

Mount Joy Borough Planning Commission

January 14, 2015 Minutes



The January 14, 2015 Planning Commission meeting was called to order at 7:00 PM, by Chairperson Steve Gault. Commissioners Rebman, Sweigart were present. The Mount Joy Borough Zoning Officer, Stacie Gibbs and Brad Stewart with the Lancaster County Planning Commission were also present.

MINUTES

On a motion by Sweigart and a second by Rebman, the Planning Commission approved the December 10, 2014, meeting minutes. Motion carried 3-0.

PUBLIC COMMENT

Ned Sterling had a question about the UGI presentation to take place at the Public Works Committee regarding their project located at 235 W. Main Street. Sterling questioned the Commission as to when UGI planned to demolish the property. Gibbs advised that UGI owns the property next to the Legion and they have to do some removal and some remediation. Gibbs advised that they also purchased a 3-unit rental unit next to this property which contains a stone lot and a detached garage. Gibbs advised that staff met with representatives and they went over a couple of things. Staff suggested that they come in and give a presentation, which they are going to do on February 9, 2015 at the Public Works Committee meeting. Gibbs advised that they did mention possible demolition of this property, but no applications have been received. Gibbs advised that February 9th would be the best time to inquire with all of these questions.

Ned Sterling questioned if it would be possible for notification to be made to the public for proposed demolition of buildings. Sterling wondered if the Historical Society could be notified about any potential demolitions and Main Street Mount Joy if the proposed demolition was in their service area. Gibbs advised that Sterling mentioned this at a previous Borough Council meeting. Gibbs advised that she advised Council that although it is not required of the Borough to advertise a demolition, we have been requesting applicants to notify neighbors or business owners of potential demolition. Gibbs also advised that the Borough has a large demolition packet with checklists. Gibbs advised that she added two new items to the checklist, which included a requirement to notify neighbors and business owners about the demolition and provide the Borough with a list of those neighbors that have been notified. Gibbs advised the other items were that the applicant is required to contact MSMJ to determine if the property is in the Main Street corridor. Gibbs advised that she made this announcement at Council. Sterling advised that he thought that the Historical Society could represent the community and share the information or go to document the property. Sterling advised that it would be for every house, not accessory structures. Bob Marker, representing the Historical Society, advised that perhaps it could be houses that are 50 years old, and the Historical Society could take some pictures. Gault advised that there is some proposed language in the Zoning Ordinance which was recently added after the November meeting. Gibbs advised that this language is almost exactly what was in there previously. Gault advised that it's not anything that prevents demolition; it just allows notification for anyone that wants to take pictures. Gault advised that this will be talked about further in the agenda.

Brad Stewart advised that for a little more than a year, County Planning and GIS Division have been working on a pedestrian feature layer, which includes sidewalks, walking paths and crosswalks. The layer

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was created off of Aero Imagery and they are polyline or centerline based. Stewart advised that the next step is to distribute the maps within the next two months and they are distributing in a paper form, but also want to give the option to review this online with the ArcGIS Online. It is a website and the users would need to have a user name and password for access. You can mark-up anything that may be missing or anything like that. Stewart advised that it is very user friendly. Stewart advised that when you mark something up, you will be able to indicate what is missing. Instructions will be left with municipal staff.

Stewart also advised that the County Planning Commission has been working on a Future Land Use Layer. Stewart advised that they would generally have all of the future land use categories by municipality and region. Stewart advised that is another thing they will have municipalities viewing online.

Commissioner Bower arrived at 7:10 pm.

