

Minutes of the
City of Bay Village Planning Commission
Held January 20, 2021
7:30 p.m.

Present: Jeff Foster, Warren Remein, Rick Kirk, Sara Byrnes Maier, Kendra Davitt, Jennifer Lesny Fleming and Dave Maddux

Also Present: Eric Tuck-Macalla (Building Director), Mark Barbour (Law Director), Lauren Oley (Assistant to Building Director), Lydia DeGeorge (Councilwoman)

Audience: Benjy Manning, Beth Stehlik, Bob Heisser, Carolyn Creech, Colby, Connie, Ed Pavicic, Jim Blocksidge, JoAnn Post, Kate Terrell, Marcia, Matt Viola, Nicole Sayles, Peter Winzig, Robert Petkash, Rosemary Kesselman, Stacey Fitzpatrick, Thomas Kelly

**Full recording of the meeting is permanently available on the City of Bay Village website under Government/Planning Commission/View Most Recent Agendas and Minutes/Media*

Chairman Foster called the meeting of the Planning Commission to order at 7:30 p.m.

Following roll call Mr. Foster called for approval of the minutes of the Planning Commission meeting held January 6, 2021.

A few minor changes to the minutes followed.

Motion by Remein, **Second** by Mr. Kirk, to approve the minutes of the Planning Commission meeting held January 6, 2021 with suggested modifications.

Motion carried 7 yeas, 0 nays

Property Address: 560 Forestview Road Parcel#20405007

Owner: Red Oak Investment Partners, LLC

Engineer: Polaris Engineering

Red Oak Lane Subdivision- Approval to split the lot 204-05-007 into four separate sections.

Chapter 1111- (Subdivision Design Standards)-(b) Location. All lots shall front and abut at the right-of-way lines by their full continuous frontage on a publically dedicated street or a street that has received the legal status as such.

Mr. Foster introduced the first item on the agenda as and inquired if there was anything further the applicant wanted to add.

Mr. Matt Viola introduced himself and advised that he would be representing the applicant on the call. They don't have anything to add, but if anyone has questions they're happy to answer.

Mr. Foster referenced the throughoutfare plan that Mr. Barbour had provided to the board following the last meeting.

Mr. Barbour advised that he distributed the most the current thoroughfare plan, what we call the thoroughfare plan for the Red Oak area, which is a single page showing the current condition as it currently exists with the roadway and the lots in that neighborhood, down by Forestview and Woodlane. That's how it has existed since the plat was revised and approved in 2001. That's from our current thoroughfare plan. The thoroughfare plan, as it exists is a series of sheets or drawings that depict the City and because of the size of the City, of course, it's divided up into sections. And each time there's a change or proposed change that's adopted, the thoroughfare gets revised. He wasn't sure if the commission wanted any additional information. He dug around in the archives and he learned that older pieces of information are not as well organized as we would like for them to be and we'll work on that. He located a tube of drawings marked amended 1971 thoroughfare plan, which consisted of four sheets, so he provided the sheet that was relative to Red Oak. There are no other indications about this document, but through institutional knowledge and circumstances, it seems to be an accurate reproduction of what Red Oak look like, as proposed in 1971, which is just a about 10 lots north of Bayfair extending and then the rest is property held along Forestview and along Woodlane. He doesn't know if any of planning commission members want more information. If so, he would suggest that we make arrangements for them to come to City Hall because there is an undated roadmap, that certainly looks older than 1971, if that helps your decision making process. But it's too big and too fragile a copy on the copier. It's basically similar to the 1971, but it doesn't have the Red Oak extension that's present and Bayfair. It is different. He doesn't know that that's relevant to your discussion, but that remains to be seen.

Mr. Foster remarked that he knows that this map is referenced in the zoning code, but what really is it? He believes it appears to be a plat map.

