

City of Bay Village

Council Minutes, Committee Session
Conference Room
Paul Koomar, President of Council, Presiding

September 21, 2015
7:30 p.m.

Present: Clark, Henderson, Koomar, Lee, Lieske, Tadych, Vincent, Mayor Sutherland

Also Present: Law Director Ebert, Finance Director Mahoney, Director of Public Safety/Service Director Thomas, Recreation Director Enovitch

AUDIENCE

The following members of the audience signed in this evening: Marty Mace, Richard Fink, Jerrie Barnett, Jeff Gallatin, Denny Wendell, Nancy Trainer, Lydia DeGeorge, Dick Majewski, Pam Cottam, Michelle Kraft, Carol Gonzalez, Charles Ramer, Bernadette Novy Enochian, Don and Denise Zwilling, Joe Hochman, Warren Remein.

President of Council Koomar called the meeting to order at 7:30 p.m.

PLANNING, ZONING & PUBLIC GROUNDS & BUILDINGS COMMITTEE-Lieske

Presentation by Mr. Paul LeBlanc:
Recommendations - Chapter 1158 – Attached Residence District

Mayor Sutherland introduced Mr. Paul LeBlanc, Professional Planner associated with the design firm, LSL Planning, which is a subsidiary of SAFEbuilt, Inc. The City contracted with Mr. LeBlanc to draft a new ordinance dealing with attached housing.

Mrs. Lieske stated that the Planning, Zoning, Public Grounds and Buildings Committee appreciates the opportunity of meeting with Mr. LeBlanc prior to this meeting this evening. It was clear in his presentation the deep understanding he has of Bay Village and the values of the community. The comments he made were thoughtful and some of the fears Mrs. Lieske has heard from residents in terms of discussions about Chapter 1158, Attached Residence District, and “not being in my backyard” but supporting it otherwise, are addressed by this new document. The reference to specific areas within the Bay Village Master Plan and Retail Improvement Strategy, will be helpful to frame the discussion for residents.

Mr. LeBlanc addressed the administration and Council, stating that LSL Planning has been with SAFEbuilt, Inc., for the past two years. LSL Planning has thirteen professional planners who work all over the county, working with communities rewriting major portions of existing zoning regulations or development regulations. In addition to that work, Mr. LeBlanc has served as an expert witness in over a dozen litigation matters, involved in one in federal court now on behalf of municipalities. They were asked to take a look at the efforts that were expended back to 2007 on Chapter 1158, initially to review the ordinance and provide comments as to its workability,

incentives, and how it related to the existing Master Plan. After doing that and submitting a letter with review comments, they were asked to see what they could do in terms of refining the ordinance to address the comments that were made. Mr. LeBlanc went back to the minutes of the committees that had been working on the matter since 2007, as well as Planning Commission minutes, to get a sense of what the discussions were, what some of the issues were, and what consensus there was regarding any element of the proposed ordinance. He found that there wasn't a lot of consensus. There were a lot of ideas thrown out and a great deal of debate regarding density, minimum lot sizes, whether one bed room units should be permitted within townhouses or not, and a lot of fear about the townhouse district in general. If you adopt it, where is it going to go in the community? Could a developer come in and acquire some property in the midst of one of our single family subdivisions and throw up townhouse units? That fear is probably unfounded for a lot of reasons, not the least of which a developer is not going to take that kind of location, and they would still need rezoning and it is doubtful the Council would approve rezoning in a location like that.

Mr. LeBlanc stated that one of the things important to him was to find where that district would be appropriate. A good starting point is to refer to the Master Plan. A good zoning ordinance is supposed to be the tool communities use to support the Master Plan recommendations. Bay Village has a Master Plan that is specific in terms of development of a town center downtown area, and it actually identifies the number of sites in and around the downtown for townhouse development, multi-family development, and higher density development. One of the provisions in the draft is to say that an R4 District should be established where the Master Plan specifically recommends that type of use. There may be other locations where that use would be an appropriate transition or buffer between the similar uses. For example, where you have commercial development adjoining single family neighborhoods with some land in between, townhouse development might make some sense as a transition or buffer between the commercial and single family residential. The way the ordinance is written it is not the intent to be standard, indiscriminately throughout the City of Bay Village.

One of the others is to recognize this is a built-out community. There isn't much of any vacant land left in Bay Village. It is not like many of the suburban communities LSL Planning works with where there are farm fields and wide open spaces, and developers knocking on the door to develop the vacant land. Bay Village is in the reverse situation and may be in a position of wanting to entice developers to come in and do some of the things recommended by the Master Plan, like higher density development in and around the downtown area. In order to do that, it is necessary to make sure the regulations fit the situation: redevelopment and infill. In looking at some of the minimum requirements in earlier drafts of the ordinance, they were clearly based on green field, suburban style development: minimum lot sizes, large setbacks, large open space requirements, things that probably can't happen in Bay Village without a great deal of expense and effort. It is likely that developers would not even want to go down that road. The idea would be to use more urban, infill standards than the broader standards.

