

MINUTES
CITY PLANNING COMMISSION
January 21, 2020

Present: Desmond Baker (Acting Chair), Jennifer Adkins, Lloyd Budd, Joseph Chickadel, Anthony J. Hill, Brett Taylor, and Tanya Washington (Commission Members); Gwinneth Kaminsky, Tim Lucas, and Jessica Molina (Planning).

The meeting was convened at 6:02 p.m. by Desmond Baker.

REGULAR MEETING

A. Approval of the minutes of the December 17, 2019 Planning Commission Meeting.

Mr. Baker asked the Commission to make a motion on the minutes of the December 17, 2019 City Planning Commission meeting. Mr. Budd made a motion to approve the minutes and Mr. Hill seconded the motion. All members voted to approve the minutes.

B. NEW BUSINESS

Resolution 01-20; 19-06: Major Subdivision application from Investor World, LLC, which proposes to consolidate four parcels located at 1002-1012 Bennett Street for the purpose of constructing a three-unit condominium building.

Mr. Tim Lucas from the Department of Planning and Development presented the report for Resolution 01-20, MS-19-06, a major subdivision application from Investor World, LLC, which proposes to consolidate four parcels located at 1002-1012 Bennett Street for the purpose of constructing a three-unit condominium building. This presentation was accompanied by a series of slides. Mr. Lucas stated that the applicant's proposal is considered a major subdivision and is subject to review by the Planning Commission because it includes a condominium declaration.

Mr. Lucas stated that the site is located at 1002-1012 Bennett Street on the East Side, located approximately 90 feet from its intersection with East 10th Street and that two parcels are currently vacant lots and the remaining two lots contain existing structures. He further stated that all four parcels are zoned R-3, One-Family Rowhouses. Mr. Lucas reiterated that the subdivision plan proposes to consolidate the four existing parcels.

Mr. Lucas discussed the following items as presented in the slide presentation:

- The enabling declaration and condominium plans propose to construct a 2-story, 3-unit condominium building on the site, as shown on Sheet A-2 of the plans.
- Sheet A-7 of the plans show how the front façade of the building is designed to match the architecture of the existing streetscape.
- The 1st-floor façade will hide an internal access ramp. This will allow condominium ownership for persons with disabilities. The internal ramp is accessed from a shared entrance on Bennett Street as shown on Sheet A-5.

City Planning Commission Meeting Minutes

January 21, 2020

Page 2

Mr. Lucas stated that the preliminary plans were circulated to City departments for comments, and that the following comments were provided by the Departments of Public Works, Licenses and Inspections, and Planning and Development:

- Department of Public Works: The Transportation Division reviewed the plans and indicated that any encroachment into the public right-of-way, including existing or proposed steps designed to access the building, will require an encroachment permit from the Department of Public Works.
- Department of Licenses and Inspections: The City's Zoning Manager stated that the condominium use will require a variance from the City's Zoning Board of Adjustment (ZBA).
- Department of Planning and Development: The Department of Planning provided the following comments on the subdivision plan:
 - The matrix listing the proportionate interest in common elements needs to match the proportionate interest as listed in the condominium's enabling declaration document Article 7 A as well as in Schedule B. Also, percent interest in common elements must total 100%.
 - The ZBA case number and date of approval will need to be filled in prior to final plan submission and review.
 - Add a note to the plan indicating the FEMA map number and flood area designation for the site.
 - On the Condominium Declaration Plan Cover Sheet, Sheet CS-1, add the proportionate interest of common elements for each unit and the ZBA case number and date of approval.
 - On the Condominium Declaration Plan Sheets, A-1 through A-6, not all common elements as described in Article 9 of the enabling declaration are identified by shading on the plans, that is, all portions of the building not contained within a Unit. Examples of structural and other elements of the building not shaded include exterior walls and the roof, attic space, footers, front entrance steps, and so on.
 - The enabling document's Article 8 - Unit Description - includes patios which are "connected to a Unit". The terrace depicted on Sheet A-2 should not be shaded as a common element, if it is considered as being connected to the Unit. However, the steps to the Unit 2 terrace should remain shaded as a common element, since external steps are not included in the description of a Unit and fall outside the title line of the Units.

City Planning Commission Meeting Minutes

January 21, 2020

Page 3

Mr. Lucas concluded by stating that the Department of Planning and Development recommends approval of Resolution 01-20, which recommends approval of the preliminary subdivision and condominium declaration plans for “Bennett Street Condominiums”, to be located at 1002-1012 Bennett Street. Mr. Lucas further stated that the approval of the final plans is contingent on the applicant receiving a zoning variance from the Zoning Board of Adjustment and once a variance is received, all department comments must be incorporated into the final plan submission prior to final approval and recordation.

Mr. Baker asked Commission Members whether they had any questions or comments. Mr. Hill asked if the variance would be a use variance. Mr. Lucas stated yes, because there is more than one-family unit in a single building. Mr. Hill asked for clarification of what the current zoning allows for. Mr. Lucas stated that the current zoning allows for one-family row houses. Mr. Hill asked, based on the way the building is structured, if the Zoning Manager considers it a multi-family row house. Mr. Lucas stated yes, because they are consolidating the 4 parcels into one and it would have 3 living units in one building which would make it multi-family. Mr. Hill asked if the project were not a condominium, would it still require a variance. Mr. Lucas stated if the parcels are consolidated and the building has more than one living unit, it would still need a variance. Mr. Hill asked a question proposing a potential scenario where, if the variance were granted, but one or more units remains vacant for more than a year, would the subdivision remain valid. Mr. Lucas stated that the Zoning Manager did not elaborate but stated that the use would require a variance.

