

Minutes of a Meeting
of the
City of Bay Village Planning Commission
held March 5, 2014

Present: Barbour, Foster, Lesny Fleming, Lieske, Maddux, Majewski, Persanyi

Also Present: John Cheatham, Chief Building Official, SAFEbuilt

Audience: Conda Boyd, Doug Gertz

Chairman pro tem Persanyi called the meeting to order at 7:30 p.m.

Motion by Majewski, second by Lesny Fleming, to approve the minutes of the meetings held February 5, 2014, as published and distributed. **Motion passed 6-0.** (Mr. Maddux arrived at 7:35 p.m.)

Review of Proposed Parameters for Revisions to Chapter 1158

Mr. Persanyi distributed a proposal for changes to Chapter 1158 that he created for review and consideration by the Planning Commission. He stated that looking at the ordinances regarding attached residences, what they call townhouses in some communities, it seems like the majority of the communities around us generally specify a square footage of land area for each unit. Some of them do have limits, such as one acre. For example, Avon Lake says that 30,000 square feet is the minimum size of a development and depending on the zone, there may be five or twelve units in that 30,000 square feet. The table drawn by Mr. Persanyi is based on the three different types of conditions that Mr. Cheatham named Model A, Model B, and Model C. Instead of saying that it is a certain number of units per acre, Mr. Persanyi's design would say a certain number of square feet per unit, and how many units per acre according to that square footage. The defining factor would be the number of square feet that would be used for each unit.

The table at the bottom of Mr. Persanyi's report addresses the concept of viability. What is the minimum number of units you need to have a viable homeowners' association. Numbers used were 10 units, 12 units, and 15 units as minimums, and using the square footage the table shows the number of acres that would be equivalent to the number of units. For example, Westlake uses the square footage basis, Rocky River used that in their more recent iteration of their zoning code with only one type of unit that is still in square feet. When they specify the minimums for duplexes and for single homes it is always in square feet. But, in this case we are talking about multiple units.

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Mr. Persanyi stated that this is just an idea open for discussion. Is it a rational way to decide what the minimum development size should be, or do we want to go strictly by saying either 6, 8 or 10 units per acre?

Mr. Persanyi noted that any developer who would do something like this would not be able to say that they are going to go out and get two acres of land. They are going to get either plus or minus two acres, or three acres. So, this, in many ways is more flexible if a developer can drum up 1.26 acres if it fits within the parameter it makes it easier for them if they don't have to meet a certain fixed minimum. It is totally free of any idea that it is being tailored for one particular developer or another. It is pure numbers.

Mrs. Lieske asked if Mr. Persanyi envisioned the same numbers city wide. Mr. Persanyi stated that we would use the system devised by Mr. Cheatham that would be based on the current First and Third Residence Districts. Certain models would be permissible in those areas if that land were rezoned. Mr. Persanyi noted that Model C concerns him because the proposal was for 12 units per acre. Looking at Model C, 12 units per acre, and looking at the minimum footprint for the building, and also the minimum required for parking, a garage, driveways, aprons, and access to the street, there would be a situation where the density would be so great you could never really hope to get the necessary green space, 30% in that case. The maximum lot coverage would be so great because there would be so many units it would not be a viable situation. The only place that densities that great were seen were in multi-story apartments. The density in Cashelmara is somewhere just shy of 11 units per acre, but it is multi-story and it is a very crowded situation.

Mr. Majewski stated that the key becomes the minimum number for a viable homeowners' association. Mr. Persanyi stated that one of the things he looked at is that 10 is a nice round number so he did the acreage for that number. Then he went to 12 units and there is a certain logic to that. Twelve can be multiple of two buildings with six units, or three buildings with four, so there is a variation that can be created. At the other end, 15 units is a larger development. In thinking of this whole idea, the thought was that the smaller the development the better it is because the lesser impact it has on a community, the surrounding neighborhood, and, in many cases, possibly the capacity of the sanitary sewers in the area. We want to make sure we don't create a situation where we put in a large development with a high density and end up with inadequate sewer facilities and other issues. Mr. Persanyi stated that he looked at the open space requirements in various other communities and they are probably similar to these models.

