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Chairman Michael Shernick called the July 21, 2021, regular meeting of the Planning and Zoning Commission to order at 7:00p.m., via remote meeting connection.

Recording Assistant Jane Madrid called the roll. Present on the Commission were Commissioners Judson Hite, Chris Teta, Michael Polan, Michael Shernick, Josh Goldberg, Janell Flaig, and Korkut Onaran. Council Representative Aren Rodriguez was absent. In attendance also was Planning Director Glen Van Nimwegen, Principal Planner Ava Pecherzewski, Planning Manager Don Burchett, and Deputy City Attorney Teresa Tate.

Chairman Shernick read the procedure for public comments.

No communications.

Chairman Shernick opened the public invited to be heard. The Commission took a 5-minute break to allow time for callers to come into the meeting.

No one wished to speak.

Chairman Shernick closed the public invited to be heard.

Motion

COMMISSIONER HITE MOVED APPROVAL OF THE MAY 19, 2021, MEETING MINUTES AS SUBMITTED. COMMISSIONER GOLDBERG SECONDED THE MOTION.

MOTION CARRIED 7-0

6. A. Barrett/Utility Sales & Service, Inc. /Clarke Annexation Concept Plan, PZR 2021-6, Principal Planner Ava Pecherzewski

Staff Presentation

Property Location/Info

- Northeast corner of State Hwy 66 & Erfert Street
- ~ 36 acres / Farmhouse circa 1929 + 1 house circa 1975 – HPC Reviewed/No Historic Designation
- Annexed 2008 as PUD-C
- Rezoned in 2018 from MU-R
- New zoning allows multifamily residential
- Envision Longmont designated as Regional Center
- Regional Center designation “serves commercial & retail needs of the City & region while also providing high density housing and employment options...”

Original Concept Plan

- 175,000 sq.ft. retail store on north side of development
- 7 retail buildings
- 1 Sit-Down Restaurant on SE side of property
- New north-south street accessed from Hwy 66
- Notes contemplates apartments as potential conditional use

Concept Plan Amendment

- Develop northern half of site with 336 unit apartment complex
- Develop southern half of site with mix of commercial uses, including:
 - Gas station/convenience store
 - 8,000sq. ft. retail building
 - 5,000 sq. ft. restaurant
- No development proposed on southeast side of property

Outreach

- Neighborhood meeting January 6, 2021
 - 1,000-foot radius notified/sign posted on Hwy 66 & on Erfert
 - 5 attendees
 - General questions asked/no specific objections raised
- Notice of Application mailed February 11, 2021
 - 1,000-foot radius notified/sign posted on Hwy 66 and on Erfert
 - Only one email with questions but no comments or objections
- Notice of Public Hearing mailed July 6, 2021/signs posted
 - No comments received

Applicant Presentation

Jessica Tuttle with Thompson Thrift went through the presentation.

History of Site

- 2008 Site was annexed into the City with a concept plan
 - The concept plan text allows for multifamily and commercial uses
 - The concept plan layout proposed specific uses instead of a bubble diagram
- 2017 the City rezoned the property to MU-R
 - Current zoning allows for proposed uses by right
- 2020 CDOT SH 66 Access Plan adopted removing the access points from previous concept plan
- Envision Longmont Multimodal & Comprehensive Plan, Regional Center
 - “Allows for commercial needs while also providing high density housing”
- Site Plan and PIP construction documents have gone through two rounds with staff and will be ready to start construction by end of year
 - No variances required for proposed concept plan from State or City code

2008 Concept Plan

- Previous plan requires easement vacation from Boulder County that is not yet approved
- Previous plan pipes the entire R&R ditch and removed natural habitat
- CDOT’s 2020 SH66 Access Plan removed the access from being allowed onto Ute Highway
- Permitted uses by right
 - Retail sales
- Permitted uses by conditional use approval
 - Halfway houses
 - Multi-family dwellings (5 or more dwelling units)
 - Residential rehabilitation facility
 - Urban dwelling units: more than 25/du acre

CDOT SH66 Access Control Plan

- CDOT’s 2020 SH66 Access Plan removed access from being allowed onto Ute Highway
- Parcel to the east of the proposed plan must gain access through this proposed site in order to develop 7.32 acres within the City

Review Criteria

Ms. Tuttle went through the review criteria with the Commission.