The latest draft reviewed was based on an overlay system. This was in response to some of the concerns about establishing this development anywhere in the City, so there are actually three different sets of standards, depending on where the townhouse development might go. This is unnecessary because it is unlikely it is going to happen. If changing the focus to infill and

redevelopment near downtown you only need one set of regulations, which is what this draft proposes.

Density limits are a little higher than prior efforts of six units per acre. The draft proposes a minimum of eight units per acre in order to make this kind of development feasible. Mr. LeBlanc would urge looking at density and see what comfort there is in increasing that. Examples of projects were given where the density was much higher but if you walk past those projects you would never get the sense it is high density. Eight units is not extremely dense by any means.

One of the setbacks proposed for change is, for example, the proposed 35 foot setback is an example of a suburban standard. Most townhouse development is very close to the street, perhaps even at the sidewalk edge. LSL Planning proposes no setback requirement.

There was a lot of debate and complicated formulas about height limits. The City of Bay Village ordinance allows single family homes to be 35 feet tall. There is no reason to select a different standard for townhomes.

Minimum site size was proposed in the old draft of a minimum five acre development site. In this community it is unlikely you could find five acres of land available for this kind of use. It is unrealistic. LSL Planning proposes no minimum site size to allow it to go where it needs to go.

LSL Planning added a lot about open space, defining what legitimate open-space is and where it needs to be. When a developer shows a site plan there is all kinds of green on it but in reality it is just splotchy grass areas and un-usable pieces of property. What they have tried to do in the draft is define what really constitutes usable open space.

Definitions have been revised. At present there are three or four definitions that apply to two family dwellings. They are all different and mean something different. It is proposed to delete those definitions and come up with a new definition of two-family dwelling. This is standard language in most zoning ordinances.

Parking requirements – The proposed parking requirement is huge for this type of development: three spaces per unit. LSL Planning proposes two spaces per unit to be consistent with other residential development in the community, and have added a quarter space per unit to provide for overflow and visitor parking. Three spaces is more than necessary and adds more pavement and impervious surface and less landscaping to the site.

LSL Planning has also tried to be more specific about the building materials, the articulation of the building, roof pitches, etc. The prior draft had some very vague language about designing in conformance with but surrounding area, but that is a “know it when you see it” regulation. In being more specific, they still give the developer flexibility. That is key in any ordinance. You don’t want to be so rigid that a developer can’t adhere to your standards and declines building. Options were provided and allowance for the Planning Commission to make modifications to the regulations depending on the site plan.

Review procedures have been spelled out in the new draft. Most of the sites would likely have to be rezoned. There are one or two properties that are already zoned for townhomes. If those were developed, the applicant would just go through a site plan approval process with the Planning Commission. Otherwise, any rezoning would have to follow the same procedure as any other rezoning in the City.

Mr. LeBlanc distributed internet screenshots of townhouse developments in other communities, consistent with what the proposed regulations would permit.

Mr. Ebert noted that increased sewer capacity would not have to be included in Chapter 1158 because those considerations would be undertaken by the work of the Planning Commission who would turn down and approve plans. Mr. LeBlanc noted that the review standards in the new draft includes guidance for the Planning Commission review. The City also has the ability to attach conditions to any site plan to modify, add more landscaping, etc.

Questions

Mrs. Lieske asked about the reference to “alleys.” She asked if that is something that should be kept in Chapter 1158, and outline responsibilities for snow removal and maintenance of the alleys.

Mr. LeBlanc suggested leaving it in as an option. It is not uncommon to have the garages in the back, forming an alley. In terms of maintenance and ownership, those are issues that would be defined with the site development.

Mr. Ebert stated that there was discussion in the committee meeting about area-wide development, and whether the Council, at that point in time, would look at those areas that would fit some type of attached housing and put them all on the ballot. When a developer came in you wouldn't go through that process every specific time. Everyone can identify various areas that are more conducive to attached housing. Narrow those out now and go through the process of a developer coming in with a plan, the Planning Commission review, and final City Council going through rather than going through every one. That was another alternative that was discussed with the committee.

Mrs. Lieske stated that there was discussion about how the development might look in terms of appearance. The Planning Commission has discussed not allowing long, monotonous types of structures. Landscaping considerations might alleviate some of the concerns people might have about how a development would look.

