

**Planning & Zoning Commission
Workshop Meeting Minutes
Mayfield Village
Nov 17, 2011**

The Planning and Zoning Commission met in workshop session on Thurs, Nov 17, 2011 at 7:30 p.m. at the Mayfield Village Civic Center, Main Conf Room for a meeting of the Planning and Zoning Commission. Chairman Pro Tem Garry Regan presided.

ROLL CALL

Present: Mr. Garry Regan Chairman Pro Tem
Mr. Bill Marquardt
Mr. Paul Fikaris

Absent: Mr. Jim Farmer Chairman
Dr. Sue McGrath
Mr. Casey Kucharson
Mayor Rinker
Mr. Joe Saponaro Council Alternate

Also Present: Ms. Diane Calta Law Department
Mr. Tom Cappello Village Engineer
Mr. John Marrelli Building Commissioner
Mr. David Hartt Planning Director
Ms. Deborah Garbo Secretary

PROPOSALS

1. **Lot Split & Consolidation**
PP NOS. 831-27-001 & 831-27-008
Stephen J. Conway & Stacie A. Conway
660 Echo Drive

2. **NEW Office Complex**
East Commons Office Complex Development
East Commons, Ltd
PP # 831-05-007 & 831-05-015
Architect: Cawrse & Assoc, Inc

OPEN PORTION

Chairman Pro Tem Regan called the meeting to order. Chairman Farmer won't be here tonight. His Law firm is doing charitable work at the Cleveland Food Bank. This is a workshop meeting. No vote will be taken. John, please take us through the 1st item.

Lot Split & Consolidation
PP NOS. 831-27-001 & 831-27-008
Stephen J. Conway & Stacie A. Conway
660 Echo Drive

Mr. Marrelli said this is a lot split & consolidation of two residential properties on Echo Dr.

Stephen Conway, 660 Echo Dr. introduced himself. My neighbor Mrs. Henry owns a portion of my driveway, about 10 or 15 feet. She's agreed to do an even swap of acreage. The gas line won't be affected by this. The gas line is at the southern edge of my driveway and extends south to her house. At some point I'd like to construct a detached garage. She's in the process of putting her house up for sale. We talked about this for a couple years.

Mr. Marrelli said you're basically swapping 2187 sq. ft back and forth. John questions the sharp cut on the upper section.

Stephen Conway said it made sense, it follows the driveway. It'll allow me to put a detached garage there.

Mr. Marrelli demonstrates the split on drawing.

Chairman Pro Tem Regan questions what kind of gas line.

Ms. Calta replied gas line to the house, it's not a gas well. Diane asked where the pipe line is for the gas.

Stephen Conway demonstrates. It runs up the property line.

Ms. Calta said her line is going to be on your property then.

Stephen Conway confirmed it will be on my property. When I decide to put the detached garage in, it shouldn't have any effect on the gas line. I won't be disturbing it. The gas meter itself is on her property now. I believe it will be then on my property. The meter services both houses. I don't know exactly where the line goes. I do know 5 years ago it needed to be repaired. It probably meanders back and forth between the two properties.

Mr. Marrelli said basically you're moving property lines for the driveway & garage, not the gas line. **Stephen** confirmed that's correct.

Mr. Cappello said I reviewed this. The surveyor referenced there was another pin that they passed through, that they didn't show. I can pencil that in, no big deal. Tom asked Diane if she sees an issue with the gas line.

Ms. Calta said if the gas line is only on one property and you move the property line, the easement may not have been granted by the correct person. I guess that's for Dominion to worry about. If the property line moves, the easement is still there, it runs with the land.

Stephen Conway said there're two meters side by side and one line.

Mr. Cappello's only concern is to get something in writing for her to have permission to have her meter on your property. Did she get an easement on that little piece?

Stephen Conway said as I mentioned, about 5 or 8 years ago, there was a leak in the line. My wife & I purchased her Grandmother's house, her Grandmother lived there. She split the cost for the line repair with the Henry's. I do know it's a shared responsibility, it's one line.

Mr. Marrelli asked, what do you do if they can't sell the house, they move to California and they don't pay their gas bill and Dominion comes and shuts the gas off from the street? You should probably look into getting your own line. Once you're neighbor's gone, you don't know who you'll be dealing with next door.

Chairman Pro Tem Regan said I'd be willing to bet there is at some point a 'Tee' and branches out. The gas isn't feeding from one house to the other.