Site Criteria

- Near major thoroughfares – Main Street (25,000VPD) and Ute Highway (22,000 VPD)
- Near high end housing (5 mile radius) – average household income \$95,184 and average home value is \$424,062 – significantly higher than the national average of \$63,179 and \$204,900
- Near other retail – walkability to Wal-Mart Supercenter, Chase Bank, KFC, Panda Express, and King Soopers to the south

Public Hearing

Chairman Shernick opened the public hearing. The Commission took a 5-minute break to allow time for callers to come into the meeting.

1 Tim Cassidy 1789 State Highway 27, Edison, New Jersey. Mr. Cassidy's company is Senior
2 Consulting LLC and his team develops active living that they brand as enhanced active living. He
3 states they will be proposing entitlements in the future for the Clark farm property to the east, as
4 well as the Ute Cottonwood property and plan to submit in the next 60 days. They will be proposing
5 a mixed use community and see great interconnectivity with the Watermark property. Mr. Cassidy
6 gave some details about the project they will be proposing.

7
8 No one else wished to speak.

9
10 Chairman Shernick closed the public hearing.

11
12 Commission Discussion

13 Commissioner Hite asked for confirmation about the size of the parcel. Principal Planner
14 Pecherzewski states it was 36 acres at annexation, the concept plan amendment is slightly smaller
15 because there is a parcel not being developed. Ms. Tuttle said they are developing 29 acres and
16 the seven acres to the east is not under their ownership. Commissioner Hite understand that 21
17 acres is multi-family. Ms. Tuttle said with right of way, it might be slightly less. She states that
18 having no direct access to Ute Highway limited the retail.

19
20 Commissioner Hite thinks this is a good concept but he is stuck on MU-R, which its primary
21 purpose is to serve large-scale retail needs of the city and the region. Multi-family as the secondary
22 use is permitted, but section 15.040.03.A.1.c.3 states the secondary use cannot diminish
23 availability for the lands primary use. He asked if neighboring sites can be considered when
24 looking at how a project meets the zoning code. Principal Planner Pecherzewski said staff does
25 not look at secondary uses on a macro scale. This is a district of mixed-use regional that includes
26 the Wal-Mart, so if you calculate the aggregate of the acreage in the mixed-use regional zone, then
27 the apartments would be a secondary use. Ms. Tuttle said the ten acres north of Walmart is
28 available for retail and states they are below the allowable secondary uses in the contiguous zoning
29 district. Commissioner Hite asked the city attorney to weigh in on this. Deputy City Attorney Tate
30 has not looked at the issue and would need some time to look into it.

31
32 Chairman Shernick has heard this explanation multiple times from staff when this issue comes up.
33 His understanding is they look at it as an aggregate at a district level and not at the individual
34 development level.

35
36 Commissioner Polan asked if any consideration was given to rezoning this to something like
37 mixed-use corridor. Principal Planner Pecherzewski said it was not. In 2016, Envision Longmont
38 was adopted and at that time, the mixed-use corridor was the vision for Main St/Hwy 287. She
39 said staff felt anything near a major arterial or highway could be used as a regional center.

40
41 Commissioner Polan asked if there is going to be a pedestrian overpass or underpass in the area.
42 Principal Planner Pecherzewski said there is a regional multi-modal transportation plan. In the
43 original annexation agreement for this property, the applicant is obligated to pay \$300,000 into the
44 transportation plan. Transportation Planning Manager Greenwald provided information about the
45 city's future plans for an underpass on Main Street south of Highway 66, on Highway 66 at the
46 railroad crossing, and further east.