Mr. Foster asked if Mr. Persanyi's proposal is in place of the parameters recommended by Mr. Cheatham. Mr. Persanyi stated that they are in place of a recommendation such as minimum development size of three acres, or minimum development size of 1.85 acres. The density is

close to 8 for Model A, or 6 for Model B, and for Model C would be 4500 square feet per unit which comes to 9.68 units per acre.

Mr. Foster stated that he would agree that the rationale of taking out the minimum size is good and that it encourages some of the backfill projects as opposed to a project that is going to come in and require a larger swath of land. You could take one, two or three homes as opposed to ten or twelve.

Mr. Persanyi noted that he is not really familiar with the operation of condominiums as to what constitutes a viable size. Mr. Doug Gertz, who was in the audience, commented that what they did over on Cahoon Road has five houses. They do have an association. They are not officially condominiums but they are functioning as that, and it is working fine. One person is the one who is in charge, calls the meetings, and everyone has one vote when they decide to vote on something. In the Tremont area in Cleveland, the attitude is to put in small projects with three or four units, possibly not even attached. Mr. Gertz stated that he wouldn't be dissuaded by the association factor. Small developments scattered around with a smaller impact is a much better way, and feasible, because the odds of getting three or four acres today is almost impossible. You will not get five houses to agree to sell. If you get a lot that is an acre, or an acre and a quarter, it may be an odd shape, and maybe the density can't be met because of the shape, but if the numbers work it can still be a good project for everyone.

Mr. Persanyi asked how much of the land maintenance is part of the agreement of the five homes referred to by Mr. Gertz. Mr. Gertz stated that there is a line just past the oval driveway. They maintain everything west of that toward the street. They maintain the oval drive with plowing. They have a company come in and cut the grass, rake the leaves, and do the snow in that area. They have also done some landscaping. East of the line it is their responsibility for self-maintenance. Each owner takes their refuse containers to the nearest driveway apron.

Mr. Maddux asked Mr. Gertz how many acres he had in this development. Mr. Gertz stated that with the lower land they were right around the five acre mark, but you could not build on most of it. Up above, there were probably two to two and one-quarter acres. Mr. Persanyi stated that it was also a unique situation because most of the homes are far back from the street so that the owners could have the view of the valley. Mr. Gertz stated that they all have 52 ½ ft. frontage, and the lots extend out in a "Y" to 60, 65, and 90 feet to accommodate different size houses at all different prices. There would have been six driveways but this way with the oval there is a nice common area. If you would have done condominiums you could have put houses on the street and houses on the inside of the oval. Mr. Persanyi noted that it is a single family, residential style development. The only thing that pushed into an association was having one common drive. Mr. Gertz noted that they are also responsible for all their utilities. The sewer was put in by Mr. Gertz. The main comes in at the northwest corner of the property and goes diagonally

across the property. Each house tapped into that sewer and they are responsible for the sewer maintenance. The city is not responsible for that sewer. They only have one tie into the interceptor that runs along Cahoon Road.

Mr. Persanyi stated that it would appear then it is possible to have a relatively small association and still have it viable. In this type of situation the association would include exterior maintenance and maybe a very limited private area that would be assigned to each unit. Mr. Gertz stated that in Cleveland there are some associations that are as small as three or four units. When you are that small, there is not a lot of maintenance, especially when it is all brand new. There is a little bit of yard maintenance and the exterior would be maintaining the reserves so that when the roof does go there is money to pay for it.

Mr. Persanyi stated that his concern was something that happened during the recession. There were many associations that had serious problems because the owners had lost their employment and they were not making the necessary payments into the association. A larger number may prevent that from happening. Mr. Persanyi stated that he always felt the smaller the better because it has the least impact on the neighborhoods and it gives people more of a chance on where it is located and how large of a unit can be built. That's why the five acres never made much sense but that it the way it was written and why we are here talking about it today.

Mr. Gertz stated that he hears more and more than people want something that they no longer have to do a lot of maintenance to, but they like Bay Village and it doesn't exist here.

Mr. Majewski asked if the small developments would get past the voters.

