

RECORD OF PROCEEDINGS

Minutes of

Minutes of the Vermilion City Council Meeting Work Session

Meeting

BARRETT BROTHERS - DAYTON, OHIO

Form 6101

Monday, November 8, 2021

Held

Videos and minutes of council meetings are available to the public to view online at www.cityofvermilion.com under 'meetings' tab (City Meeting Minutes or Videos).

Vermilion City Council: Steve Herron, Council President; Monica Stark, Council At Large; Emily Skahen, Ward One; Frank Loucka, Ward Two; Steve Holovacs, Ward Three; Barb Brady, Ward Four; Brian Holmes, Ward Five

Administrative Staff: Jim Forthofer, Mayor; Amy Hendricks, Finance Director; Chris Howard, City Engineer

CALL TO ORDER:

Steve Herron, President of Council called the Monday, November 8, 2021, Vermilion City Council Work Session to order.

WORK SESSION DISCUSSION:

Ordinance 2021-60: AN ORDINANCE ENACTED PURSUANT TO CHAPTER 1266 OF THE CODIFIED ORDINANCES OF VERMILION, REZONING LAND IN VERMILION, OHIO, AND CONTAINING AN AREA OF APPROXIMATELY 119.60 ACRES FROM B-3 "HIGHWAY COMMERCIAL DISTRICT" (PPN 01-00-022-104-029 and 01-00-022-104-040) AND I-1 "LIGHT INDUSTRIAL DISTRICT" (PPN 01-00-021-000-032 and 01-00-022-104-045) TO I-2 "HEAVY INDUSTRIAL DISTRICT" LAND USE CLASSIFICATION AS FAVORABLY RECOMMENDED BY THE VERMILION MUNICIPAL PLANNING COMMISSION; AUTHORIZING THE CITY ENGINEER TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF VERMILION TO CONFORM HERewith AS SAID MAP HAS BEEN ESTABLISHED BY SECTION 1268.02 CODIFIED ORDINANCES OF VERMILION UPON THE EFFECTIVE DATE HEREOF.

Frank Loucka said the property has been zoned Industrial and Business for many years. It's prime for development as it is flat land and it is 20 minutes from the turnpike and it's next to Route 2, and Baumhart Road. He reviewed the zoning code for B-3 "Highway Commercial", I-1 "Light Industrial", and I-3 "Heavy Industrial" and he passed out a sheet to City Council showing the allowable setbacks. He said it appears the city's code may need some work. For example, the B-3 Highway Commercial District has a front setback of 75' and it requires a 25' non paved buffer. The rear setback is 40' and the side setback is 15'. However, if it is next to residential it is 25' and the maximum height is 30'. The I-1 Light Industrial District front setback is 75' and there is no buffer requirement, the rear setback is 25', however, it is 100' next to residential, and the side setback is 25' with 100' next to residential and the maximum height is 45'. This is what is in effect for the property as it currently zoned in the two different sections. In the I-2 Heavy Industrial District the front setback is a 100' minimum with no buffer requirement and it is a 150' setback for the rear next to residential, and 150' for the side setback. The maximum height is 65'. He said sooner or later this prime property is going to be developed some way. They need to look at the trend of items coming from the east. However, right now the only way to keep this property undeveloped would be for someone to purchase it. He is concerned that the code has no buffering requirements and calls out minimum setbacks, and to him without some major site plan information noting some serious landscape buffer zones, setbacks, and building heights, he would personally not have enough information definitive to vote on changing such a major change to I-2. He said they have a general plan that really doesn't show what exactly is going to be there.

S. Herron said the west side of the parcel is Claus Road and with I-2 they would be at a setback of 150', so they would be basically a half of a football field between the parcels of the homeowners. F. Loucka said they do not have a proposed plan, so they do not know what they would be voting on personally.

B. Holmes said there is a residential area that is considered I-1, which is the Leimbach family home, and this is their concern because of this. If it gets rezoned to I-2, then what kind of buffer do they have. F. Loucka said if it stays I-1, then it would be a 125' setback minimum. F. Loucka said they need more information so they can make an intelligent decision because the code does not specify any buffers. It just shows minimum setbacks, other than the B-3 Highway Commercial District.