1 Chairman Shernick feels like funding seems to be the missing piece in getting projects built. He
2 asked how we get funding for an underpass and improvements on north Main Street.
3 Transportation Planning Manager Greenwald said these are included in next year's Capital
4 Improvement Program, and as funding comes from the city, we use that to leverage money the city
5 can get from the federal and state programs. He said there are also equity elements to consider.
6

7 Chairman Shernick said development will also continue east of Highway 66 and asked if
8 connections will be made to that development. Transportation Planning Manager Greenwald staff
9 continues to work on funding for missing elements in the transportation plan.
10

11 Commissioner Flaig asked what needs to go into the current signalized intersection for pedestrian
12 connection to the south. Transportation Planning Manager Greenwald said walkability studies
13 have been done at that intersection and he is not sure how to make it better without some
14 reconstruction.
15

16 Commissioner Flaig asked about the speed limit and how to make the crossings safer.
17 Transportation Planning Manager Greenwald said staff is working with CDOT on the speed limits
18 to the west and hope to bring this up at the same time. What CDOT typically does is a speed study
19 and he thinks a study will show slower speeds because of the signal at Erfert, the railroad tracks
20 and the development that has come along in the last couple of years in the northeast quadrant. He
21 said a request could be made to change the speeds limits in the area.
22

23 Commissioner Onaran commented that there is no pedestrian connectivity from the southernmost
24 apartment building to the retail to the south and that is a red flag for him. He would recommend
25 both sidewalk and road connections. He said this development will have many residents and
26 CDOT is not allowing junctions, and not allowing junctions encourages speeding. Junctions will
27 control the traffic and he would like staff to raise their voice to CDOT, we need access points to
28 slow down traffic. Ms. Tuttle said the east/west road was a new addition to the development, but
29 they plan to add pedestrian connectivity and sidewalks. Principal Planner Pecherzewski said
30 because they put in a public street, they were required to have a landscape buffer, and states they
31 can have pedestrian access interrupting that buffer.
32

33 Chairman Shernick advised this is concept plan, not site plan, and they are a recommending body
34 to City Council.
35

36 Commissioner Goldberg heard the concerns from the other Commissioners. He feels like this is a
37 desirable project that provides needed residential units and is a creative use of the property. The
38 project meets the review criteria and the feedback from transportation staff about the underpasses
39 will give peace of mind to residents. He is in support of the project.
40

41 Commissioner Hite asked about the county easement to access open space to the east. Ms. Tuttle
42 said they are building new public roads and those roads will lead to the easement access. As a
43 backup plan, they have it set up so they do not have to vacate the access easement, they could still
44 use it through the site.
45

1 Commissioner Hite pointed out that if this plan is approved and the easement is still there, the
2 concept plan could be in jeopardy. He said it is the developer's burden to show this regional use
3 center standard applies to the region, with respect to this project and the secondary use standard.
4 Ms. Tuttle said she understands it as contiguous land use immediately around the Wal-Mart and
5 when you include just that acreage, they are much lower than the 40 percent allowed in the zoning
6 district. She also commented that the County is anticipating vacating the easement.

7
8 Commissioner Hite asked Deputy City Attorney Tate if she found anything to help with the region
9 versus lot standard. Deputy City Attorney Tate said the comp plan looks at use corridors, and
10 rather than looking site by site, the city is trying to make sure we have the right mix of uses to
11 accomplish the goals in the comp plan. She found nothing to consider this spot zoning.
12 Commissioner Hite feels it is odd to do it this way.

13
14 Motion

15 **COMMISSIONER GOLDBERG MOVED APPROVAL OF PZR 2021-6A, A**
16 **RESOLUTION OF THE PLANNING AND ZONING COMMISSION RECOMMENDING**
17 **APPROVAL OF THE BARRETT/UTILITY SALES & SERVICE, INC./CLARKE**
18 **ANNEXATION CONCEPT PLAN AMENDMENT. COMMISSIONER POLAN**
19 **SECONDED THE MOTION.**

20
21 Chairman Shernick said regardless of what goes on to this lot, there would be pedestrian and traffic
22 issues, but those are not reasons to not approve the concept plan.

