

**CITY OF GERMANTOWN PLANNING COMMISSION  
MINUTES OF MEETING HELD JULY 8, 2020**

The City of Germantown Planning Commission met on July 8, 2020 at 7:07 p.m. via Zoom.

**MEMBERS PRESENT:**

The following members were present at the Call to Order: Whitney Izor, Jeff Jones, Rob Rettich, Larry Wiser, and Bob Rohrbach.

**ALSO PRESENT:**

Members of Staff; Etta Reed, PE, representing JA Development; Joe Cristo of JA Development; and Members of the community.

**CONSIDER APPROVAL OF THE MINUTES OF THE JANUARY 22, 2020 PLANNING COMMISSION MEETING:**

On a motion by Mr. Rohrbach, seconded by Mr. Jones, it was moved to approve the minutes of the January 22, 2020 meeting as written. On call of the roll: Wiser, yes; Jones, yes; Izor, yes; Rohrbach, yes; and Rettich, yes. Motion carried.

**BUSINESS: Preliminary Plat PP20-01**

Ms. Etta Reed of Bayer Becker Engineering, 6900 Tylersville Road, Suite A, Mason, Ohio, 45040 on behalf of JA Development/Joe Cristo gave an overview of the proposed Section 4 of Berryview Estates.

Mr. Brane, City Planner, reviewed his staff report.

Chairman Jones opened the public hearing at 7:16 p.m. and asked if there were any proponents wishing to provide comment other than the developer. Being none; Mr. Jones asked if there were any opponents to the proposal.

Ms. Gayla Ford, 1132 Maxwell Court, asked if there would be additional access to Rt. 725 and expressed concerns about traffic backing up to leave the development.

Ms. Pam Preston, 28 Marshall, expressed concerns of narrow streets that emergency vehicles couldn't access if cars were parked on both sides of the road.

Mr. Paul Hensley, 501 Market Street, stated this was turned down 14-15 years ago and was not to be brought up again. It is in a flood plain and to connect to Marshall, they would have to go through his property.

Ms. Jamie Peck, 445 E. Market, stated along with the traffic concerns, they have friends who have experienced the sewer systems flooding and they didn't think that system could handle any more houses.

Mr. Ryan Wright, 25 Marshall Avenue, stated they moved to a circle to avoid through traffic and expressed concerns about opening the road up to increased traffic.

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Mr. Steve Weche, 685 Maxwell, expressed concerns regarding the flooding of the area proposed for development. He displayed photos of the area from March 2020.

Ms. Tracy Wright, 25 Marshall Avenue, expressed concerns of traffic congestion and storm water flooding.

Mr. Ed Chance, 245 Kemp Street, stated since Berryview Estates was built he has had noise and trespassing.

Mr. Gene Frame, 111 Strawberry Fields Drive, stated he has a petition with 58 signatures that opposed the application to extend Maxwell Ct. He expressed concerns of increased traffic congestion on Strawberry Fields and Market streets and the ability for emergency vehicles to access the residents.

Mr. Brane stated there was a preliminary plat approval from the Planning Commission on March 22, 2006 and the reason for the sidewalk is it was required at that time.

Ms. Reed stated the interconnection to Marshall was suggested by staff. The original proposal to staff was to follow the previous street design which was a cul-de-sac to the north and a stub street to the west. Staff recommended and we agreed to provide the connection to Marshall. Secondly, the only road frontage we have is on Maxwell Ct. and is the only place we can get access at this time. With that being said, this plan does conform to your subdivision and zoning regulations so we do ask for your approval.

Ms. Carol Innbrock, 16 Berry Ct., expressed concerns regarding increased traffic.

Chairman Jones closed the public hearing at 7:44 p.m.

Mr. Rettich asked if the sewer system would be capable of pumping out these new houses. Mr. Chip Wirrig, City Engineer, explained the sanitary sewer system connections and stated sanitary problems on Marshall would not be related to Strawberry Fields. Mr. Rettich asked if the new development would be connected to the separate line on Strawberry Fields. Mr. Wirrig stated yes and they are proposing a sanitary manhole on the line going through Mr. Hensley's property to help relieve the situation of being flat without much drop.

Mr. Rettich asked about traffic. Mr. Brane explained that Strawberry Fields is going to provide the primary access to Maxwell Ct. It is extra wide as a residential collector. When talking about streets, it's about capacity and these internal roads are nowhere near capacity. This is the fourth of four anticipated sections; there is no access other than the wideness of Strawberry Fields and the current terminus of Maxwell.