Mr. Persanyi stated that the voters are faced with it either way because it always requires rezoning, which has to come to the voters.

Mr. Majewski stated that he would like to see something that would have a realistic chance of passing through voters. If we are scattering small developments everywhere why not just make it a permitted use in the single family residence. Would the voters accept a four unit to six unit building in the middle of the neighborhood?

Mr. Maddux noted that everyone loves the idea; just not in their backyard. On Lake Road, where the large house is going in right now, they accumulated three properties and everyone in the vicinity was certain they were going to try to force condominiums on that property. There was significant concern on the part of the neighbors. People would love it if it were done behind Heinen's or where Key Bank is but not at the end of their street on an acre of land. Mr. Maddux stated he would be concerned about little four-unit things popping up because it is not the character of the city and people may not buy the rezoning of that.

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Mrs. Lieske noted that she lives on Lincoln Road and there was a dentist that lived on Osborn whose property came all the way to Lincoln. When the family died they sold the swath along Lincoln. The stretch on Lincoln between Dwight and Debbington is all houses that are similar character, built at the same time. The houses are very nice but are out of character with the rest of the neighborhood. Mrs. Lieske stated she is envisioning, if these smaller attached unit developments were in place, what she might have across the street from her. People resisted these houses that were nicer than what they lived in because they were out of character.

Mr. Persanyi stated that for any development like this to get off the ground the developer would have to spend a lot of architectural money to come up with a nice concept to show the people what they are proposing. With the property on Cahoon that failed rezoning, people did not know what was going to be proposed for those lots.

Mr. Cheatham noted that Mr. Lustris is attempting to market those lots now for duplexes. He noted that he would rather see a condominium community than five duplexes.

Mr. Barbour asked if the Commercial District permits different sized attached residences. Mr. Majewski stated that the minimum acreage for attached residence in the Commercial District was reduced to one acre and the density was increased. All of the other parameters of Chapter 1158 apply. It has been three years since that was done, and we haven't seen anything proposed in the Commercial District other than the former Shell station property that was part of the proposed development across the creek that failed the rezoning measure. Is solely acreage and density motivating developers, or is it the fact that they are looking for vacant land?

Mr. Barbour stated that the Planning, Zoning, Public Buildings and Grounds Committee in 2009 had all the same arguments such as that made by Mrs. Lieske about what the houses are going to look like. He noted that his personal view has changed since 2009. Ultimately City Council is going to have to decide if big changes are going to have to be made. Is the Planning Commission charged with making a recommendation or making a series of recommendations? Are we supposed to come up with some viable solutions and they are going to adopt them? If City Council decides there is going to be change because there is a need that is not being met, then they are going to have to make changes like Mr. Persanyi has proposed.

Mr. Persanyi stated that he thinks Council is asking for recommendations from the Planning Commission because they are looking at Chapter 1158 to be updated with some newer ideas that might make a development happen.

Mr. Barbour stated that the density and lot size are the basic changes that Council will have to make. He would be in favor of suggesting something along the lines of what Mr. Persanyi has suggested because it corresponds with what the Planning and Zoning Committee recommended

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in their July, 2009 memorandum to Council with the exception that they had more specific requirements. Ultimately, City Council are the ones that are going to have to decide and they are in a way better position, having public hearings, etc.

Mrs. Lieske stated that it would first go through the Planning and Zoning Committee of Council and those are public meetings. Any other changes would have to be three readings of legislation with public input.

Mr. Barbour stated that the Planning and Zoning Committee made their recommendation in 2009 and the whole Council decided they didn't want to act on it. Mr. Koomar and Mr. Tadych are the only remaining members of that 2009 Council.

Mr. Persanyi stated that Council is looking for some new rules to make it possible for development to happen. And then they don't have to make special recommendations for one developer that comes in with an idea,

Mr. Barbour stated that he is in favor of making a recommendation to Council if that is what we decide as a group, but, again, that is ultimately that strictly is going to be their decision and they have to be of the mindset that they want to make a change. He noted that he doesn't even think the Planning Commission is in a position to make a recommendation. It is just a courtesy.