REORGANIZATION

The Planning Commission reviewed the existing By-Laws. Sweigart questioned if Proxy voting was allowed as a form of voting. Sweigart advised that she served a Board where Proxy voting was an acceptable form. Sweigart advised that sometimes Commission members can't be here and there may be something important on the agenda that they may want to vote on, but cannot make the meeting. Sweigart advised that perhaps Gibbs can explore that with the Attorney. Gault advised that under the Sunshine Act, he did not think that was allowed because the person's vote would not be occurring in a public meeting and wouldn't have been based on the deliberation which occurs. Sweigart advised that she is just curious, and sometimes the Commission only has 2 or 3 members in attendance. Gault advised that the Commission previously talked about having an alternate before, and after researching, that would not be allowed. Gault advised that appointing someone else to cast a vote for a Commission member that cannot make a meeting would essentially be the same thing. Gibbs advised that if the Commission wishes, they could make a motion to recommend Council make a motion to have the Solicitor look into proxy voting. Bower advised that he believes members of a Commission or Board can call in, or be conferenced in by telephone to participate in the discussion of the item on the agenda, and therefore can vote on that item. Bower advised that therefore, the vote is based on the presentation or discussion. Bower advised that it is his understanding that you have to be there for the discussion in order to vote. Gibbs advised that she searched through the Municipal Planning Code and could not find anything on Proxy voting. The Commission then recommended that Gibbs reach out to the PA Association of Boroughs first on Proxy voting first before spending legal dollars. Bower advised that since we are asking the question regarding Proxy voting for the Commission, Gibbs may as well ask the same question as it relates to Council and voting capabilities.

Sweigart questioned Section 2 on page 3 regarding the requirement to dispense any and all items on the agenda. Sweigart advised this way we do not have to make motions to open and close new and old business. Bower advised that the language could be changed to dispense any "action" item on the agenda. Bower made a motion, seconded by Sweigart, to amend article VII, section 2 of the by-laws to have the word "action" be placed in between any and item. Gibbs advised that perhaps the Commission should wait to make a motion to amend all action items. Bower made a motion to table the motion to amend the by-laws by adding the word "action" in between any and item in article VII, section 2, seconded by Sweigart. Motion carried 4-0.

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Sweigart questioned the need for Article IX, as it relates to “notice of matters with widespread interest shall be published...” Sweigart advised that perhaps we can update this to include more modern ways to reach the public since many people don’t read the newspaper. Gault questioned when the Commission would have a special public hearing. Gibbs advised that the Commission meetings are advertised at the beginning of the year. Gibbs advised that the Commission has not had a public hearing since she has been there. Gault advised that he does not think that it hurts to have it in there to give the Commission the option to have it. Bower advised that he does not understand why it has to be in there. Gault advised that he would hate to have it removed in its entirety and then something comes up and then we need it. Gibbs advised that there is nothing in the MPC regarding Commissions holding public hearings. The Commission recommended removing Article IX Public Hearings in its entirety.

Sweigart noted technically after the public input period is over, the Commissioners should not engage in back and forth with the public, but it is helpful on certain topics. Rebman and Bower responded it is up to the chair to decide whether to allow public input at other times, and all members of the audience should only be engaged by the chair. If other commissioners want to engage the audience, this should be requested through the chair. Gibbs stated the audience should not be directly engaging with applicants and others making presentations to the commission. If the public has questions for an applicant, they should be directed through the chair. Gault noted there was a time when the commission indicated an applicant didn’t need to answer a question from the audience. Gault stated if members feel the chair isn’t following the bylaws properly, the members should bring up the issue with the proper protocol.

On a motion by Bower and a second by Sweigart, the Commission approved to amend Article VII, Section 2 of the by-laws to have the word “action” be placed in between any and item and to remove Article IX, subject to Gibbs contacting the PA Association of Boroughs regarding Proxy voting. Motion carried 4-0. Gibbs was directed to place the By-Laws back onto the February Agenda under Old Business.

Sweigart nominated Josh Bower for Planning Commission Chair Person. John Rebman seconded the nomination. Bower accepted the nomination. Nomination carried 4-0.

Sweigart nominated Steve Gault for Planning Commission Vice-Chair Person. John Rebman seconded the nomination. Gault accepted the nomination. Nomination carried 4-0.

UPDATES

The Planning Commission was provided a copy of the Zoning and Code Officer report by email. Gibbs notes the annual report would be provided at the February meeting.

Gibbs provided an update on the UGI property, and noted UGI is requesting an ordinance prohibiting any domestic water wells be drilled in the vicinity of the property due to the contamination. The commission may see an ordinance in the future. Bower noted the last domestic well dug was 18 years ago.

OLD BUSINESS

Gibbs provided the Commission with a copy of the existing Official Map and Ordinance for review. Gibbs advised the Commission that there have been no comments or requests for potential changes or additions to the Official Map. Bower advised that Borough Council requested the Official Map be reviewed once a year. There were no changes proposed.