Chairman Jones asked why there isn't two access points on Market and why doesn't the spur tie into Marshall. Mr. Wirrig said right now we don't have the right of way and the property being developed doesn't have full access to the west end of Marshall which eliminates that connection. Chairman Jones asked why the city couldn't take that property considering the safety and welfare. Mr. Brane asked by what method. Chairman Jones said eminent domain. Mr. Brane stated eminent domain cannot be for a private developer. Chairman Jones asked if the developer had approached the property owner. Mr. Wirrig said that is Mr. Hensley.

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Chairman Jones asked what physical barrier there would be so cars don't access this man's property when the road terminates to the north. Mr. Wirrig said a 12 foot wide hammerhead is proposed because of the limited right of way which is okay with the Fire Chief and Police Chief.

Chairman Jones reviewed the flood plain map which shows some of the properties in a high risk area and the rest are in a moderate risk area. He asked the developer if the homes are going to be raised above the flood plain. Ms. Reed said there are 11 lots. Chairman Jones asked if the roadway was designed to avoid the 100 flood area. Ms. Reed said yes. Chairman Jones expressed his concerns regarding the possible increase in flooding. Ms. Reed said we are going to work with FEMA and we'll have to show what that additional impact will do to the flood plain. FEMA regulations won't allow us to raise the elevation of the flood plain on any adjacent property, so we'll have to do that analysis to prove we aren't doing that and submit to FEMA a conditional letter of map revision. When we get approval on that from FEMA then we'll submit it to the City. And proceed with the construction drawings. Once we get it built, we'll submit the final letter of map revision which shows we did what we said we were going to do and they will modify the map to show the flood plain extends outside the limits of the building path. Chairman Jones asked if the revision came before the final approval and what is disclosed to the people buying the properties. Will they know they will be paying for flood insurance?

Mr. Joe Cristo of JA Developments said he worked closely with Bayer Becker Engineering to raise the homes out of the flood plain so no flood insurance will be required for the homeowner. Ms. Reed explained how the homes would be elevated to avoid flood issues.

Mrs. Izor asked if any consideration was given to reducing the front yard setbacks to help with the flooding issues and what the number was for the impermeable surface per lot and the development overall. Ms. Reed said the front yard setback is 35 feet which is what it is in the previous section and required by code. As far as impervious surface, code allows for 45%.

Mr. Rohrbach stated that in the past there were many vacant lots in the existing part of Berryview and asked if any of those could be used for additional access to Rt. 4. Ms. Reed said they would have to check, then work with ODOT to see if they would allow an access point. Mr. Wirrig said there are lots at the east end of Maxwell, so it would not be an option and yes, it is limited access.

Mr. Wiser stated his biggest concern would be sewage problems. Chairman Jones asked if lift stations would be needed or if anything else would need to be done prior to the final plan. Is everything neat and current based engineering standards? Mr. Wirrig said this area is based on gravity; there is a ten inch sanitary at the south end which is already higher capacity than a normal subdivision.

Mr. Rettich said he would like to see a traffic study done to see if what we are voting on would be a traffic issue. My other concern is if traffic becomes an issue 10 years from now eminent domain will become an issue since it is no longer on private development. It worries me not to have a traffic study done to be able to vote on this. Ten years from now I don't expect to have the city pay for something like that.

Ms. Reed said a traffic study would be a couple thousand dollars but there are things right now that are affecting traffic counts. One is covid-19 which has many people working from home and secondly, schools are out. A study now may not reflect what the traffic is under normal circumstances.

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Mr. Rettich pointed out a lot at the other end of Maxwell Ct. going out to Rt. 4 and a lot at the end of Pollyanna with no house. It seems it would be easy to make an ingress/egress and solve many of these problems. Mr. Wirrig said when the subdivision that created Pollyanna and Marshall, there was indication that at some point in the future Marshall could be extended to the west.

Mr. Brane asked what specific traffic issue do you folks want answered by the study. Chairman Jones said if it's a queuing issue where folks are waiting in line to get out, I don't understand why people aren't complaining. Maybe it's a great once-in-awhile situation and adding 38 lots could increase that, but in the current situation I don't believe a traffic study will do any good. I don't know the answer. Mr. Brane said we would have to know the answer from Sections 1, 2, and 3; this is the 4th anticipated Section. There was one way in and one way out when it was talked about initially. The streets are all wider than normal indicating they are residential connectors. If the question is capacity, they will probably tell you those roads will support 2,500 cars an hour. That's not desirable, but in terms of a study, what do you want it to answer.

