

**CITY OF CORNING
PLANNING COMMISSION MINUTES**

**TUESDAY, JULY 17, 2007
CITY COUNCIL CHAMBERS
794 THIRD STREET**

A. CALL TO ORDER: at 6:30 p.m.

Acting Chairperson, Commissioner Robertson opened the meeting and introduced new Commissioner Jason Armstrong.

B. ROLL CALL:

Commissioners: Robertson
Reilly
Lopez
Hatley
Armstrong

All Commissioners were present except Commissioner Hatley.

C. WAIVE THE READING AND APPROVE MINUTES OF THE MAY 15, 2007 AND JUNE 19, 2007 PLANNING COMMISSION MEETINGS WITH ANY NECESSARY CORRECTIONS.

Commissioner Reilly motioned approval of the May 15, 2007 minutes and Commissioner Lopez seconded the motion. **Ayes: Robertson, Reilly, Lopez, and Armstrong. Opposed: None. Absent: Hatley. Motion was approved by a vote of 4-0 with one absent.**

Commissioner Reilly motioned approval of the June 19, 2007 minutes with a correction to the last motion on item two, the motion to continue the meeting to the July 17, 2007 meeting was made by Commissioner Lopez and seconded by Commissioner Robertson. Commissioner Lopez seconded the motion to approve the minutes as corrected. **Ayes: Robertson, Reilly, Lopez, and Armstrong. Opposed: None. Absent: Hatley. Motion was approved by a vote of 4-0 with one absent.**

D. BUSINESS FROM THE FLOOR:

Charles Nace addressed the Commissioner regarding a Variance (a side-yard setback variance) Application that he was told Staff would probably not recommend approval on due to the lot size. Planning Director John Brewer gave a brief explanation on the request. Mr. Nace referred to some "dirty linen" in regards to this property. Commissioner Reilly informed Mr. Nace that he would be happy to hear this in a Public Hearing. Commissioner Robertson stated that nothing could be done relating to this matter at this time, it would need to be agendized and brought to the Commission for a Public Hearing.

E. REGULAR AGENDA:

1. Selection of Planning Commission Chairperson by majority vote of Commission members.

Commissioner Reilly nominated Commissioner Lopez as the Planning Commission Chairman and Commissioner Armstrong seconded the motion. **Ayes: Robertson, Reilly, Lopez and Armstrong. Opposed: None. Absent: Hatley. Abstain: None. Motion was approved by a vote of 4-0 with Hatley absent.**

2. Lot Line Adjustment 2007-1, to adjust the Common Boundaries between APN's 73-120-29, 30, 36, 37 and 61; Accustom Development LLC, ET AL, located at the northern boundary of the Stonefox Ranch Subdivision in the R-1-8 Zoning District.

With little discussion, Commissioner Robertson motioned approval; Commissioner Armstrong seconded the motion. **Ayes: Robertson, Reilly, Lopez and Armstrong. Opposed: None. Absent: Hatley. Abstain: None. Motion was approved by a vote of 4-0 with Hatley absent.**

F. **PUBLIC HEARINGS AND MEETINGS:** Any person may speak on items scheduled for hearing at the time the Chairman declares the Hearing open. **ALL LEGAL NOTICES PUBLISHED IN ACCORDANCE WITH LAW.**

3. **Continued Public Hearing; Revision to Planned Development Use Permit No. 1976-65, to revise the Use Permit to permit Residents other than Senior Citizens to occupy the Olive Grove Retirement Village. Located at 1960 Butte Street in a Planned Development Zoning District; Best Investment Group, LLC; APN 71-080-45.**

Chairman Lopez introduced this item by title stating that this is a continued Public Hearing from the June 19, 2007 Planning Commission meeting. He stated that basically Best Group is requesting a change in the Use Permit to change from a senior housing development to an open development for anybody. Chairman Lopez stated that as this is a continued Public Hearing they are going to limit speakers to 3 minutes, and hopefully pursue new information.