Mr. Barbour confirmed that it is a plat map. Our ordinance requires that we maintain a drawing of the dedicated streets in Bay Village and those that have been approved and dedicated, but not necessarily installed. There are a few what we call paper streets that exist in a Bay Village for example, Knickerbocker. As you'd look on the 1971 map, there's a section of Knickerbocker to Vineland that ends into Knickerbocker. If you go out there today, you know that that's not true. But the street was dedicated, it's just has never been installed. That section of Knickerbocker and extension of Vineland, those are public right of ways. And there are other such streets, there's a

street called Calvin between Vineland and Upland which is the same thing and there are a few others in the City. So what the thoroughfare plan is are the existing, planned, dedicated and approved streets which are not yet installed. And we're required by ordinance to maintain that, which is what we do. So when there's a change, the maps are revised.

Mr. Foster addressed the members of the board, he knows there was discussions at the last meeting and a lot of questions about it. Does this clear up anyone's questions or create more questions. He opened it up to the board.

Mr. Kirk remarked that he feels they left the last meeting, trying to ascertain whether they thought, as a commission, Red Oak Lane is a temporary situation or it's a permanent situation. And to be honest, nothing that he's seen is really conclusive to him that it's temporary or permanent. Where his head is, in all of this is, is the historical precedent setting, that's been set in prior commission meetings. It's that the street is temporary. There is no information to tell him that it is a permanent situation based on the precedents that has been set with prior meetings. He is hoping to discuss that further. If people on the commission feel differently than that, he'd be interested in understanding it.

Ms. Byrnes Maier advised she spent a lot of time over the last week looking at aerials of this City and driving around. And there are a lot of conditions of this, where you might have some cul-de-sacs with bulb outs, but a lot of times they just ended without anything else. And some of these are streets where there's really no hope of them ever continuing to be through streets. She thinks, unfortunately, they are left with perhaps some sloppiness and some ambiguity in the way things were dealt with earlier. Maybe not totally living up to the ordinances that we had on the books, and certainly with not putting a time stamp on temporary or clearly defining and that has left us in this situation. For her, looking at the precedent has been pretty large and has been weighing. She thinks kind of more in the favor of just, we've done this repeatedly throughout the City. And it's not what she would prefer as a planner. She would prefer to follow the codes. But that's the situation that they have.

Mr. Remein advised that he agrees with Ms. Byrnes Maier. He looked at the property maps on the county and looked for various dead end streets and there were a lot of them that were built after the '58 cul-de-sac ordinance. All that means is the City was ignoring its own laws. That doesn't mean they have to perpetuate that now. He thinks the temporary versus permanent is irrelevant. The law requires that you have a cul-de-sac. If it's temporary, it allows you to do something similar, but that's not defined. The T turnaround does provide a measure of some kind of turnaround in one end, but it doesn't fix the other end either. It doesn't help anything. Do they want to send a message and say 'you can't do this you got to follow the code'? It's been 54 years - how long is temporary? He doesn't consider this temporary its permanent. It is going to be permanent until such time as other property becomes available and somebody else wants to continue. With laws that we have

for cluster housing and attached dwelling, a developer could theoretically come into town and say take a Sunset Drive and buy up six or eight lots and create a development. When it comes to the overlay planning, he's got some photographs from his son in Somerville, Massachusetts. He lives on a residential street, they're all single family or duplex, and two of the duplexes came open across the street from him. And guess what, they're deep lots, they're putting in condo units. They've already got difficulties with the street and parking, there's not a lot of off street parking. It's a fully developed community. Now you're going to have six or 10 units, and each lot, and six or 10 more cars to deal with, one of them will have on site parking, the other one will not. What we need to do as we are planning and we looking forward is to consider our laws that will protect the investment that people have. He doesn't see that the T section, in his mind, really does everything that it should.

Ms. Byrnes Maier advised she wanted to address something Mr. Remein said in regards to the mixed use overlay. Those are limited to certain areas in the City - the commercial areas. She doesn't want him to misrepresent that there are going to be apartment buildings going up throughout the City.

Mr. Remein clarified that what he's saying is that anybody can come in, in the future, and change the laws or get variances and do things that will increase the development. He is not opposed to development, either. It's just that he thinks it is on the Planning Commission, and our boards, to protect the property of the City and the property owners.