Ms. Izor said the building pads could be raised a few feet out of the flood plain but what effect does the flooding have on the infrastructure? Chairman Jones said it is my understanding that after the first year it is the responsibility of the City if anything happens to the water or sewer lines. Ms. Izor asked if the foundation of the streets and sewer lines would be undermined by a flooding issue. Mr. Wirrig said based on the plan presented the streets will be above the 100 year flood plain. Chairman Jones said it's very important to think about what could happen once the City and the property owners become responsible for flooding issues after the first year.

Chairman Jones said we have two choices, we can table this and ask for specific additional information or does someone want to make a motion.

Mr. Rettich said he would like to get a traffic study done to see if the street can actually handle it; if people can get out onto Market Street without queuing up.

Chairman Jones asked Ms. Reed if she would work with Mr. Wirrig to see if there is an existing study before Covid-19, maybe check with Miami Valley Regional Planning Commission or something that was part of another development.

Mr. Rettich said his only other issue would be the storm water flooding. Chairman Jones asked Mr. Wirrig what the City could do to make reasonably sure there won't be any storm issues. Mr. Wirrig said in their final development plan they would have to provide the storm sewer calculations showing compliance with our regulations. The other thing that was discussed was cul-de-sac flooding at the south end of Pollyanna where there is no storm sewer; with this proposal, they are bringing storm sewer up along the south line to about the center line of Pollyanna. That would give us an option for the future to run some lines with the property owner's permission.

Ms. Reed said we are required to do whatever it takes to meet your water regulations. If that means making the basin bigger or wider or deeper, then that's what we have to do. The City won't allow us to begin construction until we meet all the standards you have in place. That's your assurance at this point.

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Chairman Jones asked if past issues could be looked at and alleviated when they are doing their construction. Mr. Wirrig said they could be looked at but there would have to be an agreement between us and the developer.

Mr. Rettich said my concern is if the existing infrastructure can handle the flooding even if the Section 4 infrastructure capacity is increased. Twin Creek gets very high at times and I've seen Twin Creek flood into one of the detention basins. Mr. Wirrig said that could happen again because of the water levels. Our requirements are to detain the 10 year storm, so anything above that is why the detention has the emergency overflow.

Chairman Jones asked Mr. Wirrig if he felt comfortable that storm issues could be addressed by the final plan. Mr. Wirrig said yes. Chairman Jones asked if it's the City's problem once the detention is installed. Mr. Wirrig said there will be an agreement that someone other than the City will have to maintain that detention basin. That's part of our zoning regulations.

Ms. Izor asked what the City's regulations were about building infrastructure in the flood plain that the City will eventually have to maintain. Mr. Brane said it depends on the use. There are lots of things you can build in a flood plain; residential housing is not one of them. The curbs, gutters, and streets act as a detention facility in itself. Storm water is directed off your property into the street which acts as a collector then takes it into the sewers. The street is part of the drainage system.

Ms. Reed said it is our intention to keep it elevated so it will not be in the 100 year flood plain. It is not our standard practice to have streets in a 100 year flood plain. In regards to underground utilities such as your sanitary sewers, water mains, things of that sort, the water main will run along the street so that won't be a concern. A current 10 inch sanitary trunk main will be relocated to the street. Some of your current infrastructure that is in the 100 year flood will be relocated. To get it into the street and out of the building path.

A motion was made by Chairman Jones to table preliminary application 20-01 submitted by JA Development for the approval of Berryview Estates until further information can be ascertained about existing traffic counts and/or what can be done about these traffic issues and a summary letter stating what will happen to the existing public improvements as well as future public improvements specific within and approximate to the flood plain. Mr. Rohrbach seconded the motion. On call of the roll: Mr. Wiser, yes; Mr. Jones, yes; Ms. Izor, yes; Mr. Rohrbach, yes; and Mr. Rettich, yes. Motion carried.

Chairman Jones said he would also like a letter from the Fire and Police departments stating they have no issues with the ingress/egress should there be a major safety issue requiring their response in that subdivision.

**ADJOURNMENT:**

With no further business, the meeting adjourned at 8:46 p.m.

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Jeffrey Jones  
Chairman, Planning Commission

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Keith A. Brane  
City Planner