A member of the audience (Art Monaise) addressed the Commission stating he and his wife have lived at this complex for about three months. He stated that some of the units along the street have actually been rented to younger people, and it seems to be working out very well. He said there has been some talk certain upgrades such as refrigerators; stoves with an oven, and covered parking. He stated that the units are in very nice shape and is something needed in the community. Virginia Monaise stated that she has a hard time with a refrigerator that holds no frozen foods and only a two-burner stove. She would like to see these upgrades made.

Darlene Cremins stated that there is not enough housing for seniors in the City.

Mr. Monaise again addressed the Commission stating that there had been some talk about possibly removing a dividing wall between some of the units to expand them which would be a great idea. The units are very, very tiny. He stated that they would hope to see that happen so that those that require more room will have more room available. He also agreed with Ms. Cremins, there are not enough senior units available within the City.

Walter Dodd addressed the Commission stating that his property at 515 Toomes Avenue adjoins this property on two sides. He reiterated his statements of opposition from the previous meeting stating that the present owners are in violation of the existing Use Permit that specified that the property be limited to senior residential.

Commissioner Reilly stated that City Staff, Best Investment Group LLC and the prospective purchaser of the property have met and have presented an additional option, Option "C". He then stated that there are currently the following proposals for considerations: "A" – Denial; "B" – Approval; and now option "C" – contains everything that was in option "B" for approval except they have reduced the number to 22 units, is that correct John? Mr. Brewer stated generally yes it is. He stated that as a Commissioner, he appreciates the give and take there, however he is for upholding the previous Use Permits. He stated that one thing that confuses him is, that when we left the Chambers on June 19th, there was much talk, not only from the audience, but from the Commission about these units are for the most part handicap accessible, and we talked about there being something written down in alternative "C" about allowing handicap residency. He said that that is not in alternative "C", so it makes him think that those 22 units that are planned to be non conditional as far as age goes, that people with physical disabilities would live in those. Commissioner Robertson stated that the primary change incorporates persons with physical disabilities. Planning Director John Brewer stated that proposed Condition 8 on option "C" deals with disabilities and the occupancy requirements and talks about the 22 units would be one ended.

Commissioner Reilly stated that wouldn't support alternative "C", stating he would be able to support something to the liking of 8-10 units for non-age restricted for those with physical disabilities, with one of those 8-10 units being for the resident manager, and the remaining 34-36 units staying age restricted for 60 years of age or older. Commissioner Robertson stated her agreement with Commissioner Reilly. She stated that she believes it sets a bad precedent to go back and change the Commission's Land Use decision, stating she is afraid that anybody that wants to build an apartment complex is going to want to say that these people got away with this, and they didn't have to do this, and they didn't have to do that.

Mr. Sullivan addressed the Commission stating that they have tried everything to make it work as a senior complex only. They have tried it with the meals at a great price, and without the meals at a great price, however nothing has worked and they don't have any more money to keep this going or to continue advertising. He stated that he thinks alternative "C" with 22 Senior and/or handicapped is a great alternative to the other two. That way we will keep the senior population in the building, but we will be able to keep the project afloat.

Chairman Lopez asked if the development was profitable prior to assuming ownership; he was informed no it was not. Mr. Sullivan stated that they purchased it knowingly, yet thinking that with the proper advertising, etc. they could turn it around. Chairman Lopez stated that he can sympathize with the situation their group is in, however he didn't feel it was this Commission's place to, and forgive me if this sounds harsh, bail you out. He understands that the current owners have someone ready to purchase the complex if the Commission changes the Use Permit and he doesn't feel it is in the best interest overall for this Commission to change it as drastically as is being hoped for in alternative "C". He stated that he would be willing to modify option "C", but not as is presented now, he feels that there is still some ground needed to be given in order for him to feel comfortable prior to acceptance.

Commissioner Reilly asked if you had 9 age unlimited and tenant disabled, one for the resident manager, and the remaining 34 for seniors would that be enough? Mr. Sullivan stated that the most seniors they had living there at one time with all the advertising they did was around 20.

