

## Mount Vernon

**Mount Vernon Municipal Planning Commission Minutes  
City Hall/Council Chambers  
May 9, 2001/4:00 p.m.**

Attending: Members: Burt Hanson, Safety-Service Director Joel Daniels, Mayor Richard K. Mavis, Inge Krajenski.

Others: Development Services Manager Judy Beckholt, Clerk of Council Janet Brown, Mount Vernon New Reporter Kelly McLarnan.

Mayor Mavis called the meeting to order and gave a review of the items on the agenda. Mayor Mavis explained for the public hearings speakers are to come to the microphone, give their name and address and limit their comments to three minutes.

### **Public Hearings and Agenda Items**

**State Route 13 (Newark Road) and State Route 661 (Blackjack Road) proposed Office-Institutional (O-I).** Planning Commission has heard previous input through public hearings and the Commission believes that the O-I classification will offer a buffer between the R-1 area and M1-A (Adams property) and is the most appropriate classification.

Jack Spearman, 8510 Blackjack Road, spoke in favor of the proposal.

Mr. Hanson thinks this is a good decision and is the way the Commission should go.

Mr. Daniels will support O-I.

Mrs. Krajenski agrees.

Bruce Malek, 25 Dixie Drive, is happy to say that he concurs with the proposal. He has talked about the need for buffers, the need to protect residential properties, everybody has an interest in zoning and decisions have to be made not on the basis of individual interest where one person or a couple of properties and how that might be impacted. You have to take general good of the community into consideration as well as all the property rights of all the individuals impacted by your decision. Certainly the residential people in that area certainly would be impacted negatively by General Business or a Neighborhood General Business. The O-I is consistent with what is already there, it does provide the buffers already indicated and Mr. Malek wholeheartedly supports it.

The floor is open with no response.

Mr. Hanson moved to adjourn the hearing, Mr. Daniels seconded, all voted in the affirmative.

**Mr. Daniels moves to recommend to City Council O-I zoning for the property designated here, Mr. Hanson seconded, all voted in the affirmative, and Mrs. Brown will send on to Council.**

**Brook Run Public Hearing** – Subdivision off Clinton Road on the north side of Mount Vernon. Mr. McKenzie is the developer, and he has asked for consideration to split lots 7, 8, 9, and 10 at the northend of the subdivision and around the cul de sac. The proposal is motivated because he has built duplexes on the lots, and he is proposing to split the lot and the building so a person could buy a lot and a part of the duplex. After conferring with the City Law Director this constitutes the necessity of vacating that section of this subdivision and then replatting since this is an accepted and approved subdivision in the City of Mount Vernon. The idea of creating eight lots out of four lots makes it necessary to have to go to Common Pleas Court to vacate the four lots and then replat those four into eight lots. At that point they would have to come back to the City and ask for permission for a variance for set backs because clearly the duplexes attached would not meet the City's setback. It would be similar to what we would do with a condominium situation. After hearing comment this board would make a recommendation to send this to the Court of Common Pleas which would then approve the vacation of those four lots and then the replatting of them.

David Duke, 13241 Rolling Hills Court, explains the reason they want to do this is get ownership in there as opposed the rentals to keep the quality of the subdivision up.

Clarence Driftmeyer, 6 Brook Run Court, concurs with the idea of making condominiums. For the past couple of years he has heard it was to be for senior citizens, and he hopes that is the direction they would go with them.

Mr. Hanson is struggling with duplexes prior to having this solved. Originally it was zoned R2 and then zoned R1. But the permits were issued while it was R2. The other lots are appropriately sized for city lots for frontage and depth, and if this happened it would create substandard lots. Ms. Beckholt said the subdivision has met subdivision regulations and the dividing of these lots would create substandard lots. They would have to come back for variances for the setbacks and make some sort of recommendation about the lot size. The utilities were put in at the time the subdivision was constructed. The Mayor questions about the variance they would have to get before the lots are vacated for putting houses on substandard lots. Ms. Beckholt said she is not certain if it is common law or districting or setback to answer that. The permits issued were for duplex on a single lot in an R2 district. They were appropriately issued permits at the time. That was done before the rezoning. Splitting the property would probably require a zero lot line variance and a variance on the frontage. The City did something to reduce the lot size in the cluster home area off of Yauger Road. It is zoned PND and that district zoning allows for a decrease in the distance between the buildings. That allows more flexibility in creativity. The difference being that is zoned PND and this is zoned R1, and the lot size is specifically set in the code. The Mayor said he does not have as much confidence as he did in recommending a vacation of these four lots and replatting then because the lots then would not meet City R1 or R2 standards. Yet there are structures on the lots. Is it too late to zone this PND? Ms. Beckholt said it may that may be the resolution that would have to be done. Mr. Hanson said another option is to have them be rental units. Mayor Mavis thought that was the intent when they were built. They are not complete at this time. Mayor Mavis is not sure what the best solution is. To rezoned this part which is a PND would allow them to reduce the size of the lots and vary the side setbacks and would allow for selling of the property. Mr. Daniels is not certain that he has the answer but thinks we may want to do is have it