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Gibbs provided a second draft letter to the Planning Commission for the property owners whose property is listed on the Mount Joy Borough Draft Registry of Historic Buildings. Gibbs advised that she incorporated comments received from Sweigart and Gault. Gibbs will include the relevant sections from the ordinance with the mailing. The Planning Commission did not have any further comments. The Commission agreed to invite those property owners to either email Gibbs, or come to a meeting which the Commission will determine at a later time.

Gibbs provided a copy of the Table of Lot and Setback requirements which included all proposed amendments as discussed by the Commission. It was clarified the unit areas are for the entire lot, not the floor area of the dwelling structure. No further comments, actions or changes to the Table were received.

Gibbs provided a copy of Section 270-138 Historic Buildings and Historic Preservation Provisions, with proposed amendments to the Commission. Gault advised that there was a defined term called, “potentially historic structure,” which was established for things that were not on the list, but may have some significance to somebody. Gault advised that based on a prior discussion about using a date, of the definition for “potentially historic structure” would apply to anything built before 1940. Gault advised the intent is for a waiting period allowing an organization to document the property before it is demolished. This does not prevent demolition. They have to apply for a permit for demolition, the Zoning Officer has to wait 75 days until issuing the permit. Ten days after receiving the application, the Zoning Officer must post the property. Gibbs questioned if it was necessary to have the waiting period be 75 days. Gibbs advised that is 2 ½ months for someone to go photograph the property. Gibbs also questioned if it was necessary for the Zoning Officer to have to post the property. Gault advised that the 75 days came from the current ordinance, but he is not opposed to changing it. Gibbs suggested changing it to 30 days and Bower suggested 45 days. Gibbs advised that the Commission should make the time reasonable for applicants and interested parties. Bower questioned the timing if a potentially historic structure is unsafe. Would there still be the availability to allow the structure to be demolished right away and not have to go through the waiting period. Gault suggesting adding the same language in Section 3A on page 163 to Section 5, which would provide an exemption for unsafe structures.

Gault advised that this is what Sterling has been requesting, which allows an opportunity for properties to be documented before demolition, but this wouldn’t prevent the demolition.

Gibbs asked who is required to notify the public that demolition is proposed. Gault recommended not including specific entities for notification into the ordinance. Instead, posting the property would be the best way to notify everybody. Gibbs questioned how everyone would know if there is a property proposed for demolition on the other side of town. Gibbs advised that she makes announcements at public meetings. Bower suggested that Administration and Finance could write a policy regarding this process. Concerns were expressed regarding the number of procedural requirements and trips for posting. Ned Sterling advised that if the 30 day waiting period is changed to 60 days, and it is announced at a public meeting, that should be sufficient. Bower responded that if someone wants to demolish a building, 60 days is a long time, and the maximum he would agree to would be 45 days. Bower requested that it would also be in Gibbs’ reports, and Gibbs noted it would be part of the permit spreadsheet. Sterling advised that would be sufficient. Gibbs advised that she tries to remember to announce any and all pertinent things at Council meetings. Bob Marker advised that the most expedient way would be posting it on the website, but the commissioners were concerned about the frequency of the public checking the website. Gault suggested it could be a bullet point on the Planning Commission’s Agenda, so people that look at the Agenda will see it, too.

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The consensus of the commissioners was to change the waiting period from 75 to 45 days. The ordinance would require that 10 days after receiving the application, the Zoning Officer will need to post the property. Other notice requirements would be included as part of the permit application and checklist, such as including the proposed demolition in the Zoning Officer's report and providing notice on the Borough's website. Ned Sterling wanted to make sure the Borough will be announcing this at Borough Council meetings. The Planning Commission advised the property is to be posted 10 days after the application is submitted which leaves 35 days. Gault advised that the notice posted at the property will give the expiration day. Gault advised that the Zoning Officer usually sends emails to those that she knows is interested in this information.