Commissioner Robertson stated that she would be willing to open it up more than the 9 for disabled, maybe not restrict the number for disabled, possibly have it be a Senior/Disabled Complex. Commissioner Reilly asked for all of the 44 units, Commissioner Robertson stated yes.

Commissioner Armstrong stated his only concern is that there is uncertainty either way they go. He confirmed that there are currently 18 senior units and 12 non-senior, he asked if the project is viable now; he was informed that they are right about at break even as they speak. Commissioner Armstrong stated in alternative "C" it was proposed for 22 units each (Senior/Disabled), now provided that more single residents did come in, that's a bonus, however his fear is that by doing that and pushing more into that realm, you may lose some of your seniors because the services are no longer there (meals, etc.). He stated that he is wondering if it is viable now with 18-12, and if we go another direction and allow more singles or non-seniors and your senior number goes down, that it might not be viable either way. Mr. Sullivan stated that the senior number can't go below 22.

Nan Eller addressed the Commission stating that whether their Company can afford to continue to keep the complex open as per the existing Use Permit doesn't come into play. Basically it is just a matter of whether or not they will allow that complex, that twenty years ago worked for a senior project, which worked and it was perfect back then, she stated that her Grandfather lived there until he had to go to assisted living accommodations. They had hoped to continue as a senior complex, but unfortunately they can't afford to keep it as such.

Harry Finefrock, realtor for Kirk Silverman addressed the Commission stating that Mr. Silverman has stated that he wishes to make the improvements to the kitchens, roof repairs, etc. Mr.

Finefrock stated that he is surprised by the Commissions hesitation to approve this Use Permit revision based upon the financial conditions stated. He hopes that the Commission would consider proposal "C". Mr. Monaise asked if the adjacent property was in a Planned Development Zone; he was informed no.

Commissioner Robertson asked about the letter included in the Staff Report and Planning Director John Brewer briefed the Commission on the letter from Darlene Lindsay regarding the current manager at the Olive Grove Retirement Center. Walter Dodd stated that he has heard adverse comments about the Manager, however he has no personal knowledge one way or the other. He stated that there are non-profit organizations such as SHHIP out there and maybe this could be an option as a non-profit project. Chairman Lopez stated that he believed that would be a possibly option, however the current owner would have to pursue this, not the City. Darlene Cremins stated that the current Manager is very mean, stating that she has had some interaction with her.

Dr. Ross Tye, partner in the Olive Grove Retirement Complex stated that a lot has been said about the size of the kitchens, however should the Use Permit revision not be approved, there will be some 30 people put out on the street. Commissioner Reilly stated that he can appreciate what Dr. Tye said because he is a fact person and agree with everything he said, but the fact of the matter is this is a Senior Complex that was struggling when it was purchased. Commissioner Lopez agreed adding that it was purchased with the knowledge that it was financially struggling when they purchased it.

Commissioner Reilly asked the current owners and realtor representing the prospective purchaser if they would be agreeable to 34 units as Senior only, and 10 units including the Manager's Unit disabled and without age restrictions. Commissioner Reilly stated that he wants the owners to know that personally he lives in this town and only a few blocks from this development. He stated that he has no interest whatsoever in seeing it boarded up or the current residents look for new housing.

Mr. Finefrock stated that he could not speak for Mr. Silverman without speaking with him first, however he did not think Mr. Silverman would be agreeable to this number. Mr. Sullivan stated that they would have been happy if they could have gotten 34 Seniors interested, that would have been at a more break even point financially. He then asked the Commission if they would consider agreeing to the 22 senior and 22 non-senior residencies with a condition to revisit in a year. Commissioner Robertson stated that if it didn't work, then in a year we could have 44 non-compliant residents to remove and that wouldn't go over well. Chairman Lopez stated in answer to the question, yes that is something that could be considered.

John Brewer stated that there was a lot of truth in what Nan Eller stated, there has been a change within the last year making this projects layout not viable today. He stated that in 1976 when this project was approved it was approved for 76 Units. Since that time 4 lots are now zoned R-1 with one lot developed with a model home. Mr. Sullivan stated that the lots were sold to raise funding to keep the Olive Grove complex going.