Mr. Barbour remarked that he would suggest to Mr. Remein that it's City Council's job to amend ordinances if they're unclear or determined that they need to be changed. He would suggest to everyone that there may be circumstances where a physical barrier, a natural barrier of some kind, would dictate that, of course, it's going to be permanent, or the geography could be permanent. He would caution everybody and say that this should be the time they draw the line in the sand on cul-de-sacs. Because he does think precedent is going to be really important when this is reviewed.

Mr. Foster advised that they have talked a lot about permanent versus temporary. Yes, this all started in '71 and here we are in 2021. Those increments have been kind of creeping closer together. And as he looks at this thoroughfare plan, one can pretty clearly see two ends staring at each other that just haven't necessarily connected yet. He thinks one of the biggest issues they have to weigh tonight is does this require a variance - correct?

Mr. Barbour replied that they have to decide whether the proposed end of the street is sufficient as proposed. And they could determine that it doesn't need a variance because of the circumstances, both precedent and the fact that when you look at the map appears that they can draw a reasonable conclusion that one day, based on precedent, that that road could go through. There's still private property that's involved and it's unlikely that anyone could be compelled to participate in that. But

someday they might want to. That's why the struggle of temporary and permanent needs to be taken into a much broader timeline than what we use in our normal life. Where you might have a temporary crown on your tooth, you might have to temporarily use your front door because you're getting a back patio, you know, all those kind of things. That's not the kind of timeline he thinks the law is meant to address. So to go back to Mr. Foster's original question, the commission could determine that a variance is not required, because it's temporary, as it's applied in this situation, or that a variance is required, and that the proposal submitted by the applicant is sufficient as a request for the variance because it shows a reasonable alternative that's been accepted by the City on previous occasions and is an improvement over what is currently there.

Mr. Foster inquired if there were other comments or discussion items from other board members? Obviously, we're at a point here where a decision needs to be made whether they approve this or disapprove this. What he comes back to is the situation worse with this being completed? Is it better with this being completed? Is it becoming an issue? Does it make or perpetuate a situation that's a negative condition? He has a hard time thinking that it doesn't. A turnaround is proposed that's not there today on either end and hasn't been there with any of the past extensions. So he has a hard time, as a board member, saying that this makes the situation worse.

Ms. Davitt advised that she has a procedural question, what happens if they disapprove? Does it still go to council? Or is that just it?

Mr. Barbour replied that from the board an application can go to city council as an appeal process. And then if that's unsuccessful, then the Ohio revised code permits the applicant to file an action against the City and the Planning Commission in Common Pleas court for judicial determination.

Mr. Foster advised that in his eyes to turn an application down, they would have to have a reason to do so. And he's struggling on having a reason to do so. Does anyone disagree with that? Does anyone have a comment regarding that?

Ms. Davitt remarked that she thinks it is difficult. She feels like what everyone has said is they have to base their decision on what's happened before and those were poor decisions which she thinks everyone acknowledged. So she just doesn't understand, at what point it can never change to be the right decision. When you look at the streets near her, she lives on Lake Forest, a lot of them dead in into the railroad tracks, they're clearly not going to go across the railroad tracks, but why aren't there cul-de-sacs there or some sort of turnaround. She thinks it's difficult to determine the temporariness of this because they don't know what's going to happen. One of the remaining property owner could deed his property to the City, or the neighbors could buy it and turn it into a park. So then they're stuck with a situation where once again, they've done something that's not really what they want, but they feel like they have to do it just because somebody did it before them. She's having a lot of trouble with reconciling that. Because it's clearly something that the

property owners have been telling them is not good. Although, like Mr. Foster, she is struggling to see how a variance is required. But it just doesn't feel like the right decision, to her, to approve it.

