, and exceed the road frontage requirements for Goshen-Tuttle Road. The request is to rearrange the parcels to make them more equitable in size. Each parcel will be larger than five acres in size. There are also two 30' private easements that have been purchased for access.

Tom Hennelly asked for public comment. Carolyn Jordan spoke. This is the property she has come before the city about in the past. This split of this land into four lots, instead of the original two, was done administratively. This road, the driveway, the ingress and egress and bridge are terrible. She has an issue with adding more people to this driveway. She was told they were told only three people would be on this driveway, now there are four, and now we are considering seven. Not enough roads are being added, and it's not fair she should have to keep paying to maintain the road when more people are getting added to the road. She would like to understand the plan for people to access the property safely? She is talking about the paved drive off Tuttle.

Hennelly stated that these properties meet the requirements for frontage along Goshen-Tuttle road. Jordan states she doesn't not have access, she is land-locked, and others keep using the drive.

Alan Reid stated only four people have deeded access over that driveway, which is keeping with the ordinance. Hennelly clarified that seven people may be using the drive, but all may not have deeded access.

City Attorney Hogue stated these are not tandem lots, so they do not fall under the restrictions for tandem lots. Jordan asked what a tandem lot was; Alan Reid stated that since Jordan has no road access, she is in a tandem lot. Hogue stated that the city cannot restrict a land owner from granting access to others.

Hennelly asked for additional public comment. Mike Jordan spoke and asked about fire department access on this road. Jordan stated he has added steel plates to the bridge to reinforce it. Diana Quinn spoke and stated that every family has two vehicles, and when the kids grow up, they add another vehicle. This makes this driveway very busy.

James Gardener asked about easements that exist for the driveway in question. If the parcels change, does that affect the easements that are already in place? Hogue stated that 'runs with the land'. Whatever happens, stays with it.

Hennelly stated that making people using the road frontage they have could be the answer. An entrance built off Goshen-Tuttle would make people inclined to use it. Hennelly doesn't feel comfortable approving this, without more information than he currently has on the paper in front of him, without some conditions.

Hogue recognized the valid points being made, but the Commission must operate within the regulations. Nothing in those regulations would allow the Commission to approve this, but only mandate that certain lots cannot use a private easement.

Hennelly asked Reid about access easements and who they are dedicated to – can this be provided to the Commission?

Hennelly stated that residents that build on these lots will benefit from this road. Reid stated the Stalnaker's have not used the road yet.

Gardner asked about utilities. Reid stated wells are up there already, and an electric line is up there. Someone from the public asked if it's possible for the Commission to drive up there and see it for themselves. Hennelly stated he would like to see the site to better understand. Hennelly asked if the Fire Marshall wants to look at it?

Gardner asked about building permits in this area? How does this work? Hennelly stated that if the driveway is not off Goshen-Tuttle, then the fire access comes off that drive. On Parcel A, they will have to come from Hale or Goshen-Tuttle, and either way are on a single-lane, privately maintained driveway.

Skiles stated that adding more lots would be a concern. What is before the Commission is reducing the number of lots. Skiles has been opposed to a party barn here in the past; she is familiar with this area. This property owner should not be penalized given they have established ownership and are downsizing from four to three. The Commission should see if there are tools available to them to influence the safety of access.

Hennelly motioned to table this until next month, until he (and others) can drive out and see the area. Jordan states this area does not meet the safety requirements for ingress/egress.

Liz Mashie stated access to Goshen-Tuttle would be difficult. She seconded the motion to table. She encourages a shared maintenance agreement. The neighbors should be good to each other and work together to get things done. She would encourage the property owners in the vicinity to consider this. Reid stated he now has to go back to his client and share that he is meeting the letter of the ordinances, that he is not allowed to move forward.

Hennelly stated the Commission is not stating he is not allowed; they are not voting on it tonight. Sometimes, projects need to be tabled to get the information to make a responsible decision. Hennelly asked for a Roll Call Vote.

Roll Call Vote

James Gardner YES
Tom Hennelly YES
Mike Hill YES
Liz Mashie YES
Levon Ogden YES
Lisa Skiles NO
Scott Stokenbury YES

5C. Lot Split: Brizzolara, Bowen Blvd., Parcel(s) #770-18073-000 & #770-18075-000: Hennelly stated he asked for this to be added back to the agenda.

The Commission voted to deny this. Hennelly feels this opens the city up for liability. What was submitted met the criteria for what could be verified. The Assessor's Office states that Brizzolara trust owns them and the County GIS states the same.

City Attorney Hogue states that this not entirely correct. Waterford is shown as the owner, as well. The problem is that there is a title opinion stating Brizzolara owns this – which is the dispute. Hennelly stated he has studied it, and that is not correct.