Dr. Ross Tye asked how the 22-22 residency figure was reached; was it during the meeting between the current owners, City Staff, and the prospective property purchaser? Mr. Brewer stated that when he met with the representatives he had no preconceived numbers, they just needed a number as a starting point, it could be changed.

Commissioner Robertson then motioned to close the Public Hearing. Commissioner Reilly seconded the motion. **Ayes: Lopez, Robertson, Reilly and Armstrong. Opposed: None. Absent: Hatley. Abstain: None. Motion was approved by a vote of 4-0 with Hatley absent.**

Commissioner Reilly stated he was not definite on the numbers of 22 seniors and 22 seniors and disabled. Mr. Brewer stated that possibly we could better obtain a better definition of disabled.

Commissioner Robertson suggested that the Commission could delete the requirement for covered parking and a bike rack (Conditions of Approval 5 and 9). Commissioner Reilly stated that he was reluctant to remove the covered parking condition (Condition of Approval 5). Commissioner Reilly asked if they came to an agreement on the residency numbers, how would we bring this back at a subsequent meeting for the disabled definition? Mr. Brewer responded stating he wasn't sure. Commissioner Robertson stated that she was unsure of the legalities in relation to ADA Regulations should they decide to limit the disabilities acceptable. Commissioner Reilly stated that possibly this is something that the Commission should seek advice on from the City Attorney.

Mr. Brewer and the Commission members present stated that the Commission needs to narrow down the residency numbers, the restrictions, etc. and whether the current owners and prospective property purchaser are interested in pursuing this.

Chairman Lopez called for a five-minute recess so that the property owners can discuss the options discussed. Meeting was recessed at 7:55 p.m.

Chairman Lopez reconvened the meeting at 8:00 p.m.

Mr. Sullivan stated that they might be able to make this work at 44 units Senior or Disabled. Commissioner Armstrong stated that he could agree to this. Commissioner Reilly stated that he couldn't support this with the current description of disabled before the Commission.

Chairman Lopez stated that he believes SSI uses percentages to determine extent of disability; this could affect this situation dramatically. Mr. Brewer stated that we could go through the disability listing and possibly narrow it down. Dr. Ross Tye stated that he believes alcoholism has been removed as a "legal disability".

Chairman Lopez stated that people with major disabilities probably wouldn't be living on their own; he believes that the Commission could work off of the disabilities list. Commissioner Armstrong stated he was agreeable if they were able to remove alcoholism and illegal drug use as disabilities, and those with major disabilities not able to live on their own.

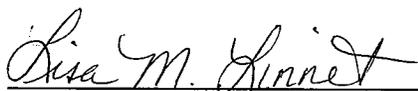
The Commission agreed to the following residential numbers: 22 seniors and 21 disabled only (only if alcoholism as a disability was removed), and 1 non-age restricted for resident manager. Commissioner Robertson also suggested removing Condition of Approval number 9 (bike rack requirement).

Commissioner Reilly motioned to re-open the Public Hearing. Commissioner Robertson seconded the motion. **Ayes: Lopez, Robertson, Reilly and Armstrong. Opposed: None. Absent: Hatley. Abstain: None. Motion was approved by a vote of 4-0 with Hatley absent.**

Commissioner Robertson stated she was willing to remove the covered parking requirement (Condition of Approval #5). Commissioner Reilly announced a Commission consensus of 22 senior only, 21 Disability restricted, and 1 non-age restricted for the resident manager, he directed Staff to meet with the City Attorney to obtain confirmation that alcoholism is not considered a physical disability, and remove Conditions of Approval 5 (Covered Parking) and 9 (Bike Rack) and to table the final vote on this item until the August 21, 2007 Planning Commission meeting.

G. ITEMS PLACED ON THE AGENDA FROM THE FLOOR:

H. ADJOURNMENT: 8:23 P.M.



Lisa M. Linnet, City Clerk