B. Brady asked Gregory Scovitch of Hillwood if they were asking for the full 65' in height. G. Scovitch thanked council for asking them back to have a conversation. He said the challenge is with the technology going into the four walls of these buildings – these users are becoming more sophisticated,

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and they are taking advantage of the vertical storage space as opposed to the horizontal storage space. It is ironic because at the turn of the 19th century there were warehouses in urban settings and land was at a premium, so you had multi-story warehouses and they built up in an urban setting. In this trend, efficiencies were realized, and this trend shed to moving the operation of a warehouse to more rural settings where they can go out as opposed to up; it's much cheaper to build in a rural setting than an urban setting. He said all of sudden this trend is changing, and they are going back to taller facilities, and unfortunately the city has mentioned their codes to be reevaluated and unfortunately he would echo this and say the height on the I-1 definitely needs some attention. He could not tell council today what the height on their proposed building would be. However, 45' is too short because the industry and trend is to continue stacking. He said with the 65', nine times out of 10 this is going to be more than enough, but there are those instances where the most sophisticated folks are taking advantage and are exceeding 65'. He does not anticipate that they would ever exceed 65' on this piece of property. If they did have a user, then they would have a discussion and they would introduce the city to whatever the specifics were and engage in conversation to make sure it is the right fit. If it wasn't, then they would gracefully bow out. B. Brady asked if this would be before they buy the property or after? G. Scovitch said given their ignorance on who would ultimately be the end user he does not know if they have the time to make that decision at this moment. They have a couple interested folks and they are also looking at it as a potential opportunity to explore relationships with some of their current contract lists. If they had a user that approaches and wants to exceed the 65' – and by gracefully bowing it he would have to tell the user they do not feel it is appropriate at this time on this piece of property. B. Brady asked if they would move on to the next user and G. Scovitch said correct. S. Herron said he is hearing them say that 65' is a pretty good number. G. Scovitch said yes.

B. Brady asked if there was anything else in the I-2 that they need – is it just the height restriction in the I-1 zoning district that is a problem. G. Scovitch said unfortunately this is exactly what they need and if they had the benefit of time they would have navigated the different process where they would preserve the I-1 zoning on the rear part of the property, they would rezone the B-3 so it was consistent with the I-1 and then they would have navigated the variance process with the Zoning Board of Appeals. Unfortunately, they do not have this time and they felt it was best to advance with the I-2 zoning with the only realized benefit of the height to the property. B. Brady asked if they would give the city a statement saying that this is only the part of the I-2 that they would use. G. Scovitch said yes.

C. Howard clarified in the I-1 the building height is 45' maximum and in the I-2 it is 60' not 65'. S. Herron asked if they would look at a variance. B. Brady said she asked the law director if council could pass an ordinance just changing the height restriction in the I-1 and she responded that this was not possible because it gave preferential treatment, so they would have to change all the I-1 in the city. They could not just do it for this location. They also looked into the possibility of the Board of Zoning Appeals meeting on November 23 instead of their December meeting, but Gwen found out from the Building Inspector that this was not possible because he needs plans to reject before he could send it to the Board of Zoning Appeals. G. Fisher said this would need to be done by tomorrow as she would have to get the agenda out to meet the deadline for the newspaper. B. Brady said council could pass a Resolution recommending to the Board of Zoning Appeals to pass the variance, but this would not be a guarantee at this point. She did not know if there were any other options that they have seen in other communities. G. Scovitch said they are navigating this process throughout the Midwest and height variance is not uncommon for them and they have run into this in other jurisdictions. B. Brady said council could consider changing the height in the I-1 by ordinance and if they decide they do not like it they could change it when they do their zoning review. G. Scovitch said they would still need to rezone the B-3 zoning district to I-1 because they would like the entire piece of property zoned the same, so they are not surrounded on both sides by similar zoning.