Mr. Foster advised that he'd like to remind everybody the reason they make decisions on projects isn't based on one particular circumstance. It's based on what's consistent with our City, which is what the reference to the thoroughfare plan is. The way he sees that is, does the roadway being proposed fit with the roadway configuration of our City? Does the subdivision that's being proposed - it consistent with the fabric of our City? Is it consistent with our master plan? Is it consistent with the development that we have been promoting within our City? And is it consistent with the fabric? So those are the conditions that go beyond just one, basing it on what the precedent was in the past. Because the precedent in the past was 'Yes, let them continue to extend it'. To remind everybody back when they started on this last summer, they raised the issue that there is no turnaround. Which brought them a change in the application to make an improvement for that. He wants to remind everybody that they've been weighing a lot of other circumstances and a lot of other issues here with this beyond just whether it's a temporary turnaround or not.

Ms. Davitt replied that the temporariness is important. Because if it's temporary, then it doesn't seem to her that they have any authority to make any decision other than to just approve it under the ordinance. But if it's not temporary, then the variance is required, right?

Mr. Kirk replied that is how he understands it as well. But in this situation, if they deem it to be a permanent situation, he thinks that the proposed turnaround or T is an improvement over what's existing today.

Ms. Fleming added that she feels there is a real lack of alternatives. She thinks there was some confusion, probably particularly to the public, with respect to the need for the very variance. She thinks at the early planning commission meetings it was presented that there was definitely a need for a variance. Therefore, they were going to have to review the project under that framework. She thinks, particularly for the public, they're rightfully confused when there's now a change to that and a different viewpoint is now that there is no variance required. She knows she's struggled with that as well. She has not seen a lot that has led her to believe that this is something other than a temporary dead end. If that's the case then she think a variance is not required. And they have very little discretion to not approve this. And again, they're not approving the project, per se. They just have a very limited role here. She doesn't know anything about this developer, but she's certainly heard a lot of comments from the public, whether they're accurate or not. She thinks that if the project proceeds, the building department has got to keep a very close watch on what occurs here.

Mr. Foster replied that he thinks, without question, that one thing that is important is variances or no variance, he thinks their level of scrutiny is no different. They've treated this project with a level of scrutiny that if it was a variance condition, they've reviewed it with the same eye and the same set of requirements. Any other further comments?

Mr. Remein inquired if the commission approved the planning. Are they also approving the entire subdivision? Because if this is considered a subdivision then doesn't it have to come back to them with detailed plans?

Mr. Barbour replied that they're approving the whole plat and the subdivision. The plans that he submitted would be sufficient for Planning Commission. Then Council has to adopt the decision and adopt the plan. He believes what is submitted is sufficient for the purposes of approval. There would have to be a final drawing, submitted and approved plat, but he doesn't believe that comes back to them, but he would defer to Mr. Tuck-Macalla.

Mr. Tuck Macalla confirmed that it would not come back.

Mr. Foster inquired if there are any further comments from the board?

Mr. Maddux advised that he thinks that how it's being presented and how it's being developed is consistent with what has been done on the street in the past. And he thinks it is, if anything, improving the emergency services and the delivery of City services to the street. He thinks is improved. He views it as a temporary situation. He sees it under those circumstances.

Mr. Foster inquired if there was anything further Mr. Barbour would like to add?

Mr. Barbour replied that there wasn't unless someone has a question.

Mr. Foster inquired if there was a motion on this application?

Motion by Mr. Kirk, **Second** by Ms. Byrnes Maier, to approve the application as submitted by the applicant.

Mr. Remein inquired if they could have a discussion on the motion. In one of the public hearings the applicant agreed to work with the tree commission, even though the tree commission isn't a formal board and Mr. Barbour noted that he also has to actually take that through with the building official. So Mr. Remein would like to ask that to be part of the motion that they approve. He would like for the applicant to be required to involve both the Tree Commission and the building officials to do a tree study and to preserve as much of the greenery as possible, which should help to moderate the public position. Essentially making a motion within the motion.

Mr. Foster inquired if Mr. Barbour sees any issues with this suggestion?

Mr. Remein advised that this is something the applicant has publicly stated he would do, but he thinks that it should be formalized within the context of the minutes.

Mr. Barbour inquired what standard would they use to say that he complied with your proposal or did not comply with your proposal?