Vote Mon, Dec 5th.

NEW Office Complex
East Commons Office Complex Development
East Commons, Ltd
PP # 831-05-007 & 831-05-015
Architect: Cawrse & Assoc, Inc

Mr. Sam Cannata, East Commons Ltd said I'd like to begin by reviewing the outline dated Nov 17th and the plan I submitted that everyone should have received. I want to identify the things that were changed from last time. Essentially it's the same plan, but I took off four of the buildings from the last Planning Commission meeting. The road and detention area didn't change. The first 2 buildings didn't change. The reason I'm presenting this as an illustration tonight is because we got into a discussion last time about how the plan might be fluid after we build these first 2 buildings. I want to emphasize we're committed to doing the first 2 buildings facing the road, but in order to make this a successful plan in accordance with the suggestions, we need the flexibility to go out and market the rest of the property.

East Commons
Office-Laboratory Condominium Development
Outline

1. Preliminary Plan Drawing Revisions dated 11/17/2011.
(a) Zoning Information Legend

I wanted to clarify the parcel numbers and their uses. The larger parcel's identified 831-05-015. That current zoning is Office-Lab. We're not rezoning that.

Parcel 831-05-007 is the residential piece along route 91. That's zoned residential. We're not allowed to build on that and we're not intending to build on that.

We talked about allowing a Conditional Use on parcel 831-05-015 as Medical-Office. We intend to pursue that.

Based on Mr. Marrelli's report, we need an additional variance off the eastern property line for a parking setback. Mr. Marrelli said from residential because you have 100' bldg setback shown, you have a 60' parking setback and then 20' parking setback. Mr. Cannata said correct. We're going to be asking for a variance from the bldg setback of 43' and we're asking for a parking setback from that same line of 40'. Mr. Marrelli said the top of your page says proposed 57' bldg setback line. Is it 60' or 57'? Mr. Cannata clarified that was from the last plan. Mr. Marrelli said you don't even know if you're going to need that or not. Why are you leaving it there? Why box yourself in? You're asking for a variance for an 'if come'. Mr. Cannata said our concern is that we're going to box ourselves in to a certain site plan and then after we build these 2 buildings, we're going to be shut out without getting the variances we needed. This Board of Commissioners might change in a year. We're hoping to establish the variances now so we can go out and market the property, but we want you to have a control over what we build there.

(b) Preliminary Plan Notes

I added 'Each building and parking area will be submitted to Mayfield Village for review and approval'. We want you to have a control over us as well. We don't want to run rapid because we want this to be an ongoing relationship. But, by that same token, if this Board changes in one year and someone says to us "You guys can't build that building", then we're stuck.

Michael Gatto said we're willing to box ourselves in, but also get a box from you guys that you can work within. We're just looking for a box that we can develop within and get that agreed upon and if that's not agreed upon, and this Board changes, the box that we legally can go within, is much smaller.

Mr. Marrelli asked David Hartt if he's comfortable with this.

David Hartt replied no. I thought we were home free with the last submission. It made sense. We had a concept plan for the whole thing which was the basis for approving the 1st phase and then the basis for them going to the BZA to set the parameters, so that they got that impediment out of the way. Then they would also get the Conditional Use approval for the medical offices which I originally thought was just for the 1st bldg, and now they're asking it for the whole thing. I have two things I'm concerned about;

1) There's a 3 acre lot size minimum in the Office-Laboratory District. It seems to me if the Planning Commission is going to approve the 1st phase, the 1st phase has to be on some plan that has been laid out for the entire site. Otherwise, you run the risk of approving a development that doesn't comply with the 3 acre minimum.

2) I fully understand the dilemma they have between getting boxed in by the Village and waiting to maintain the flexibility. This is an age old problem between applicants, developers & communities. I am very concerned that the BZA doesn't typically grant a blanket variance without knowing the quid pro quo of that variance and the rationale for that variance. What they're asking for is a blanket variance against which then they can theoretically put a 200' wall three stories high. I don't think that's the basis or the rationale for making variances. I just don't think that's in the public interest at this point.

Michael Gatto said we addressed that earlier in saying that we'd limit the size and height of the building and conform to different agreed upon stipulations; i.e. Deed Restrictions to cover that. Our fear is this Board changing over a 3 – 5 yr period, and the project doesn't pencil out.

Mr. Marrelli said that's why we asked in the beginning what if you don't have the 6th building, does the project work financially, and I never got an answer to that.