Sweigart questioned the pre-demolition requirements in §270-138(3)(d) which requires documenting the building and salvaging dismantled materials. Sweigart wants to know who does this, who pays for this to be done and who keeps those records. Bower questioned what happens to the salvaged materials. Sweigart questioned if the owner is responsible to photograph, or is someone like the Historical Society required to do so. Gibbs advised that during the conditional use process, a lot of the pre-demolition requirements will be noted in that conditional use. Gibbs advised that Council can set the terms of that approval. Bower advised that the PHMC has guidelines on photography and we can provide where to get those to the applicant. Gault suggested incorporating those requirements by reference. Gault asked where the documentation would be kept after it is completed. Gibbs advised that she could ask Emma Hamme with the County and see what she recommends. Gault suggested it would be beneficial to have the conditional use contain elements regarding who has the rights to the salvaged materials, and perhaps an interested party at the conditional use hearing should be named part of the application that way people cannot just come and take items. The property owner would retain the first right to the salvaged materials. Sweigart asked if the Historical Society would be interested in salvageable items. Marker advised that it would be beneficial for the Historical Society to get involved in documentation of these properties, but there probably isn't as much interest in acquiring items. Marker advised that would have to be a decision of the Board. Gault recommended the application checklist include contacting the Historical Society if someone needs or wants help with documentation.

Sweigart questioned enforcement and violation provisions in §270-6 as it relates to demolition. Sweigart advised that it states that we can make a person "undo" something. Gault responded that enforcement is a process regulated by the MPC. Gault advised that is written so that if somebody puts up a building, and they did not follow the proper procedures, they could actually be made to take it down. Gault advised that you cannot really put back up a demolished building maintaining the historical integrity.

Bower stated that the Commission was provided a copy of the letters from Main Street Mount Joy and from the Historical Society with potential additional properties to add to the draft registry. Gibbs advised that every property proposed on those letters is on the draft registry. Sweigart questioned the official criteria the Planning Commission agreed to use since she has emails that have other criteria listed in them. Gault advised there was a long discussion about it at the November meeting and he believes that the consensus, without a formal vote, was to use the National Register criteria since it is relatively simple to use. Gault advised that is what the Commission asked for from Main Street and the Historical Society so there is some kind of justification to use for each property.

Sweigart requested clarification between 2 Old Market Street and 24 Old Market Street. Gibbs advised that when she went onto GIS to retrieve parcel numbers, the official address was listed as 2 Old Market Street, which is also the address in the water and sewer department system.

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Gault suggested putting the list in order by address so it is easy to find. Bower advised that until Council adopts the list, there is still an opportunity to make changes. Gibbs advised that is true, but if we want to get the letters out to the property owners, we want to try to get the list finalized. Sterling advised he has a list which hasn't been submitted yet. Bower suggested the list be finalized by the next meeting. Gault questioned if Sterling's list got merged with the other lists from the Historical Society and Main Street Mount Joy. Marker advised that the Historical Society is basically Vera Albert's list with some minor modifications. Marker advised that Main Street did look at Sterling's list, but Main Street focused on the Main Street area only.

Gault made a motion to close the addition of any properties to the registry by the Planning Commission's February meeting, seconded by Rebman. Sweigart suggested sending letters to all property owners whose homes were built prior to 1940, to let them all know that we are trying to have preservation language added in an ordinance and let them know that their property could possibly be considered a historic resource and requesting a response whether they would be interested in having their property added to the registry. Rebman advised that in his experience with sending out letters, we are going to get about a 10% response rate. Sweigart advised that everyone who wants to be on the list can be on the list and so no one will complain to Council and we have the list started which can be expanded on, and there are willing participants on the list, and she recommended not using the current list, but base the list on the response we get from the letters. If someone feels strongly about a property being on the list, but we do not receive a response, Ned or Bob can go talk to them and tell them why they should be on the list. Gault responded that the current list is supposed to be those ones that we feel strongly about. Sweigart recommended getting the property owners cooperation instead of strong arming them into it. Gault said if a property owner does not want to demolish their property because it is historic, then we would not need an ordinance. The purpose of the ordinance is to protect the historic integrity of the Borough which is comprised of all kinds of structures that are historic, and if certain ones go away, the overall value to the Borough decreases. The reason for the ordinance is because there are people who are demolishing structures which have potential historic value. Sweigart said the list is being approached in a subjective way rather than an objective way, because in some cases only one of two nearly identical properties are on the list.