Mayor Forthofer asked B. Brady to restate her proposal. B. Brady said she is proposing to change the height in the I-1 zoning to 65' by ordinance. Mayor Forthofer asked if B-3 would also be rezoned I-1 with the same stipulation. B. Brady said yes if it became I-1.

E. Skahen asked what their time restraint was for not going a different route – do you have a deadline date? G. Scovitch said the contract to purchase expires at the end of the year and when he laid out the entire map and layered in the notices, they arrived at the conclusion that the rezone to I-2 was the only solution for them to preserve their ability to have this height and still have time to commit to the seller to close.

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G. Fisher said the Board of Zoning Appeals was not meeting in November due to the Thanksgiving holiday and they rescheduled their meeting to December 7. She asked G. Scovitch if it would be an option to get something to the building inspector and if he rejects it, then it can be pushed to the BZA for the height variance. G. Scovitch said he appreciates the creativity, but at the same time he doesn't know specifically what he is going to build. He could certainly prepare a building that may or may not look like what they are going to build, and exceed the 45' threshold and have that rejected, and if it wasn't specific to that building and they rejected it – if the 65' variance carried with the property and not that building this sounds reasonable, but he would have to ask Council to layout a calendar and make sure not only what they are talking about with the I-1 and submitting plans and rejection, that also the front piece that is zoned B-3 would also be rezoned I-1. Can this be accomplished in the 40 days they have left to do this. G. Fisher said they could check with the law director to see if they can amend the rezoning ordinance to fit specifically to the B-3 property that now would be rezoned to I-1, but then proceed with the Board of Zoning Appeals for the height variance.

F. Loucka asked what sort of buffering they would have to the Claus Road properties because to him the setback is totally inadequate as far as what is written in the code. He said they would need a retention basin to handle the water runoff. He asked if a mounded buffer of 300' – what would they have in mind because this is a major concern with Claus Road. B. Holmes said Claus Road and Arndt Road, so to the north and to the west. G. Scovitch said they have developed in these environments in the past and the last thing they need is for them to (inaudible) and to launch the building, and for all of the city's officials' phones to be blowing up from disgruntled neighbors. They have been down this road before, and he would like to say they have done it successfully in the past and there is a variety of solutions that they have at their disposal. Unfortunately, this topography is going from south to north – the high point being south and the low point being north, so naturally they want to drain to the north, so he would envision the engineers are going to ask him to put the detention infrastructure there, so he cannot say for certain this is where they are going to put it, but he believes this could create some added distance between development and the residences to the north and to the west. Additionally, it is a cornfield, and he fully anticipates that when they start stripping that site there will be an abundance of topsoil that he cannot use, so inevitably it will cost him a lot of money to haul this off, so typically they try to lose it on site and one of the solutions is building up a massive berm and separating the two pieces of property; particularly the pieces where they are most sensitive. He doesn't know what would solve the setback question, but they have a lot of options available to them and he would expect that the staff would help coach them. They look to the Planning Commission to help educate them and their neighbors. They would engage them to the extent they had an audience and do what they can to be as good a neighbor as they can; maybe not perfect, but as good a neighbor as they can.

B. Holmes addressed some of the other comments and questions he received from the residents, one being the lighting issue – is this a 24/12/7 lighting issue, again, not knowing their potential buyer or interested party – traffic, is it going to be 24/12/7. He knows there are some concerns about tractor trailers, but they already do have a lot of tractor trailers coming up and down Baumhart Road from simply the mail trucks delivering their mail, all the insurance junk yards bringing in and out several trucks of cars every day. They already have two beverage distributors using the old Ford Plant, and even today he saw a Prime truck leave the distributing area there as well, so are they delivering. There is already an abundance of traffic as far as tractor trailers coming up and down Baumhart Road on the north and south. With Route 2 and the turnpike their concern is how much more will be added along with the ambient light. How much of that is going to be on during the evening and early mornings, and obviously the noise pollution from the trucks. Again, he thinks this depends on their particular company or business they bring in. G. Scovitch said the easy answer is yes. There will be traffic – certainly more than what is there today. There will be site light and more than likely across 120 acres there will be at least one user that is taking advantage of every minute every day. This being said, this is a special piece of property. When looking at a map its proximity to Route 2 is not to go unnoticed and while they can't say there won't be any traffic going north on Baumhart – the reason they are in front of Council today is because of how special they feel it is and they anticipate that the large majority of the traffic is going to hit Route 2 and get out of town as soon as possible. At least large heavy traffic – they hope the users are able to pull within Vermilion for the light traffic and filling jobs. He said lighting is always an issue. They address this all the time and the city's Planning Director is going to smack their hand if they even come close to taxing the ordinance. All of their light fixtures are dark sky compliant, which means that as you look up the light is going to dissipate such that at a certain elevation if you will not see any influence from the facility. He suspects at the property lines there will be no light pollution leaving the property. The light levels are