Michael Gatto replied we have said all along that we need about 45,000 – 55,000 sq. ft on this site to make it work. If we can get an agreement that we can get 45,000 sq. ft on this site then we're comfortable with that. If we can't get that, the economics don't make sense.

David Hartt said I think at the last meeting, that issue came up and the response was that we can't deny you less than what the code allows. There's entitlement to that square footage. I understand the dilemma you get commitments from the community and then you can't change it. In this case, I think that's an overreaction. I don't think if the Village were to approve the former preliminary plan and they wanted to come back and change it, and that was economically good and design good, that the Village is going to have a problem with that amendment. But there's got to be some basis to approve this 1st phase. It's got to have at least 3 acres to it.

Michael Gatto asked, what if building 3, 5 & 6 turn out to be one building, a 40,000 sq. ft building?

Mr. Marrelli said it might not matter because you might not be hugging the line because you got variances for them and the variances will go away.

Ms. Calta said but then you're going to be over your 50,000 sq. ft.

Sam Cannata said the 50,000 sq. ft is maximum footprint coverage, not going up. The big restriction that's on us is the parking. We might be able to put 50,000 sq. ft of coverage on the property, but we're going to be limited by the parking if we go up.

Mr. Marrelli said it's just hard to throw a blanket variance on a whole lot.

Sam Cannata said we're bringing this to light tonight because when we present a drawing it's just natural for everyone to focus in on the drawing and say "That is what it's going to be" and we're trying to say "But it might change".

Mr. Marquardt said that's clearly stated because you have two phases or more. You have an intent agreed to. If you change Phase II or III, then it's open for negotiation, but it still has to follow the intent.

Sam Cannata said if it's in the record and explicit on the plan that you're approving, that buildings 3, 4 & 5 are subject to change dimensions.

Chairman Pro Tem Regan said this is a Conditional Use Permit. Couldn't the permit include the things that the Village needs to ensure that the final Phases include these parameters and requirements? The permit spells out what they're obligated to. It also to their benefit includes what this Board and the Village approves, that it is conceptual in Phases II & III and subject to change as long as certain guidelines and parameters are maintained.

David Hartt offered to write something up prior to the vote meeting that expresses what the intention is and also talks about the understanding of flexibility if that's something the Commission wanted.

Chairman Pro Tem Regan said if we can agree on what's included in there to give them the protection that they know if in three yrs down the road the Board changes, that they're not left out here with a plan that won't work and we know we're doing right by the Village in protecting what the Village needs. We can vote on Phase I & the Conditional Use Permit.

Mr. Marrelli thinks that can work. Wording to protect both sides, that's like a contract in that we can move forward.

David Hartt said we've always had this dilemma between compliance with the code which dictates a bigger building in the center of the site and compliance with the Court Settlement that says be in scale with Governors Village. The Governors Village scale actually dictates more variances, a bigger building probably less variances. While they're asking for a bigger envelope, if the building gets bigger, there's probably less need for the magnitude of those variances.

Michael Gatto said we're not big developers. If you guys don't want to see a 40,000 or 50,000 sq. ft three story building on that site, we can't afford that, we can't get it financed and that's not our plan. Our plan is to put 45,000 – 50,000 sq. ft in smaller buildings on this site. Realistically speaking, if we could get a 20,000 – 25,000 sq. ft max I personally would be scared to death to go to the bank and finance that. That's the biggest project I'd ever done. We're looking to do what is similar to the original plan but not get locked into it. If we have a 20,000 sq. ft tenant that comes and is reasonable and we need to develop within that envelope, I'm willing to work within that envelope of variances to meet the parking. I think we're looking

P & Z ws minutes

Nov 17, 2011

Pg # 7

at the same thing and want the same thing. We just need to figure out how to make sure we can both get the same thing if we or you change.

Mr. Marrelli said I understand what Garry & David are saying. It makes sense if we can come up with a gentleman's contract of sorts what the limits are. When we go to the BZA, they're going to want to see a footprint of some kind, even if it's a concept footprint in order to grant a variance. They can't grant a variance on an unknown.

Sam Cannata suggested going back to the old plan and graying it in to be explicit. We can base the variances on what we have on the drawing tonight but reference the buildings.

Mr. Marrelli said no, they need to see the buildings. They need to see a footprint. For example, on your north line, if you have a building that's 100' long on the proposal you get a variance for the setback towards that north line. Two years later you come back and say you have someone who wants a bigger building and you want to make it longer. Your variance is to the north line, you haven't changed anything, no big deal. You need to get that variance, to get it you need to put a building on that line.