Mr. LeBlanc stated that they specify that every number of feet the building has to be articulated with different architectural features added, such as columns, arches, or canopies so that there is not a solid wall for the entire building. Mr. Lee noted the inclusion of the proposed maximum number of six units per building.

Mr. Lee asked Mr. LeBlanc to comment about attached garages and carports. That is one of the accessory buildings contemplated in Section 1158.03. Is that common with these types of developments?

Mr. LeBlanc stated that it is not uncommon. The tendency, especially in the higher-end developments, is to have attached garages or underground parking. In some, you will find detached garages behind units. Carports are not used as much for townhome development. The most common technique is to have attached garages.

Mr. Vincent stated that Mr. LeBlanc has referenced a development in East Grand Rapids, Michigan, called Crosswell News, with 12 units on two-thirds of an acre. Mr. Vincent stated that this is a nice example, available on the internet, of how you fit that type of development on that amount of property.

Mr. LeBlanc stated that in any development it comes down to the site plan: how it is laid out and what it looks like. That project is under construction now, and is going to look very nice and will blend in with the area which is both a business district and an older, single family neighborhood. The City has control over how these things are laid out and what they look like. You can have a higher density and be very pleased with the outcome.

Mrs. Lieske asked about the requirement that all improvements should be completed in 120 days for landscaping for common areas. If an occupancy permit would be given in September or early October that could be a problem when considering weather. Mr. LeBlanc stated that the number can be adjusted. If a project is completed in September or October, fall is really the best time to put in landscaping. It also says if the developer can't complete it, then the City can require a performance bond so that you are certain landscaping will be installed.

Mr. Vincent stated that Council has the option of over-ruling the Planning Commission by a vote of two-thirds of the members elected to Council. Would it be better to say by 5 members of Council, rather than two-thirds of the members elected to Council? Mr. Ebert stated that it is a specific requirement of the City Charter which states two-thirds of the members of Council.

Richard Fink, Wolf Road, asked if the townhouse allowance of 45% of the lot includes the building of the townhouse, or the ancillary structure, the garage, as well. Mr. LeBlanc stated that there is another figure in the table of impervious surface as 45%. The garage is a building so that will be included as part of the 45%.

Mr. Fink stated that if you put 10 structures on two-thirds of an acre, you would have to change that percentage of building allowance. You would have to increase the amount of lot coverage.

Mr. LeBlanc stated that is the developer's problem. If he wants to put ten units on that site, he has to demonstrate to the City that he can handle the storm water or he doesn't get approval.

Mr. Vincent asked how the drainage review is conducted when a developer submits a plan to the Planning Commission. Mayor Sutherland stated that the City's consulting engineer would receive those plans for review and approval.

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There being no further questions, Mr. LeBlanc was thanked for his work and review this evening.

Mr. Ebert suggested that once Mrs. Lieske's Planning, Zoning, Public Buildings and Grounds Committee is finished with their review of the proposed Chapter 1158 it can be submitted to Council for three readings.

Mr. Koomar suggested working with the Law Director on the changes. Currently in the buffering ordinance, there is an evergreen component which are the types of things we may want to include. Mr. Lee stated that the ordinance states that a third of the trees shall be evergreen trees.

Mr. Lee noted that this draft doesn't specifically state that any rezoning would have to be submitted to the voters for approval. That is required by the Charter, and is something we talked about adding to this ordinance so that this doesn't somehow supersede the Charter. Any rezoning will have to be approved city-wide and within the ward where that property is located.

Mayor Sutherland stated that they are working on updating the Master Plan. In talking with Mr. LeBlanc and the Executive Director of the Cuyahoga County Planning Commission, the Mayor stated that she asked them if the City should wait on Chapter 1158 until the Master Plan is completed. Both gentlemen said, no, it can always be tweaked if something comes up. The Master Plan is at least 18 months out from completion.

Mrs. Lieske requested that if anyone has any thoughts to please copy her on the emails sent.

Mark Barbour, said that it looks like the proposed Chapter 1158 doesn't require a public hearing if the property is already appropriately zoned. That seems to conflict with Chapter 1129, which requires a public hearing with every submission.

Mr. Cheatham stated that he wants to remind everyone that there is language in the proposed draft that if there is a conflict, the new ordinance supersedes.

Mr. LeBlanc stated that the non-requirement for a public hearing was done deliberately. It was not an oversight. For any rezoning, it has to go through the legal procedure of Planning Commission recommendation, public hearing, Council, and open to referendum by voters. For site plan review, typically, because it is an administrative procedure, zoning is in place at that point, if there are specific standards in the ordinance, they would recommend against a public hearing at the site plan review stage. Under the law, if the project meets all the standards in the ordinance it has to be approved. You can't object if you just don't like it. That is where the Law Director would come in. It is a matter of local preference, if your pattern has been to require public hearings for all site plan review that is a minor adjustment to the draft. My recommendation would be that it not be subject to public hearing because if you are following the ordinance and the law you are raising public expectations unnecessarily. The thought is if we pack the meeting room and oppose this thing they will turn it down. Legitimately you shouldn't be turning it down if it meets all of the ordinance requirements.