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measured in footcandles and zero is completely dark and at the property line he assumes it will be held to that standard, so at the lot line they will have to provide a photometric as part of the site plan process, and they will have to demonstrate that their lighting plan accommodates the zero footcandle at the property line.

B. Holmes said other concerns is the water runoff. He explained to them that before any foot, shovel, or tire hits the ground a study has to be done. He asked them to speak about how they professionally move water. G. Scovitch said drainage is a very sensitive topic and it is unfortunate that it is just now getting the level scrutiny that it is because what they have been doing for years is irresponsible. But, it has caught up and they will be held to certain infiltration rates, and they will be held for holding water on the property to preserve not only the quality or water that is leaving the site, but the quantity of water that is leaving the site. There will be no more discharge entering the streams in the future then there is today. In fact, it will probably be reduced. This is typically one of the most challenging permits they have to apply for, and it is a local level and then the county. He didn't believe the state would be involved but usually the county has some pretty robust expectations. They will be held to those standards, and they will deliver it.

Mayor Forthofer said if Council approves a rezoning for the use to give the developer what they want then evidentially it all just works out. He said the project comes back to the Planning Commission with specifics they can't talk about tonight. At that time the buffers and questions can be answered. Based on multiple past experiences, the developers are well-equipped to handle these things at the time they would come. There is only so much they can specifically answer tonight.

C. Howard said in conversations with them they stressed that a traffic impact study has to be done and they have to meet the storm water management requirements of the city – this is not negotiable. The photometric plan, etc. are items that are presented at the Planning Commission, and they will approve their setbacks, etc. This is the first step in getting the rezoning, but they still have to come back to Planning Commission for approval, and then a lot of those questions will be answered then.

E. Skahen said it was her understanding that the seller does not have a stipulation on what the land can be used for. He doesn't say what has to go there. S. Herron said the seller does not, but the city does. E. Skahen said they do not know that whatever goes in there will be the main place of business and Vermilion as their tax base. They do not know how many employees they will actually have. G. Scovitch said this is correct as they do not have any users identified specifically, but prior to approaching the Planning Commission, they should be a little bit smarter on this subject. At a minimum they will be able to educate the audience and the public on a minimum investment. There will be property taxes that the community will benefit from and to the extent they have labor numbers and can share, they will share. E. Skahen said as far as traffic – they had Ford there, so would it be anymore than what was there. Mayor Forthofer said in the 70s, Ford had 7,000 people and the traffic was huge, and they are talking a fraction of this.

S. Herron said his thought on this is the lighting – are they able to give them a representation that the employee parking would be on the east side or the north side – not only to keep down the lighting – he wants lighting for the employees. If this goes this way then he wants it to be a successful business that is safe for people who want to work there. This would possibly be a way to keep the lighting away from the residential area but do it for an intended purpose for safety and so forth. G. Scovitch said if it works for the user, then absolutely because the users want to be good neighbors too. Nobody wants that call and to the extent they can locate those lower density uses and create the buffer by way of a parking field, then they are going to do that. The sample plans Council saw were just that. They were examples of what it could be and shame on them for not taking note of the fact they had neighbors. They were just sending in pictures to give Council a sense of what it could look like. Shame on them as they are better than that and they know you need to create as much buffer as they can between the neighbors, especially if they are different uses. They should have put plans in front of Council that suggested that, but they hadn't. However, now after having heard it many times, they are better and they can push the user to locate their parking field at that northwest corner, and they will do their damndest to make that happen. S. Herron suggested that they encourage them to work with the Tree Commission. The city has a Tree Commission that is very energetic and who is into protecting noise and all the things that are concerns. He said the parking needs to be on the east side away from ... B. Brady and B. Holmes asked if he was talking about the southeast side. S. Herron said against Route 2 or the north side. B. Brady said they probably want it