Mr. Remein replied that the applicant follow the recommendations of the building official and the tree commission as to the best practices preserving any native trees or plants that are there.

Mr. Barbour inquired who's going to decide whether those trees can be preserved or not, and still permit a single family home on the site.

Mr. Remein replied that he thinks it's just a matter of looking at how the land lays and seeing if you can preserve any trees rather than just clear cutting. It's going to fall to the building official to enforce whatever agreements have been made. Whatever is in the code the building official needs to enforce. If this approved by city council.

Mr. Kirk inquired if there was a code today about how many trees you're supposed to have on your property?

Mr. Barbour remarked that the City doesn't have any codes like that.

Mr. Kirk remarked that he could technically cut every tree down on his property and be within the code. It sounds like Mr. Remein is suggesting a good faith effort between the applicant and the tree commission to work together, but there is not code or compliance. He doesn't lose the approval for the lot split based on that. It is good to preserve for the minutes and he hopes that the applicant does try to preserve trees, but as it relates to the code and this motion he's not sure how that works.

Mr. Barbour advised that he is going to tell the commission that it's not going to work. If they want to make a recommendation that he do that – that is absolutely fine, but to include it in your motion is going to render the motion extremely difficult to enforce and subject to interpretation because it's subjective and lacks an objective standard to be applied. It sets us up for as many disputes as there are tree on that lot.

Mr. Remein advised that he withdraws the suggestion.

Mr. Foster inquired if there was further discussion on the table.

Motion by Mr. Kirk, **Second** by Ms. Byrnes Maier, to approve the application as submitted by the applicant.

Roll Call Vote:

Yeas – Maddox, Lesney Fleming (subject to close building department review), Foster, Davitt, Kirk, Byrnes Maier

Nays - Remein

Motion Passed 6-1

Ms. Lesney Fleming remarked that she'd like to remind everyone that has an interest in developing an architectural board of review for residential properties. She knows this has been talked about for a while and efforts have been made to get one in developed. She thinks that it might be a benefit for our City and for future projects to have one in place.

Mr. Foster thanked her for bringing that up and added that the tree commission right now is an advisory group and a lot of cities have tree ordinances. He advised that he would be in full support of a Tree Ordinance in this City. If you cut down a tree you have to put a tree back. You'd have to do a survey of your trees. That is not something that is too onerous for a property owner to do, but we have nothing like that in our City. He went on to say that plans are public records. When someone puts an Intent to Build sign in their yard. Call the building department, review the plans, and look at what is being done. There have been a lot of comments about this builder, and he can't speak to any of them because he doesn't have any experience with him firsthand, but he does know that he has seen houses go up in his neighborhood and he goes and check out the plans and he makes comments to the builder or building department. You have the right to do that. He encourages them all to do that. That is why the intent to build signs are out there.

Mr. Kirk inquired if someone could speak to both the ABR Residential and the tree commission? What does that process logically look like? How could that be initiated?

Ms. Byrnes Maier replied that she can speak to the tree ordinances. They do have a proposed tree commission that is before the planning zoning committee, which she chairs for city council, which is an update to the tree commission. They met most recently on January 6th and one of the things they talked about was the legality of imposing some of those restrictions on private property for an existing residential development vs. a development that is just being developed. Those are the things that we are working through with the hopes that we can have an updated tree ordinance. Take some of the recommendations that the tree commission had put together, back in 2018 when they drafted the proposed update for the tree ordinance. Hopefully we will have that in place before

the council recesses. There is a lot in there that is education based as well. There are certain things that she sees as weaknesses within the code. Our Riparian setback is extremely small compared to other communities. That is something that would go a long way to help slow rainwater and slow discharge into the creeks and preserve some of that canopy. It would have been a whole different picture if these two lots had been preserved by a conservation easement. Meaning that development couldn't have happened on them. Those are things that some cities put into place when they want to keep natural areas natural. That hopefully answers the tree commission piece and the tree ordinance. It is an advisory body that did the work of proposing changes to the ordinance and now it's in the legislative process with the committee structure and would go to the committee of the whole and that would be subject to city council voting on any revisions.