Mr. Chickadel asked if there would be off-street parking spaces available and suggested that in the case where there are condominiums, typically 1 ½ spaces would be required per unit. Mr. Lucas believes that it may be part of the variance being sought; but stated that the Zoning Manager did not elaborate other than stating the use would require a variance.

Mr. Baker asked that the representative and/or engineer introduce themselves and state their affiliation with the project. Mr. Carmine Casper of Howard L. Robertson, Inc. introduced himself as the Civil Engineer for the project. Mr. Casper stated that the condominium building will be on one lot and that’s why the use variance is needed. He further stated that the subdivision plan will consolidate all 4 lots into one parcel and if it is deemed other variances are required, they will make it a part of the application.

Ms. Washington asked to clarify how the fees associated with condominiums would be imposed and how delinquent fees were going to be handled. Dr. Rosie Tooley of Investor World, LLC, introduced herself as the developer of the project and stated that the association fees for the common areas (ramp front/rear of the building) are the responsibility of the association.

Mr. Taylor asked if each unit would have separate water meters. Dr. Tooley stated yes. Mr. Taylor also asked if it is going to be one consolidated property, will it be the responsibility of the association to pay the property taxes on all three units and will that be collected through your tenants. Dr. Tooley stated that the question will need to be addressed by the professionals and that the plan is for all utilities to be assigned to unit owner with the exception of the common areas.

City Planning Commission Meeting Minutes

January 21, 2020

Page 4

Mr. Taylor suggested to Dr. Tooley that when filing documents through the County Recorder of Deeds, make sure that separate designations are implemented regarding the condominium units for the purposes of the City billing for property taxes. Ms. Washington suggested that this would be the same case for the storm water runoff charges as well. Mr. Lucas addressed the concerns by stating that the Planning Department reviewed the enabling declaration and that it called for a formation of a council for the purposes of managing the condominium, and that there are sections including Article 16 which addresses taxation. He further stated that once the condominium declarations are reviewed as part of the subdivision, and once the enabling declaration and condominium plans are recorded, they are each assigned individual tax parcel numbers as in the situation with any high rise or condominium building. Mr. Lucas also stated that the enabling declaration addresses the collection of maintenance, dues, and repairs of the structure, all of which is the responsibility of the association and there is an order of operation as to when the association forms as each unit is sold; i.e., once all 3 units are sold, the association takes responsibility for the building as a whole.

Mr. Leo Lynch introduced himself as the architect of the project. He stated that the units were designed as single-family residences with handicap capabilities. The reason the building is termed "Condominium" is because of the ramp which is critical for the population being served. He further stated that the 1st floor of each unit will be an accessible unit; the 2nd floor houses 2 bedrooms and a small sitting room for the family.

Mr. Baker asked for clarification regarding access to the ramp from Bennett Street. Mr. Lynch stated that it was suggested that the ramp be located behind the front façade, which would remain intact. This allows for protection of the people and it preserves the historical context of Bennett Street.

Mr. Baker asked the Commission if there were any additional questions. Mr. Chickadel commented that the developer did a wonderful job with the façade and by treating the ramp system as they have, as opposed to constructing the ramp on the street.

Council Member Zanthia Oliver, representing the 3rd District commented that at no time has a representative from Investor World, LLC formerly introduced themselves to the civic association in the 3rd District nor have they presented this project to the community. She stated that a petition was circulated opposing the variance.

Mr. Baker asked if there were any comments regarding Council Member Oliver's concerns. Mr. Hill stated that this is about approval of the plot plan and stated that the Council Member's concerns should be addressed by the Zoning Board of Adjustment, which ultimately decides on the merits of the request for a variance to establish a condominium. He also stated that the position of the Commission is to establish whether the proposal meets the subdivision regulations.

Mr. Hill asked if the Commission can approve the subdivision of land that is contingent on obtaining a variance first from the Zoning Board of Adjustment. Ms. Kaminsky stated that there is precedent for approving preliminary subdivisions that require variances from the Zoning Board of Adjustment.

City Planning Commission Meeting Minutes

January 21, 2020

Page 5

Mr. Baker asked whether Council Member Oliver's concerns should be addressed before the Commission or should her concerns be addressed with the Zoning Board of Adjustment. Mr. Hill stated that it is not appropriate to be addressed by the Planning Commission and that the points raised are germane to the Zoning Board of Adjustment's consideration of the use variance.

Mr. Baker asked for clarification regarding the Commission's role in addressing the subdivision application. Mr. Hill questioned whether the plan as provided meets the regulations that the Board is to consider as it relates to the use variance. He also questioned whether the Planning Commission could proceed with approval of the subdivision plan and condominium declaration. At issue was whether the subdivision action would still be viable should the condominium become vacant for over a year (thus the use variance becoming void). Mr. Hill suggested that an opinion from the Law Department be sought on this issue.

Mr. Taylor suggested to the Commission that the subdivision application be tabled at this time. Mr. Hill made a motion to table Resolution 01-20; 19-06: Major Subdivision application from Investor World, LLC, which proposes to consolidate four parcels located at 1002-1012 Bennett Street for the purpose of constructing a three-unit condominium building. Ms. Washington seconded the motion. Mr. Lloyd abstained from the motion, which was approved.

Mr. Lucas stated for clarity that when this item comes back to the Planning Commission, the resolution in question would not approve or disapprove the preliminary plans, but would approve or disapprove a recommendation to the Planning Department as the City Charter places sole responsibility on the approval or disapproval of a subdivision plan on the Department of Planning with the advice of the City Planning Commission.

C. ADJOURNMENT 🗡️

Mr. Baker called for a motion to adjourn the meeting. Mr. Chickadel moved to adjourn, and Mr. second the motion. All members being in favor, the meeting was adjourned at 6:40 p.m.