zoned R1 and grant variances and is not certain how to go about doing that. This is what the neighborhood would prefer and what Mr. McKenzie would prefer. Ms. Beckholt said it is zoned R1 now. The subdivision was rezoned by Council to R1. Mr. Daniels said that is right and remembers the scenario now. Mr. Hanson remembers there were people who did not know it was R2 and that is why it went R1. Mr. Daniels said it is better that these be owner occupied as opposed to rental is best for the neighborhood, and we may need to explore how to make that happen. Mr. Daniels is not ready to make a recommendation today. Mr. Hanson said another way to do that would be to have the building owner occupied with the owner renting and therefore the owner would be on site would solve the concerns that the neighbors have about maintenance of the property. Mr. Daniels said this is not the first site like this in the City. An area on East Gambier Street has zero lot lines, and we need to look at how to accomplish that. Perhaps we are saying we want to leave the four lots intact and offer the opportunity to split. Mr. Smith believes the Planning Commission could not authorize the split, because it increases the density if the Planning Commission has the authority to do that. The vacation and replat creates a problem of issuing an approval for a substandard lots which we have a history of offering the side zero setback. Mr. Daniels thinks there is good reason for doing this, because it will help protect this neighborhood and there is reason for having these lots split for it to make these owner occupied homes. Mr. Hanson asks if it would be favorable for another lot not in a subdivision that was a fairly large lot for somebody to build a duplex and for somebody to come back and say they want to do the same thing. Mayor Mavis said there is no guarantee that they will be owner occupied. It would be nice if they all would be purchased, but there is nothing to keep someone from buying them and renting them. Mr. Hanson understands but this would have been a lot easier if this had been addressed ahead of time. Mayor Mavis thinks that was the case here, the selling of them was an after thought, and after he built them the thought of selling them would be a better idea then renting the eight units. Mayor Mavis believes vacating and creating eight lots instead of the four creates another problem for the Commission that is going to be a struggle on how to handle. We should schedule a special meeting with Mr. Smith to attend and look at the alternatives. It looks clear that if we refer this to Common Pleas court we are again establishing another problem for Planning Commission. Mayor Mavis does not disagree that the selling of these units is a better deal for this particular community, but we have to be consistent with what we are doing with substandard lots. Mayor Mavis has never embraced the idea of creating substandard lots.

Mayor Mavis asked for anyone who would like to make comments. We have shared with you what the Commission's dilemma is and does not expect to reach a conclusion this afternoon. **Mayor Mavis recommends a recess until May 23<sup>rd</sup> and will ask the Law Director to research and attend this meeting to discuss the alternatives available beyond vacating and replatting and how we might deal with substandard lots as a Planning Commission. Mayor Mavis asked if there is anyone here who might find it difficult to come back on May 23 with this being the only issue on the agenda, and it will probably be a very short meeting. Mr. Daniels moves to recess, Mr. Hanson seconded. All those in favor to recess to reconvene on Wednesday, May 23 at 4:00 p.m. in this Chamber, all voted in favor with no opposing votes.**

**Crown Hill Public Hearing** – Crown Hill has owned property on Yauger Road, a four acre parcel located on the south side of the road just west of the dam of the large lake. Crown Hill came to Mount Vernon Planning Commission about two

years ago and received approval from this body to put in an assisted living facility. In the meantime things changed they decided with the new larger facility going in further east on Yauger Road that perhaps that would not be a wise investment so they are back to Planning Commission today with an alternative to that proposal. Since this is a Planned Neighborhood Development (PND) it allows for changes, but they have to come before the Planning Commission to make that change. Today there will be representatives, and they will be making a presentation about what they would like to do with their approximately four acres of ground.