Mr. Barbour advised that we currently have an ABR that applies only to commercial properties. It was created by ordinance. City council would have to amend the current ordinance to have it apply to residential properties and then create a body of law, or ordinances/standards, for the architectural board of review to apply and use as it reviews residential properties. The short answer is it's done by city council.

Ms. Byrnes Maier added that there may be some other things within our existing zoning code. One of the main complaints she hears is when a new house doesn't fit the scale of the other houses around it. Some things you could insert into the zoning codes would be a sort of leveling or meeting a percentage of the other homes that can be such a different scale from the other homes. Whether it's a square footage requirement or massing requirement. Things that could be done that further restrict the envelope of how the house could be sited and still maintain setbacks. It could introduce some scale. That is the one thing that people have commented the most. It's the McMansion next to the cottage that disrupts the aesthetics of the neighborhood.

Mr. Babour remarked that that change would also be made by city council.

Mr. Foster remarked that he has one more question for her regarding the conservation easements. Is that something that would be done property by property or does that require council actions?

Ms. Byrnes Maier replied that it doesn't require the City. It could be private properties owner. All the neighbors could have banded together to convince the property owner to place conservation easement on the property. You do have to have a steward or management of a conservation easement and there is a certain size – an acre is pretty much the smallest you're going to get. She believes there may be a conservation easement in Huntington Woods. It was just neighbors going together and saying they wanted to preserve the backs of their properties as a wooded area. There are often tax write offs. Usually it's on a much larger scale. There may be a few patches within the City where that could be applied.

Ms. Byrnes Maier advised that there is no council update for today's meeting.

Ms. Rosemary Kessleman remarked that she has a question for Mr. Barbour. Is notice required for these meetings? Or were the letters they previously received just a courtesy?

Mr. Barbour replied that there is not requirement for letters, but there is a public posting requirement which we do by posting, per our ordinance, at City Hall. The notice they are entitled to receive, by ordinance, is for when there is a public hearing which we had January 6, 2021.

Ms. Kessleman advised that in the City charter it says that they need to post in the library and City Hall. Correct?

Mr. Barbour replied that he believes so.

Ms. Kessleman inquired if those places were open to the public when they were posting them.

Mr. Barbour replied that City Hall is open and currently the Library is.

Ms. Kessleman replied that on January 6th the Library wasn't open to public traffic. She knows it doesn't change what happened here tonight, but she wants him to know that the posting and the notice that typically happens in advance of these meetings, and it's clearly something that matters to a lot of people, wasn't available.

Mr. Barbour replied that all meetings are posted in City Hall.

Ms. Byrnes Maier added that it's also posted on the City's website

Ms. Kessleman replied that the charter requires posting in three place City Hall, the library, and the website. She understands with COVID they're deciding to waive that.

Mr. Barbour advised that they are not deciding to waive it but there is a legal impossibility if the library is closed by order of the governor or health departments. We are not able to post at that location and the law does not provide for an alternative in that event. He knows we are in compliance with the ordinance since it's posted at City Hall and on the website. People had provided that they wanted to be informed and we've met all the requirements of law.

Ms. Kessleman advised that there are other people that rely on those notices. She went on to remark that she knows this was not an easy decision and she knows this has been going on for a long time. She does not envy the position the board was put in with regards to this property. However, coming from a private citizen, they are left very confused and very frustrated by this process. She believes they were led to believe, perhaps unintentionally, that a variance was required and that certain

things had to be done for that variance to be granted and then to turn and say that there is no longer a variance requirement and as a commission our hands are tied. Whether they meant to do that or not it leaves the public with a lot of distrust in the system. She would hope that going forward when they have an issue like this, which she's sure will come up again. Because there is new building going up all around our City that the planning commission will take time to research what is before them. They've spend hours, days drumming up support for this - asking questions, being active citizens, being a part of the community – to sit here and have you say 'well what can we do' it's frustrating. She appreciates all the time and effort they do. She knows it's a volunteer position, but she thinks all of them expected and deserved a little more than what we got out of this entire process.