Mr. Majewski stated that he believes there has been some progress made. The Planning Commission has decided that for each residence district there will be a different set of criteria. Mr. Majewski likes the definition of townhouse that Mr. Cheatham proposed. If we could include that as part of our recommendation; a townhouse would be a single unit from bottom to top. We have two options that we are considering: reduction of minimum acreage size or square footage is another option. We can give Council options for consideration. We have made some progress.

Mr. Barbour agreed but noted that we are at the mercy of those who are going to make the decision.

Mr. Majewski noted that it would be beneficial to know what the goal is. Is there a goal that the city's looking for to achieve for this type of housing? Or, is there a specific type? Are they directing this housing to a specific type of person? The Master Plan indicated senior housing. Now, we don't have that direction. We have had proposals from developers and none of those even touched the goals that were set forth in the Master Plan.

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Ms. Lesny Fleming stated that it would be interesting to have input from developers potentially. If it is our goal to bring in developers to have them build housing, soliciting their input on what we are doing could be important as well.

Mr. Majewski stated that the Cuyahoga County Planning Commission said that developers are usually seeking their own goals and needs, and the city has their own goals and needs. There has to be some way to come together and try to convince the developers that maybe the city's goals and needs should be part of their project. That's where we are lacking with the developers that have come forth.

Mr. Persanyi stated that there is another issue about people not wanting development in their backyards. A project came forth next to the Bay Commons area. There is 2.88 acres of land that is currently zoned for attached residences. A developer came in, brought in a beautiful set of plans for roughly 17 units. The units would probably have been in the \$300,000 to \$400,000 range and the people that came to the public hearing were the people that lived in Bay Commons who wanted to maintain the woods even though the woods were not their property. They gave so much grief to that particular developer that he decided to go somewhere else.

Mr. Majewski stated there were other issues with that development. They wanted to use the road of Bay Commons and the style that was going to be built directly adjacent to their housing was completely different.

Mr. Persanyi stated that we know from the experience last year that city wide the rezoning question passed. It would have passed in the ward had it not lost in the precinct. The only way to fight that is to come up with a set of plans that gives details on what someone wants to build, and that costs money. After you spend that money and it still gets voted down, there is no solution. It gets back to the very basic issue in the original Master Plan of the 1960's where the opening paragraph talks about Bay Village as a beautiful city of single family homes. It was repeated in 1999 with the opening remarks about the Master Plan. It seems to be recurring even today; we are a community of single family homes.

Mr. Barbour stated that it would be easier if the City Council would say they want to make it more attractive for developers and builders who are interested in building these types of structures and here are the kinds of things we are contemplating. If the decision makers want changes, then the kinds of changes that are going to have to be made are the two proposals. Those are good starting points. If they want to make changes, those are the kind of changes that will have to be made if that's the decision they want to make.

Mr. Maddux stated that everyone has talked about wanting places for people to downsize to and stay in town. The reality of it, with these developments, that might not be the target market that

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is going to be served. Those developments typically take larger acreage to offer more single-level living. In the end, this might not be the type of unit you are going to end up with in both cases with the small lots and higher density. The three-story townhouses are great and maybe will take care of some people that want to downsize. Mrs. Lieske noted that some like the amenities of the larger developments when they are downsizing.

Mr. Persanyi stated that some of the communities that have more vacant land have special projects like that with larger planned communities. Those start out with five acres and go on up to twenty acres, and it is a planned community within the city. But, we don't have that situation here so it is a way of trying to accommodate this type of housing within our community which is built-up.

Mr. Persanyi asked if it would be possible for Council to invite some potential developers to come in for an informal meeting of what they would need. Mrs. Lieske stated that could be possible. She is waiting until the Planning Commission reviewed everything and then planned on holding a meeting of the Council Planning, Zoning, Public Buildings and Grounds Committee that she chairs and includes Councilman Steve Lee and Councilman Paul Vincent. Hearing things tonight, it would probably be wise to poll the other members to see if they could schedule a meeting on March 24 before the Council meeting and then possibly even schedule another one shortly after that to go over the things that have been discussed so far and that would be something that would go before the Council Committee of the Whole. All of those meetings are public and any or all of the Planning Commission members could be present as well.