Ross Wright, speaking for Crown Hill Development, said basically they have not changed their plan presented two weeks ago. They have met with the engineers and a few other people and proceeded along in the planning for this. Essentially they are taking the property and instead of putting on a 44 unit assisted living facility they have redesigned it to accommodate 20 condominium units. These will be about 2,200 square feet with the finished basements. With the finished basement, they will be 3-bedroom 3-bathroom combination of 2 and 3 car garages. Mr. Wright presented a drawing for everyone to see. This is a proposal proposed to begin soon after approvals are given. The construction would be a 18 month timeframe to have it built out. There are no age restrictions. Ms. Beckholt said City engineering did meet with Crown Hill to discuss the utilities, driveway locations, easements, stormwater management and have spoken with them comprehensively about the project. It will have one entrance off Yauger Road. There is water and wastewater available, but there was some discussion about the configuration of the water service inside the complex and how best to serve their needs in the City's needs for fire protection.

Shirley Laymon, 11 Waters Edge, asked about an area being all fill. Mr. Wright said they have done soil testing and the basements will be below the fill area. Mr. Wright said they will use exterior materials of vinyl with stone accents. Mr. Wright said the density is 20 units on 4 acres. The detention pond is to manage the stormwater on site and will release into the existing ..... Mr. Wright continued to point out items, and Ms. Laymon was asking questions about the detention. Mr. Wright explained about a pipe to control the flow of the water out of the detention area. The size pipe has not been engineered yet. Ms. Beckholt said Crown Hill has not submitted stormwater plans to the City yet. All the City had was the preliminary site plan, and they are in the process of stormwater plans now. Mr. Wright said the units will be for purchase. It is in the deed restriction that they cannot be rented. The units are one floor plan. Mayor Mavis addressed Mr. Wright that this would be where owners would pay into the condominium association for exterior maintenance and snow removal. Mr. Wright said they will be priced in the \$140,000 - \$150,000 range.

Bruce McGregor, 4 Waters Edge, lives adjacent to the property in question. Mr. McGregor said he believes the Chair is probably familiar with the fact that the residents of Water Edge are in possession of all of the land surrounding the pond or so called lake, and he believes the Crown Hill had made mention of the fact that they might reinforce the dam and he is wondering how they expect to go about to do that if they (Waters Edge residents) own the land around there. Mayor Mavis said Mr. McGregor is pointing out that the lake area is part of the 13.2 acres and has Crown Hill looked at the dam area in an engineering perspective. Mr. Wright said they have and their property has a retaining wall and essentially they are taking fill from over here and put it on Crown Hill property to beef up the dam on their side of the property to protect. When the dam was made it was not engineered so any reinforcement they can put on the dam everybody ..... The dam has been there

forever and anything they can do to reinforce it would protect the property. Mayor Mavis said he thinks Mr. McGregor was hinting that Crown Hill will not be building or constructing anything on what would be part of their 13.2 acres. You are right the pond was an earth construction as a farm pond dam years ago and was not engineered, although soil and water may have looked at it. So your proposal is not to encroach on their property but work on their own property. Mr. Wright said correct.

Linda Ayers lives at Water Edge, said they have had some problems with the pond, and they are getting it dredged. If their association decides to go ahead and dredge that pond, is there going to be any problem with taking all the water out? They have had people come in and say it needs to have all the water taken out, and then they will take it out and fill it again. Will there be any problem with that water coming down to the low area because it is really low? Mr. Wright property will be engineered so they will not be below the flood plain ..... Mrs. Ayers said so the fill when the water comes out in that area. The company will take the filter and the silt out, and she is concerned if they do that then the property that is below is going to have a problem. Mr. Wright proposes that they work together on that to make sure there is no problem. Mrs. Ayers said they would have to work with their people. Mr. Wright said exactly. Mr. Wright is not certain how quick they will release the water but cannot imagine that they would release it all at once. Mrs. Ayers said she understands they are taking the dam down and will rebuild. They will have to take trucks in to take all the silt out and they would start all over again. Mr. Daniels said the City would want to be involved in that as well. Mrs. Ayers said she knows that and that concerns her, because they are right next to them. Mr. Daniels said the City would want to know when that water is released as well, because it could create some problems for us downstream as well. Mrs. Ayers agreed.

Shirley Laymon questions the basements. The concept looks good, but she does not get the plan for basements. Ms. Laymon has concern of the soil, it is very low and the other side of the lake is coming down. Ms. Laymon recommends rethinking the basement part. Mr. Wright's only comment to that is he relies on the engineers to tell him. Mr. Wright understands what Ms. Laymon is saying. Mr. Wright said the soil testing has come back saying it is okay. BBC out of Columbus did the testing. Another Columbus firm did the engineering. Ms. Laymon asks if the City Engineer looked at this, and does he think it is a good idea? Mr. Wright said they have not submitted any of the engineering drawings to the City yet.