Hennelly stated there has been discussion with the Deputy Assessor on it, as well. The Commission has been put in a position to resolve a legal challenge, which is not for the Commission to do. The owners of the land were also not advised this was going to be on the agenda, and did not have any representation at the meeting.

Hennelly would like to have a discussion and motioned to expunge the decision. All parties would be notified and have an opportunity to return next month, when it is back on the agenda.

Liz Mashie asked if any applicants were present. Blair Brady was present for Waterford POA.

Hogue stated the city has extended the deadline to July 28 for Brizzolara applicant to appeal the denial to Circuit Court. Hogue stated that he is concerned that the basis for denial is hard to defend on appeal. Blair Brady has stated that if the Commission approved this, the city would be in a lawsuit from Waterford POA.

Hogue stated that if the ownership dispute is set aside, then it should be approved. The ownership is muddying the water. If it is approved, and there is an ownership dispute on the parcel, and if the city is a party to a lawsuit over this issue, there isn't anything for the city to do – other than wait on the court. If ownership does not belong to Brizzolara, then it is moot issue. This is a preferable position for the city, versus defending an appeal from a decision without much factual basis for the denial.

Hennelly asked if the Commission could expunge the vote and allow for court business to finish before it comes back to the Commission? Hogue stated that the Commission has waited on that for two years. No action may instigate action from Brizzolara, as well.

Lisa Skiles stated her concern was that the applicant was not in attendance; they should have an opportunity to be here. She doesn't see that this project hinders the health, safety, or welfare of residents. Skiles seconded Hennelly's motion.

Hennelly asked for public comment. Blair Brady spoke. He wished to clarify a few things. Brady was at the Assessor's Office today when this was changed. As of 1:12pm this afternoon, the GIS reflects Waterford as the owner. Brady stated there is one criterion for the application that is not included, but should be included in the application. The applicant should own the land – you can't ask people to split lots you don't own. It is not the job of the Commission to decide on title. Brady recommends that an actual determination from a Circuit Court judge could be the recommendation of the Commission before reviewing. Brady stated a democratic vote has occurred.

Hennelly stated that the Washington County GIS shows Brizzolara as of now. The Washington County Assessor's website states the same. Brady stated that on the Assessor's website, and hitting "map it", it shows Waterford. Levon Ogden stated that the updates take time.

Hennelly stated that it is not his job to verify that the person who submitted the application owns the property. Brady stated that it has switched from Brizzolara, to Waterford, to Brizzolara, to Waterford. Brady stated the Scrivener's affidavit has been withdrawn, putting the situation back to square one. Brady agrees that the Commission is not responsible for title decisions.

Mashie stated this isn't up to the Commission. She is inclined to expunge as well. Scott Stokenbury asked where the appeal is going, and Hogue stated Circuit Court. Stokenbury will still vote against it.

James Gardner asked what is their duty as Commissioners? Hogue stated they should take an application and make a decision on it.

Lisa Skiles asked if a fresh document could be required? Hogue stated the Commission could ask for it.

Hogue stated his job is to advise the city on legal matters, and to avoid litigation. His recommendation is to expunge the vote, from a legal standpoint. Lavon Ogden lives in Waterford and will abstain from the vote.

A vote was taken. Scott Stokenbury voted NO; Lavon Ogden ABSTAIN. The motion passed.

Lisa Skiles excused herself from the meeting.

5D. Review of Planning Commission Financial Report: Was not covered in the meeting.

5E. Date and Time for Planning Commission Agenda: Liz Mashie motioned to recommend to the City Council that agenda items and supplemental materials be submitted to City Hall for Planning Commission by 5:00 PM of the Thursday immediately preceding a Tuesday meeting. Second by James Gardner. The motion carried.

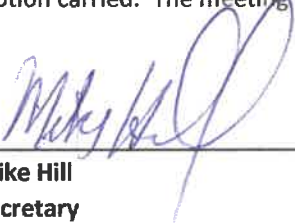
6. Public Input: Carolyn Jordan asked a question. She asked if she can split her 14 acres? Hennelly stated he can't answer that without seeing her property or the survey.

Ken Smith shared the new play gym will be installed behind the Community Building, and the plans for the sidewalk around the pavilion. Construction will start in late August, with a \$75,000.00 grant, and the city is contributing about \$10,000.00.

Smith continued to discuss the new 104-acre park. Thirty acres has been purchased so far, and are looking at buying another twenty acres. The state outdoor grants fund will be approached for matching funds for the twenty acres. A parking area and kiosk have already been built, and they are working on ADA access.

Smith shared that at next month's meeting the hope is to bring a Walk/Bike plan. This plan has been in the works since 2014. A special study session will be held in the Community Building on July 14 to talk to the public about ideas for the Walk/Bike Plan.

7. Adjournment: A motion to adjourn was made by James Gardner. Liz Mashie seconded the motion. The motion carried. The meeting adjourned at 6:50 PM.



Mike Hill
Secretary