Mr. Cheatham noted that he will be in Florida on March 24, 2014. He noted that when preparing his recommendations he reached out to the surrounding communities, even all the way to Medina and different areas. He went to his recommendations because he did not feel the smaller developments would pass in Bay Village.

Mr. Persanyi stated that the larger you make it the harder it makes for a developer to come up with the land. Even a small one didn't pass, but that was because people didn't know what was coming.

Mr. Foster stated that the Planning Commission is challenged to come up with what is appropriate for the community. At the end of the day, if a voter is going to vote on it they are still going to make the decision. But, we owe it to Council to make a recommendation because we should be able to conclude as a community if this is right for the city as a whole. Not for specific areas, but across the board, is this appropriate or not.

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Mr. Persanyi stated that the intent is to make Chapter 1158 applicable to the entire city instead of coming up with one particular set of standards for one particular area because someone is knocking at the door saying this is something they want to do.

Mr. Barbour suggested that a recommendation would be, "Here's the starting point for your discussion as City Council" rather than saying "Here's what you should do."

Mr. Persanyi stated that Rocky River has much smaller developments that are possible, and Westlake, with all their land has still made the minimum smaller than the minimum we had. Westlake has had a lot of development and some of them are smaller developments.

Mr. Barbour stated that he thinks it is because people didn't want this kind of development. Their mindset was that if you could put together a big piece of land and build something we can live with it. Otherwise, we don't want this kind of development. Anecdotally, that seems to have changed since 2005 but it does seem to be anecdotal. What has to be changed is the density and the amount of land and to do that you are going to have to have much smaller parcels. Mr. Barbour noted he is not convinced that this is necessarily right but he does not think this is necessarily his job as a Planning Commission member at this moment.

Mrs. Lieske stated that her thought is to take the two proposals to the Planning and Zoning Committee on March 24. Mr. Barbour's suggestion to present things to Council as a starting point for discussion is excellent. Review the proposals of Mr. Persanyi and Mr. Cheatham with the Council Planning Committee, with people from the public present responding to the posted notice, and there is still the April 2 meeting of the Planning Commission to finalize the discussion. Mrs. Lieske stated that she is one of the newest people to the Planning Commission and still respects all the discussion, years of service, and expertise of all the members of the Planning Commission, and hopes that they could also attend the March 24 committee meeting.

Mr. Majewski stated that the key to Mr. Persanyi's proposal is it would help to know if they would like those small developments of three or four units, or were they thinking of 10 to 15 units in a development. Which direction do they want to go? How many rezonings do they want to have? How many rezonings do they want to see on the ballot? Theoretically you could have numerous issues if there were small areas. Who in the city is going to study ten different rezonings on one ballot? And, is it appropriate?

Ms. Boyd asked what happened to the idea of a survey. Mr. Persanyi stated that we have the information from the 1999 survey. Council would like to get this resolved as far as coming up with revisions to Chapter 1158. The survey is something we definitely should do. Ms. Boyd asked if the issue is there just isn't time now. Mrs. Lieske stated that she heard people say that they would like to tackle these revisions before any developers come forth with a proposal and

do this on our own. People might be receptive to looking at a change now to Chapter 1158 with the possibility of revisions in the future. People might be thinking that everything doesn't need to be done at one time and that might be another approach.

Mr. Persanyi noted that Council can change any of these chapters without going to the vote. It is a time issue now. They are in a position where they don't want to be caught again not prepared when someone comes forth with a proposal and all they have is the old Chapter 1158 with a five-acre minimum and six units per acre.

Mr. Maddux stated that the Mayor's email blasts would be a hugely effective way of doing an on-line survey rather than doing the hard copy through the mail.

Mrs. Lieske commented that the *Observer* newspaper offered, as a public service, a survey of recreation needs, and that idea is still going forth. We would be concerned that this would be done with a Survey Monkey type of instrument and for people who don't have computers there would be some copies at the library and the Dwyer Center.

Mr. Foster stated that the ballot issue last November was an ad hoc survey with a telling result. It passed city wide and the ward, and that's somewhat of a survey itself.