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Mayor Mavis said let me clarify that these are questions the Planning Commission does not deal with. The folks at Crown Hill must come back to the Commission to get approval for the concept. They still have to comply with stormwater management plans which engineering has to approve that have to comply with the permit systems that the City has in place. Today the Commission is not giving permission for anything other than the concept. They still have to comply with all the other regulatory and permitting systems the City has. Mr. Daniels said as he understands it we are here to approve or deny a modification to a PND, and he will support a modification of that when we get to the point of voting.

Ronald Ayers said it was said before that they will be above the flood plain with the construction of the basements. Mr. Wright said yes. Mr. Ayers asks if this land is in a flood plain right now? Mr. Daniels said it is not. Mr. Ayers said the people at Waters Edge that owns 13.2 acres which consists of the lake. With this

development to the west of Waters Edge is that going to be an inherited liability on the part of the 20 home owners for the simple reason there is a 4 acre lake there and then a development to the west? He is thinking if the dam would break or we would have a lot of rain and infiltration that would come to the 4 acre lake area and the overflow was not adequate to handle, and they had a breach in the dam and that water goes to this development is there going to be an inherited liability associated with their 13.2 acres? Mr. Ayers said it is hard to believe that they will be above the flood plain and that area is so low. Mr. Daniels said you may be referring to the water table. This area is not in the flood plain. Terminology may not be appropriate. Mr. Daniels cannot answer the first question. Mayor Mavis said first of all if you propose any scenario that it is going to breach the dam if there was 14" of rain in 24 hours we are going to have a flood situation here. Does that increase their liability of the group? Mayor Mavis said frankly putting these buildings there would not increase it any greater than it would be if those medical buildings that are already there because any kind of a burst of water down through there is going to do damage. It is going to do damage down through the system. Your lake is part of the drainage system. The drainage to the east of you that flows into that system, the water that comes out of that system, the lake that is down a little further between the medical buildings, part of that system. All of that becomes part of Adams Run Drainage System which we are proposing to do some improvement on later this year. Mayor Mavis said not being a lawyer he cannot speak if this enhances the liability because they are proposing to put buildings in there as owner of a property that has a lake on it, I guess you would have to see an attorney for that. Mayor Mavis does not know that this commission can make statements regarding your liability on that. Or can we say if buildings go in there enhances that liability. The Mayor does not know that. Mr. Ayers asked if families could live there? Mr. Wright answered yes.

Ms. Laymon said she definitely questions the basements. That is all fill and is lower than the doctor's offices.....

Mr. Daniels moves to close this public hearing, Mrs. Krajenski seconded.

Ms. Laymon said they were not notified again this time, and she thinks they are supposed to. Mayor Mavis said he will close this hearing and then he will comment on this.

All voted in the affirmative, no opposing votes.

Mayor Mavis said the question was raised, and he has talked to Mr. Lumm and Mr. Wilson. They called with good questions about the notification process. Mayor Mavis did discuss with the Law Director; because as we began to look at the notification process you always look at the area, and who should get notices. In looking at the intent of the ordinance, which was changed about a year ago, prior to that all Planning Commission had to do was publish the agenda and put the legal notice in. That was something that went on for years, long before any of us came around. It was recognized by Council and the administration that we need to tell people what is going on. So when we looked at that process it seemed to us that the intent was to notify those people that were in residence adjacent to the property to be modified. The argument that could be presented as in your case was that you had multiple owners of 13.2 acres. Mayor Mavis believes that the ownership is really common to the 13 acres, but individually you own the footprint of your homes. We looked at the layout and looked at those people that resided in what if you had regular lots and people we believed would be adjacent to. Ms.