Mr. Koomar stated that the purpose of the public hearings are to provide information to the public in advance. Answering questions from the public has been a past practice.

Mr. Koomar addressed Mrs. Lieske regarding the submittal of the draft ordinance to the Planning Commission, noting it would be appropriate to do so after there is a final draft.

Dick Majewski, Bassett Road, stated that there is no reference to the Architectural Board of Review in the draft ordinance. Will that still be part of the review process for these particular developments?

Mr. Koomar stated that this would go back to the comments by Mr. Barbour as to reviewing in comparison to our current code. I see no reason why that would change, but we will have to look further at that.

ENVIRONMENT, SAFETY AND COMMUNITY SERVICES COMMITTEE-Lee

Ordinance No. 15-63, regarding no parking signs on Westwood Drive, will be moved for adoption at the regular meeting of Council this evening.

PUBLIC IMPROVEMENTS, STREETS/SEWERS/DRAINAGE COMMITTEE-Tadych

FINANCE & CLAIMS COMMITTEE – Clark

Request for Tax Advancements before Settlement Dates – Fiscal Year 2016

Mr. Clark will introduce a resolution requesting tax advancements before settlement date in Fiscal Year 2016, which has been done in the past.

A Finance Committee meeting was held this evening and included a review of changes in the State of Ohio Municipal Income Tax Code as a result of House Bill No. 5. Mrs. Mahoney has prepared the changes and the ordinance will be placed on reading in early October for three full readings.

RECREATION & PARK IMPROVEMENT COMMITTEE-Henderson

Mr. Henderson had no report this evening.

SERVICES, UTILITIES & EQUIPMENT COMMITTEE-Vincent

Mr. Vincent called upon Mrs. Lieske for comments regarding the ordinance that will be moved for adoption this evening for no parking signs for Westwood Road. Mrs. Lieske stated that the residents reached out to Mrs. Lieske a couple of years ago with concerns about the parking. New signage was tried but it wasn't enforceable. The residents reached out again this summer because one of the residents was having trouble getting in and out of her driveway. The street is very narrow. The Police Chief met with Mrs. Lieske and the residents and came up with the recommendation for the wording for the signage which will be enforced by the Police Department.

MISCELLANEOUS

Sculpture Donated to the City

Mr. Vincent stated that when he looked at the sculpture it did not seem to be sturdy. He was actually able to cause it to move. He is concerned that it is secured. It does have kind of a tilt to it. Mr. Vincent asked Service Director Thomas if anything can be done to improve its stability. He asked if the City poured the concrete. Mr. Thomas responded affirmatively. Mr. Vincent suggested it be made sturdier.

Mayor Sutherland stated that they can take a look at it. She said that when this got installed, it was installed without her knowledge and without Service Director Thomas's knowledge. We are always trying to foster creativity and initiative down the ranks. I think somebody did that and they forgot the process we have at the top. It gives us an opportunity for a little training.

Mr. Tadych asked who picked the spot if you two didn't know about it. The Mayor responded that they do not know.

Mr. Vincent stated that if it is accepted can we decide a different location. The Mayor stated that they will do whatever the Council wishes.

Mrs. Lieske stated that she still has concerns about it. She heard from a couple of residents after the meeting last week when the word got out about the sculpture. The residents looked at it and expressed concern that it doesn't seem to have the Bay Village theme connected to it. One resident in particular discussed how we have been very particular about signage and the look of things around Cahoon Memorial Park. They were looking for a sail boat and something blue and white. My concern is the process and what happens if the next person comes, and another appears. We have been very protective of the park in our role as trustees. For instance, how much time we spent debating the fitness trail equipment and the signage connected with that. Going forth, I still have concerns about the process, but I also don't think the sculpture fits and I would have hoped there would have been a drawing of the proposed look for the sculpture before it appeared.

Mr. Koomar stated that we will have Director Thomas look at the installation. We can consider other options if you think we need them.

Mr. Tadych stated that in regard to the donation he really wants to stress that there are other parks in the City that could use donations. Everything seems to go toward Cahoon Memorial Park. We have parks on both sides of the City and the sculpture could be used in that venue also.

The meeting adjourned at 8:30 p.m.

Paul Koomar, President of Council

Joan Kemper, Clerk of Council

