

**Planning Commission Meeting Minutes**  
**Thursday, February 18, 2021, 6:30 p.m.**  
**Via Zoom**

Chairman Rick Bogar called the meeting to order at 6:30 p.m. In attendance were Commission members: Rick Bogar, Ed Sabo, Bonnie Crawford, Mike Mertz, Aaron Eldred, David Hill, and Steven Boughter. Also, in attendance were: Code Enforcement Officer Kyle Bauman, Town Manager/Secretary/Treasurer Lisa Dooley, Matt Zoppetti, Shawn Gallagher, Steve Coladonato, Chief Roger Van Loan, and Ralph Magill.

**Curative Amendment**

Shawn Gallagher was present to advise the Planning Commission on proper steps in handling a curative amendment. S. Gallagher explained that a curative amendment is listing that an ordinance is exclusionary to a particular use. The use can be either De Jure or De Facto exclusionary. De Jure does not permit the use anywhere in the municipality. Whereas, De Facto may allow for the use, but when other factors are applied, it's generally excluded. The burden to prove that a transitional living facility is not provided for anywhere under the zoning ordinance or under any applicable definitions is the responsibility of the applicant. Council will hold an evidentiary hearing in March where they will accept evidence. The Planning Commission should make a recommendation to Council prior to the public hearing. This recommendation needs to be on whether the Planning Commission believes the ordinance is exclusionary in regards to a transitional living facility as explained by the application.

M. Zoppetti explained that the transitional living facility definition that is proposed is identical to the same definition outlined in a previous cure that the Commonwealth Court found to be De Jure exclusionary on the Towns Zoning Ordinance. M. Zoppetti explained that after those hearings, the Town adopted Ordinance 993, 994, and 995, M. Zoppetti's opinion is that these ordinances do not encompass the use of transitional living facility as defined in the cure. M. Zoppetti went on to explain the halfway house cure that was adopted by the Town of Bloomsburg as well as a substance abuse treatment facility ordinance that the Town adopted. Those facilities require treatment and that's a discriminating factor. Whereas, this facility would not have that onsite treatment. M. Zoppetti believes that Ordinance 993, 994, and 995 doesn't encompass the transitional housing definition. Also, the Town didn't provide for the use specifically, nor does the use fit within another use. M. Zoppetti alleged that the Commonwealth Courts ruled that it did not provide for this use and this decision was not appealed by the Town of Bloomsburg.

**On a motion by B. Crawford, seconded by S. Boughter, and voted on unanimously, the Commission voted to send this discussion back to the workshop to discuss the application and prepare for a recommendation at the March Planning Commission meeting.**

R. Bogar explained some talking points that were forwarded to Commission members regarding ordinances that were previously adopted as a result of prior curative amendment applications. R. Bogar explained the need to review these documents and that the Commission should be prepared to make a valid recommendation based on M. Zoppetti's current application. M. Mertz mentioned the extensive work put into the ordinances to make sure that transitional living was included in the ordinances. S. Gallagher mentioned that the higher courts did in fact rule that the ordinances were exclusionary.

However, the ordinances were amended, and the applicant now has the burden of proof to determine that the language in the amended ordinance is still exclusionary.

#### **Approval of minutes.**

On a motion made by M. Mertz, seconded by E. Sabo, and voted on unanimously, the Commission voted to accept the minutes with three changes.

#### **Discussion of Hailstone Economic, LLC. Zoning district recommendations and disruptive conduct language.**

R. Bogar explained that M. Mertz, E. Sabo and himself discussed the Hailstone report and their recommendations at the February Planning Commission workshop. The first three recommendations, and the language for disorderly conduct were discussed. The first recommendation was regarding the Residential Suburban, (R-S) District. E. Sabo explained that the recommendation goes against the purpose of the language in the R-S zoning district. M. Mertz mentioned that multi-unit dwellings are currently permitted as a special exception and should remain as such. The second recommendation was for the Residential Urban zoning district to allow for higher buildings. E. Sabo recommended consultation with fire chief in determining if approving the height to 50 feet would be safe. D. Hill questioned if the RU district is within the airport flight path. K. Bauman confirmed that the RU District has areas that are below the flight path. The next recommendation was regarding elder family accessory dwellings. E. Sabo explained that the workshop group felt these changes were sufficient in accommodating families trying to assist their elder family members. The last item was regarding Disruptive Conduct Reports. R. Van Loan explained that the second recommendation would be sufficient as long as the “as defined herein,” was removed, as well as defining the term specifically on the final page of that recommendation.

#### **Mullberry Mill Apartments – Land Development**

**Submission Date: 12/17/20 – Ninety Day Deadline: 3/17/2020**

**Deadline for Action – Planning Commission by: 2/18/21 – Council 3/8/2021**

R. Bogar reviewed a letter submitted by Andy Keister from McTish, Kunkel & Associates requesting a 90-day extension for the project. K. Bauman explained that there were several items that were outstanding that could potentially change the plan.

**On a motion made by Steven Boughter, seconded by M. Mertz, and voted on unanimously, the Commission voted to approve a 90-day recommendation as requested by the applicant.**

#### **Waiver requests:**

- A. The expansion joint callouts shown at the “concrete Sidewalk Detail” provided on sheet C8.02 shall be revised to provide for a width of 1 ½”.**
- B. All proposed drainage inlets shall consist of concrete boxes meeting PennDOT specifications. The plan currently proposes four (4) “Yard Drains” along the front of the proposed building.**

**On a motion made by M. Mertz, seconded by S. Boughter, and voted on unanimously, the Commission voted to approve waivers A & B as requested.**

#### **Comprehensive Plan Discussion**

R. Bogar explained that he didn't have any updates on the comprehensive plan. K. Bauman noted that Hailstone has provided significant data through their Analysis of Impediment Fair Housing Study that is beneficial. This data should be reviewed and sections should be flagged to be incorporated into the comprehensive plan amendments. The Commission will continue to work on these amendments.

Being no further business, the meeting adjourned at 8:08 p.m.

Notes taken by Kyle Bauman & reviewed by L. Dooley.