Mr. Foster replied that he would like to comment on that. They all gave it their all on this issue. There were some legal ramifications that came up, and he is not an attorney so he relies on the law director to make the determinations on this - and he did. He did his homework he looked back through some things to come to that conclusion. We have given this our all. Does it mean there are some cracks in the system? Absolutely. Is this going to come up again? Absolutely. Everybody did the right thing in getting involved. So if anyone walks away and says 'I don't want to be involved because it didn't work out this time' that is the wrong attitude to have. Everyone's participation makes a huge difference. There are 30 people on this call tonight and there was more than that last time. There are situations that come up like this. Did we all want to make this decision? No.

Ms. Rosemary advised that she doesn't want to argue with him and she appreciates the time that they put in, but to say that their comments make a difference when the board said they had no cause to deny what the applicant is asking for. What are we really doing? We're just rubber stamping it?

Mr. Foster replied that statement is absolutely not true. He's said it before and he wants to close with this, the board makes their decisions based on the facts, based on the ordinances and the information that they have before them. The reputation of an applicant is not what they are here to judge. We heard a lot of comments about that. That is what we make our decisions on.

Ms. Sayles remarked that she has two things she'd like to say. Mr. Foster stated that the community can go look at the plans when this project goes underway. What as citizens do we do when the plans that the city has aren't really what is going to happen? She advised that she lives in a home built by EFG, directly across the street and she started a variance request in the fall. When she went to the City do that she discovered that the City didn't have the plans for their house. Despite request from her and her realtor when they first bought - they have never received plans for the house that she lives in. What are they supposed to do if that type of thing continues? What recourse do we have?

Mr. Tuck-Macalla replied that he does recall when she came in to look at the plans. They were a remnant from the previous building department. They were misplaced and he can't remember if they found copies. He thought they did.

Ms. Sayles advised they did and that they're for a house on Wolf. They have plans which is not her house. They look similar, but it's not her house.

Mr. Tuck-Macalla replied that must be what happened then. A lot of homes, and this isn't to say it's what happened in Ms. Sayles case, residential plans are not kept for more than 5 years usually after year the building department would contact the owner of the home and say 'do you want these plans? Because we're going to destroy them. There is only so much space. Since he's taken over the building department everything has been digitized. This allows us to keep plans longer and now we can send a set of plans over in email, but that was how it's been with plans. It's a little frustrating for him coming in two years ago and not being able to get his hands on a lot of plans and not knowing where they are at. Unfortunately that is what happened.

Ms. Sayles replied that she understands she bought when the City wasn't responsible. Her second question is that she really wishes the conservation easement had been brought up in prior meetings when Jules was present. She can guarantee from everything that he's said that he has zero intention of every turning his property into anything other than the greenspace that it is. If that conservation easement had been brought up she feels absolutely positive that Jules would have put that into the deed on this house.

Ms. Byrnes advised that option is only available if the property is an acre. She did talk to a conservation agency about that. An acre is really the smallest they will go. Jules property would not satisfy that requirement he would have needed both properties.

Ms. Sayles remarked that Jules would have had the right to put in the deed to his house that had to be green space.

Ms. Byrnes Maier replied that it is not the city's responsibility to specify that a conservation easement be placed on a property. That is completely up to the homeowner.

Ms. Sayles advised that she'd like to ask, and they don't have to answer, would it have made a difference if Jules had done that and put it in his deed? Then they would have considered that would be permanent?

Ms. Byrnes Maier replied that she doesn't believe it would have affected the timeline. They have to act on these proposals and there is a lot of paper work that goes into getting something like that. She was trying to think creatively on other options for this project as well.

Meeting of Planning Commission
January 20, 2021

Mr. Foster inquired if there were any other comments or questions.

Motion by Mr. Remein, **Second** by Mr. Maddox to adjourn.

Motion carried 7 yeas, 0 nays

There being no further discussion, the meeting adjourned at 8:32 p.m.

Jeff Foster, Chairman

Lauren Oley, Secretary