Michael Gatto asked if that variance can change if they come back and modify the building.

Mr. Marrelli replied only if you would encroach further in to the area you're not allowed to have. Once you establish the back wall of that building on that line, that's an encroachment and a variance is granted, if you don't go further encroachment it's not an issue and if you come closer.....

David Hartt interrupts, not sure he agrees with John. That would be like granting a blanket variance along the north property line which is then giving license to a 400' wall along that property line. I know there's the argument that the variance goes with the land, but it seems to me there's usually a relationship between the plan and the variances. I get really concerned about being too general about what the variance is. Then they can go back to the plan we saw originally which was buildings lined up as far apart along the north and south property lines and I don't think that's the intention for granting the variances.

Ms. Calta doesn't think they were saying they don't go back to the BZA. You go back to the BZA. However, I think the argument for the BZA is it's equal to or better than what was originally proposed. If you're making a more convincing argument for a less intrusive variance, you're not going to have a hard sale to the BZA as you would if you were going the opposite direction.

Sam Cannata said I think I understand. We're going to have to discuss the matter.

David Hartt said if the Commission wants me to write something up I can. This is not unique to this property, or this developer, or this community. You have millions of projects all across this country that have been developed in phases. Everybody gets nervous the 2nd phase is

going to change because we can't predict what's going to happen. It's usually not a problem. There's enough give & take.

- **Quality of Construction**

Mr. Marquardt asked how we're going to assure the quality of construction on these buildings.

Sam Cannata replied one is we have to follow the code. Two, we've started drafting up a 'design & development' that would be sort of a deed restriction on the development that sets forth the materials, window openings, chimneys, etc. I didn't present this booklet to you yet. I think you'll like what you see in here.

Michael Gatto said I spent some time walking around Governors Village. That per say is the design minimum for this. I called Sam and said I wouldn't put my dog in this place. There was no brick, no stone, no architecture. It was a square big vinyl box. It was something that's not what we want. If you read through our draft, you'll see you have to have stone fronts, operable double hung windows, things of that nature that make it a much more architecturally appealing project, different levels and facades with setbacks and arches.

Sam Cannata said this 'design & development draft' would be part of the final approval, the guideline for the development. We want you to have the check & balance on us. All we want is the ability to go out and market the property.

- **Conditional Use Permit**

Michael Gatto asked, is this a Condominium Use or Conditional Use Permit? If a Conditional Use Permit can go away after 2 years, then what do we do?

Ms. Calta said we have the right to make sure you're in compliance with the conditions. That is all the Village dose. So long as you're in compliance, permit automatically gets renewed.

Michael Gatto said the only Conditional Use Permit I've ever gotten has been for minor things no one really checks on and they're insignificant in a project. You're basically saying as long as you follow the conditions of the permit, the permit is automatically granted.

Ms. Calta said yes. The Hotel & Conference Center on Beta are on a Conditional Use Permit. There have been some issues there, i.e. the Conference Center was required to have certain security during events. They weren't having that specific security as agreed to in the Conditional Use Permit. When they were up for renewal, they came in to defend their position. We told them if they do not comply with the conditions, we're going to pull your permit.

Michael Gatto said that's all well & good if it's stipulated. When I make an agreement, I keep an agreement. But you can't live with something that changes.

Ms. Calta said we can't change that. It's put in the approval.

David Hartt said the 2 yr renewal is not an imposition on the property owner. My view is that the Village always has the right to revoke a permit that isn't complying with the prior approval. My understanding for medical use in this district and tell me if I'm wrong, the only stipulation is you have a different parking requirement.

Mr. Marrelli said you might not try to open a cafeteria or a pharmacy in one of the buildings. Neither of those is considered medical office. Medical use is a broad term.

Michael Gatto said if we came in with a surgery center, that doesn't fit in the medical zoning, so we come back to you. If that's an approved situation, great, but it's not something I would bank on or market.

Mr. Marrelli said I think we're all under the understanding when you talk about medical offices that these are all General Practitioners, Chiropractors, Dentists, etc.

NEXT STEP

Michael Gatto asked, what's our next step?

David Hartt asked if they're going back to the original plan.