Gibbs reminded the Commission that the original 28 that started on the registry were pulled from 3 tools created by professionals: (1) Class I properties on the Historical Inventory which were determined by a Historic York, (2) Our Past and Present, published by the Historic Preservation Trust, and (3) the list from the 1995 Comprehensive Plan. Those 28 properties were not compared to the National Register criteria because they were evaluated by professionals. Any other properties suggested for inclusion, such as the Historical Society and Main Street lists, are being reviewed against the National Register criteria first and then being suggested to be added to the list. Sweigart suggested people are picking and choosing their favorites, and her property got on the list because Vera Albert loved her property, but she does not want to be on the list. Sweigart advised that she looked at the house down the street from Bower's house, which is not on the list and looks very similar to her house. Gault advised that there are definitely properties that are missed. Marker advised that there are a lot of beautiful Victorian houses in the Borough, and Vera may have been more subjective but we do not know since she passed away. Marker advised that Sweigart's house may be more significant because of its location, but he is not sure. Sweigart said the ordinance wouldn't be defensible if the criteria is subjective, and she showed the Commission a picture of a house with a plaque on it from the Historical Society that is not on the list, and it seems that things were just picked and chosen to be on the list. Gault suggested Vera may have had more that she wanted to be on the list. Gault advised that we will never know this. Bower advised that he agreed with Rebman that we will not get a big response back from mailers. Sweigart advised that if we have this meeting, she is going to show up to be against this. Sweigart said the listing for her property only describes the appearance, but not any historical significance. If something historical happened there, such as George Washington sleeping

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there, then she would feel it was justified to be on the list. Bower reminded the Commissioners the final ordinance needs to be approved by council, and individual property owners can express their concerns to Council.

Gibbs reminded the Commissioners this is part of reaching a goal in our Comprehensive Plan. Gault noted there are a lot of other sections in the zoning ordinance which also need to be addressed, and we have been stuck on this section for a long time.

In order to allow lists to be included in the packets for the next meeting which will be delivered on February 4, 2015, Gault amended his motion to include all suggested changes or additions to the historic resource registry list should be submitted by January 30, 2015, seconded again by Rebman. *Motion carried 4-0.*

Rebman questioned if 903 Square Street was the whole Wilton Armetale building or just the brick building. Gibbs responded it was just the brick building. Marker noted a case could be made for the whole complex to be considered together, but Vera didn't mention that.

Rebman made a motion to include all of the additions from the Historical Society and Main Street lists onto the historic registry, seconded by Gault. Sweigart requested the properties with no justification be excluded. Gault noted there is a column for integrity, style and architecture, and some properties may be considered historical resources based on the integrity, style and architecture even if there wasn't a historical event which took place there. Sweigart noted the Commission previously requested two of the four National Register criteria be met, but there doesn't appear to be any justification for some of the criteria which were listed on the Historical Society letter. For her house, the Historical Society indicated an event occurred, but the letter does not provide any explanation. Gault asked the members of the Historical Society in the audience how they applied the criteria of events which made a significant contribution to the broad patterns of our history was applied? Marker replied it was applied with a pretty broad brush. For example, they knew 93 East Main Street was significant to commerce since its inception as a car dealership when cars were first becoming popular. Gault summarized there is a disagreement over whether certain criteria used by the Historical Society are relevant for some properties.

Sweigart said the National Register contains criteria for applying the criteria relating to historical events, such as the site of a battle, the building was important in developing an invention, it was a factory which had an important strike, an archeological site that may produce major new aspect of prehistory, or a site where an important facet of European exploration occurred. Marker responded that when they applied the broad patterns of our history, they were looking at just Mount Joy's history. Gault said when the four criteria were discussed in November, the Commission just looked at the four criteria as written, and didn't look at the details in the National Register publication. He agreed with Marker that the intent was to apply it to Mount Joy's history rather than the country's history. For example, Mount Joy's first car dealership isn't significant to the country because every town had a first one, but it is significant to us. Gault also said that the November discussion was for at least two criteria to be met to keep the list at a manageable size. Gault requested the Historical Society provide additional details for the properties where criteria 1 was used so the Commission could evaluate whether to accept it. Marker indicated the letters could be amended to provide that information.

Gault made a motion to table action on the Historical Society and Main Street lists since the lists will be amended, seconded by Sweigart. *Motion carried 3-1* (Rebman opposed the motion). The commission clarified that if a property is being included because of an event significant to the history of Mount Joy, the

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specific event should be identified. If an event cannot be identified, then that specific criterion shouldn't be used.

NEW BUSINESS

None

Adjournment

Respectfully Submitted,

Stacie Gibbs, Zoning Officer