23
24 Vote

25 **MOTION PASSES 6-1, WITH COMMISSIONER HITE DISSENTING.**

26
27 Chairman Shernick read the process notice.

28
29 7. Final call – public invited to be heard

30
31 Chairman Shernick opened the final call public invited to be heard. The Commission took a 5-
32 minute break to allow time for callers to come into the meeting.

33
34 No one wished to speak.

35
36 Chairman Shernick closed the final call public invited to be heard.

37
38 8. Items from the Commission

39
40 Chairman Shernick thanked staff for their help with the meeting.

41
42 Chairman Shernick asked staff for a brief overview about how the city gets its water.

43
44 9. Items from the Council Representative

45
46 Council Representative Rodriguez not in attendance.

10. Items from the Planning Director

Planning Director Van Nimwegen deferred Chairman Shernick's question to PWNR staff. PWNR Engineering Administrator Chris Huffer said the city has a water portfolio. Water comes to the city from Ralph Price Reservoir and from shares of the CBT (Colorado Big Thompson). The city has been building the portfolio from the time of the city's inception when the founding fathers began purchasing water rights. In the 1920's, Longmont Reservoir was built, which is just below Ralph Price Reservoir. He said any time land is annexed into the city, the owners are required to turn over any historic raw water they are using for the property and then at time of development, any area that is platted is required to provide three-acre feet of water to the city. Any deficits have to met before the property is platted.

Planning Director Van Nimwegen led a discussion of the future format of the Planning & Zoning Commission meetings. He provided the following options for the Commission to consider:

- 1) Continue virtual with option to reevaluate it later in the year
- 2) Return to in-person meetings
- 3) Hybrid – both in-person and call-in. Advised the Commission this still has some bugs to work out.

Chairman Shernick asked what offers the most flexibility. Deputy City Attorney Tate said that to retain the ability to do online meetings, it will require a small amendment to the adopted procedure. She said they could consider making the Bylaws flexible to notice the meeting as either in-person or online, with an option for a hybrid meeting.

Commissioner Hite feels like the world is not quite ready for in person public hearings.

Commissioner Flaig feels it is too early and likes the idea of looking at it later in the year.

Commissioner Onaran agrees it may be too soon to return and wonders if vaccination status could be asked of participants. Deputy City Attorney Tate said at this time the city does not require proof of vaccination to participate. That is confidential medical information and the city is heeding legal advice not to ask. Commissioner Onaarn feels the call in protocol makes it difficult for the public to participate.

Commissioner Goldberg said his interest is what provides the most access to the public, but he wonders if it is not better to continue this format for several more months.

Commissioner Polan agrees they do better work when together and he finds the phone system a buffer for the public to comment, but he thinks it is best to continue virtually for the short term.

Commissioner Onaran asked if there is a way for the Commission to continue online but have the public appear in person to speak. Staff advised that the hybrid model is being used by City Council, only as a call in option and only for the first public speaking item on the agenda. To date they have had one caller so staff is going to reevaluate whether to continue that format. Staff also advised having just the public in person and the rest of the meeting virtually would take more staff resources that we are not prepared to handle right now.

Concerns raised by the Commission regarding in person meetings:

- 1) Delta variant of Covid-19
- 2) Coming back too soon and having to shut down again
- 3) Ventilation/air handling in City Council Chambers
- 4) Ways to improve public participation

Commissioner Onaran asked why we do not allow participants into Zoom meetings. Staff advised that the city decided it would be a lot of work to allow an unknown number of people into the meeting and try to manage what they are putting on the screen.

The Commission chose to continue with virtual meetings until the end of 2021 and reevaluate at that time. Deputy City Attorney will create a draft document for the Commission to review at the next meeting.

11. Adjournment

CHAIRMAN SHERNICK MOVED ADJOURNMENT OF THE MEETING. NO ONE WAS OPPOSED.

The meeting adjourned at 8:49 p.m.

Respectfully submitted,

Chairman/Vice Chairman
Planning and Zoning Commission

/jm 07/21/21