Sam Cannata said we can go back to the original plan with the buildings on it, but we want to get our variances and we don't want the variances to change. We want the ability to change the buildings if we establish the variances with buildings on it based on tonight's drawing.

Mr. Marrelli said you're changing all your uses to medical which means all your parking requirements just went up.

Sam Cannata replied, I adjusted the parking based on both; all office or all medical.

Mr. Marrelli asked, are you going to ask for parking variances? You're looking for parking variances for setbacks.

Michael Gatto said this is a work session. Ideally, what do you want to see, 1-story, 2-story, 3-story?

Mr. Marrelli replied not to exceed 1 or 2-story.

Michael Gatto said great with us, gable or hip roof on it. What's the largest building you'd like to see on this site?

P & Z ws minutes

Nov 17, 2011

Pg # 10

David Hartt said don't go there. Here's the dilemma we have. I don't want to say changing from this plan is a wrong direction for these guys to go in going to a bigger building. But Administratively working with the applicant who wanted to do small buildings, we recognized the small buildings were going to require variances because the buildings were spread out more and there was less site efficiency. We said we can justify those variances because of the provision in the Court Settlement that basically said you have to be at compatible architecture with Governors Village. I don't think that precludes a larger building in the center of the site if it's designed right. I don't want to say and I don't think the Village needs to say the maximum should be 25,000 sq. ft, 2-story or 3-story. I think if something comes to the Village that is reasonable, has the economic development advantages, reasonably complies with zoning, has scale relationships to Governors Village, I think it could be different than this plan.

Michael Gatto said we've been trying to get something approved for 1 ½ years now. I can't imagine going to Phase II & III.

David Hartt feels this has been harder than it had to be.

Sam Cannata wants to have the understanding where it allows them to change the plan and not get shut out down the road.

Mr. Marrelli said my opinion, and I don't vote, I'd like to see buildings on the lot so you identify your variances, then you can start developing your plan i.e. utilities, landscaping, etc for final approval.

David Hartt said the report to you is not going to deal with the variances. It's going to be with the nature of what you understand this approval as saying. When they go to the BZA, that will be a separate report related to the variances telling the BZA the nature of what the variances are saying.

Chairman Pro Tem Regan said in getting to that next step, if these gentlemen could walk out with an understanding of what the Village will live with as far as a Conditional Use Permit and gives them the flexibility that they need to move forward, we can at least get you to the next step.

Mr. Marrelli's response to what's next is put the buildings back on the lot, decide how big you want them to be with the understanding they're flexible. Lay your parking out, figure out your variances. Come back to this Board and show us your utilities, landscaping & lighting plan.

David Hartt said you need that for Phase I, not all that detail for concept approval.

Ms. Calta asked if Fire has reviewed the plan.

Mr. Marrelli said yes, they looked at the 1st one with the buildings on it. In my mind, Phase I is going to be Building 1 & 2, parking lot, detention pond, roadway.

P & Z ws minutes

Nov 17, 2011

Pg # 11

David Hartt makes a recommendation for P & Z vote on Dec 5th:

- 1. Approve concept plan for entire project.**
- 2. Approve preliminary plan for Phase I.**
- 3. Consider Conditional Use Permit request for medical offices for entire site recognizing they have to meet certain conditions.**

That then gives them the confidence that they can come back for the detailed planning and seek a tenant for Phase I building. They have to come back to you for the detailed site plan review with utilities, lighting, landscaping, etc.

Sam Cannata said after preliminary approval, we're going to want to go to the BZA before we move to the final.

Mr. Marrelli & Mr. Hartt agree.

Sam Cannata said tomorrow we could get a call from Progressive to put up a 30,000 sq. ft building or the Clinic or U.H. If they want a 40,000 sq ft building, we'd have to present that to you.

Ms. Calta asked Mr. Cannata when he closes.

Sam Cannata replied after we get final approval.

Michael Gatto said our option is limitless.

Sam Cannata said it's not going to go away, but we don't want to be doing this forever.

David Hartt advises Mr. Cannata to let him know what the submission will be before he writes anything up for the Dec 5th vote meeting.

David Hartt concludes with a comment. The Village doesn't have specifically in their regulations the notion of a "Preliminary Plan". I think every code ought to have that. You've got to give the developer that confidence before they spend a lot of money on engineering, architectural work and landscape plans. Mr. Marrelli agrees.

There being no further business, the meeting adjourned at 8:35 p.m.

Respectfully Submitted,

Deborah Garbo

Executive Assistant

Building Department