Mr. Persanyi stated that he believes the survey is needed so we have a better idea of where the community wants to go.

Mr. Majewski recommended that the Planning and Zoning Committee, as a starting point, read the intent clause of Chapter 1158. It is well written and gives a focus of where the chapter should go.

All agreed that the Planning, Zoning, Public Buildings and Grounds Committee should review the following on Monday, March 24, at 5:30 p.m.

- Review the intent section of Chapter 1158
- Review the two proposals that have come before the Planning Commission, the one by John Cheatham and the one by Bela Persanyi
- Have a discussion about the goal of the Planning Commission, to come forth with the proposals or more formal action

Council Update

Mrs. Lieske informed the Commission that the Council has granted an extension to the Planning Commission to review Chapter 1158 to April 8, 2014.

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Council has spent a lot of time bringing the Codified Building Code up to current standards to be in line with the state code. There were approximately 40 ordinances with three readings for the majority of them. The last three were finished on March 3, bringing the titles of the positions up to date.

The Environment, Safety and Community Services Committee, chaired by Councilman Steve Lee, is reviewing all of the bicycle ordinances in collaboration with bicycle advocate groups such as the Bay Bike and Skate Park, the Cleveland Bicycle Federation and the Village Bicycle Cooperative, as well as a number of residents, the City Prosecutor, City Law Director, and Chief of Police. Everyone from all these groups are in favor of everything that is being proposed except the section that will not allow riding two-abreast on Lake Road. The Ohio Revised Code does allow two-abreast riding. With all of the bicycle groups touring across the county and travelling on Lake Road they are asking for the provision to be to ride two-abreast but the Police Chief Law Director and Prosecutor are concerned because our Lake Road is not as wide as Avon Lake and Rocky River's Lake Road. The ordinances will be continued with further discussion at second and third readings.

The Council has spoken with the representative of CT Consultant that did the flow and strength study of the sewer lines to the Rocky River Wastewater Treatment Plant and have also talked to representatives of the plant. It seems like they can't find a problem with the numbers that indicate an increased flow from Bay Village. This will be a topic for discussion at the Town Hall Meeting to be held Monday, March 31 at 7:30 p.m. at the Dwyer Memorial Center. The cost to Bay Village residents will increase, and Council is doing their due diligence in investigating the results of the report.

Mr. Majewski asked if he heard correctly that there are three sewers going into the plant. Mrs. Lieske stated that the question came up about how this actually works and one of the explanations could be that some of the improvements that have been done elsewhere may have reduced some of the flow for other communities and with the improvements being done now in Bay Village we might reap those benefits in the future. There are five voting members on the Management Board of the Rocky River Wastewater Treatment Plant and this year the City of Westlake has two votes. Each year one of the other communities is entitled to those two votes.

Mr. Persanyi stated that if the water going into the plant has increased significantly it implies to him that there is storm water getting into the sanitary sewers that should not be getting in those sewers. Mr. Cheatham stated that a lot of residents' footer drains are tied into the sanitary sewers. Mr. Persanyi stated that he is wondering if when some of the repairs were made some of the ties were made with major interceptors that went into the sanitary sewer.

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Ms. Boyd noted that it is flow and concentration. Mrs. Lieske added that it is where the test is done. Mr. Majewski stated he thought he heard that Bay Village has three pipes and each pipe has a meter but only one of the pipes' data was used. Did they just extrapolate that and use three times that metering and say every pipe is the same? Further in the presentation the consultant said that one pipe had very little flow. The question about increasing the rates takes into consideration the fact that some communities bill according to actual water usage, but there would be start-up cost to putting that into place. This is something that would be open to a lot of public discussion as well. Mrs. Lieske encouraged attendance at the Town Hall Meeting on Monday, March 31, 2014 at 7:30 p.m. at the Dwyer Memorial Center.

Mr. Maddux congratulated Jeff Foster on the adoption of their new baby girl they just brought home from China last week. Chloe Foster is 2 ½ years old.

There being no further comments this evening, the meeting adjourned at 8:45 p.m.

Bela Persanyi, Chairman

Joan Kemper, Secretary