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to the Route 2 side. S. Herron said just so it is away from Claus Road. B. Holmes said Claus is on the west. S. Herron said nobody wants to hear the truck backing up and them blowing a bunch of stuff in their yard.

B. Brady asked about the utilities – sewer and water – are you okay with the accessibility of those? Mayor Forthofer said this is another thing that comes from the specifics and what this user is. The water and gas are fine, but the sanitary is what they would have to work out depending on the specific use. B. Brady said council is in an awkward position. If this was 20 years ago and they were looking at farmland to zone to I-1 it would be really hard for all of them. The problem is this has been zoned I-1 and there is nothing this council can do to change the zoning on this property. You're not going to have farmland there. It isn't going to be, so all that council can do is work with the I-1 zoning and try to put the best structure for the city and the people around it on it. The cleanest group of people that are willing to work with the city and give the city something in return for working with them. It's a terrible thing but going from farmland to I-1 is out of council's hands and it has been for 20 years. S. Herron said the awkwardness is protecting the people who have invested in property that does relate to their view and to their environment. You just don't invest on your parcel; you invest in everything. B. Brady said most of these people bought property with I-1 in their back yard, so you have to be careful. S. Herron said when you buy property it is in your heart, so they can do everything they can to work with them. He understands they cannot get concrete answers at this time.

S. Holovacs addressed the lighting and said they can look at what surface they put in their parking lot – if you use asphalt you need more lighting because it is black. He said the north side parking at Lorain County Community College was slated for asphalt because they got into bad soil, but it was easier to do concrete, so they kept the lighting the same, but fixed it up so they only used half the lighting because of the illumination coming off the concrete. You can save on the lighting because you're going to get surface lighting because of the lighting material. This could save them money in the long run with electricity. He said if they have questions he believes Clark and Post was the one who designed it.

B. Holmes asked if they had any examples Council could google on something that may be close to what they have done in the past. G. Scovitch passed out representative examples of their product to Council.

S. Herron said their options will be to schedule a Council meeting for November 15. G. Fisher said the law director can advise if they can amend the current rezoning legislation to change B-3 to I-1, and then to see if they can get plans to the building department to reject and then to put it on the zoning board for December 7. B. Brady said and they can change the height from 45' to 65' in the I-1. M. Stark thought that would be the most sensible. S. Holovacs agreed if they could do this. S. Herron asked the mayor to get with the law director on these two questions and let the clerk to know how to proceed. S. Herron said they could potentially have a Special City Council meeting on November 15 for this matter only and advised the residents to expect that. G. Fisher said the residents can view the agenda on the city website.

B. Brady asked if they had a timetable for building. G. Scovitch said currently they are slated to close on the property at the end of the year; the seller has some motivations to make sure that happens, and then in a perfect world they would like to take advantage of next season's build window. If they are fortunate with their entitlements, then they would probably figure out what they are going to put in the ground and begin navigating the permitting process so in June or July they are moving dirt. These facilities are typically taking 10 months and they would be vertical by Thanksgiving and probably ending up the site work in the spring of 2023.

B. Brady asked what their involvement is at this point – are they the liaison and will they walk away from the project. G. Scovitch said no as they would be the landlord – they would be the property owner. He said that Hillwood and Sterling own together 50% of what they develop. If the numbers make sense they have to make some decisions based on what they have committed to their investors.

Adjournment:

S. Herron adjourned the Vermilion City Council work session upon no further discussion.

Transcribed by: Gwen Fisher, Certified Municipal Clerk