Beckholt said it was something like that. Mrs. Brown said it was three. Mayor Mavis said these ladies helped with that process, so that is why there were three of those. There were people around that all got notices. Ms. Laymon said the lots extended but the Ayers got notice, but you are counter pointing yourself. As part of the 13.25 acres so there lot isn't extended. Mayor Mavis said frankly that was his idea. Actually no one resides, and we were looking for people who actually resided there. Ms. Laymon said our property that we own jointly abuts this, and we should be notified. Mayor Mavis said you can look at the entire PND, and you could make an argument that not only the 20 folks in your area but the folks in that whole area should be notified. Ms. Laymon said she agreed said the others on the other side too, also absolutely. Mayor Mavis said our intent is certainly to notify those people that would be adjacent to it, certainly put the public advertising out, and if they call we certainly appreciate word of mouth, we would like to fill this every public hearing. That is how we find out things. Mayor Mavis said he appreciates Ms. Laymon's comments. Ms. Laymon asked if you ever put a sign that says zoning, date and time that is up; do you ever put sign on a property? She was accustomed to that, and she never seen you put a sign out. Mayor Mavis said he has only been here six years and is pretty confident that it was never before, and we haven't done it because it is not part of our ordinance. Council modified the notification process about a year ago, but certainly we are always open for new information and that would be an easy one to do place a sign on the property. Mr. Wilson did not attend today.

Ed Lumm, 22 Waters Edge, said the Mayor responded to his call and also discussed it with Mr. Wilson, but to reiterate what Ms. Laymon said and going back to Mr. Ayers statement. Each one of the twenty are responsible as association members or will be association members when it is turned over by the developer for liability for anything that might occur adjacent to their property. They are all in common do own the 13.2 acres. Mr. Lumm does feel and after reading the ordinance phrase he did ask legal counsel about it and they felt the same as Mr. Wilson and Ms. Laymon that they should be notified because we are owners in common regardless of where we are located within that 13.2 acres. Mr. Lumm is not going to exercise himself over it, but he is going to make sure that everyone understands where we are at. Mayor Mavis said as he indicated to Mr. Lumm on the phone the other day, and he told Mr. Lumm that he would ask Mr. Smith to revisit that. If after Mr. Smith looks at that again and says yes then perhaps that does include everybody in a common area, we will do that. Mayor Mavis will not make a comment on that now, because he has not had a chance to meet with Mr. Smith about that. Mr. Lumm said he remembers that the Mayor would be in touch with the Law Director regarding that matter.

**Mr. Daniels moves that we accept the proposed change for the PND as described. Mr. Hanson seconded, all voted in the affirmative, no votes opposing.**

**Short/Street Public Hearing** – The property is west off S. R. 229 and is a small parcel that was annexed into the City, and we are here to get input on that today. Mayor Mavis asked for anyone to speak about rezoning of Short/Street. There was no response. Mayor Mavis said he has seen the property. Ms. Beckholt said she talked with Mr. Glass about the configuration of the structures on the lot. This particular annexation was divided into two separate tracts, and it has been split. One remains in Mr. Short's possession, the other was transferred to Mr. Clark and that is the existing flag lot. There is a mobile home on that lot. Mr. Street's property is split into two separate sections. The back parcel contains a mobile

home. The front parcel contains the business building, Ms. Beckholt believes there is a house to the east of that, and then a duplex at the back of it. So on the property that Mr. Short owns right now there are 4 units on one tract and one unit on another tract. Actually there are six individual units involved in this. Mayor Mavis asked if the mobile home in the back has frontage? Ms. Beckholt said what it looks like is being shown here and is just narrow enough for a driveway on the information that she has. Mayor Mavis asked if that has been transferred? Have we approved the transfer? Ms. Beckholt said she believes that the one was transferred and there are three tracts, one was transferred and the other two remain as Mr. Short's. Now whether or not that is being pursued as a land contract there is no way for the City to know that right now. It still as far as the County is concerned in Mr. Short's possession. Mr. Hanson has been curious about this since it was annexed in the early 90's. Mr. Hanson remembers that prior to that this mobile home park had some serious problems with their sewage disposal and there was conflict between them and the health department. Mr. Hanson called the health department and was informed that issue is still ongoing. There is a sewage line out there, and they have tried to contact Mr. Short about hooking on to the sewer. He has not responded according to them. They are planning to put it on the Health Department Board for the next meeting, and if he doesn't respond at that point then it goes to the Prosecuting Attorney because he has not hooked up. Mr. Hanson is thoroughly disgusted with the way this property has been managed. The solution for the best benefit for our City is to zone this R1 and stop as much as we can of the dividing up of this parcel in a helter skelter manner without any kind of approval from anybody. The man just does whatever he chooses. That is the way we can stop it is to say this is an R1 property, and you have to meet all the requirements that are set forth in the City as far as your frontage and everything else. That is the way we can do what Council started to do, and he was on Council on the original idea, was to annex this because Clinton Township seemed to be unable to solve the problems. The City Council thought that this could be corrected, and it is clear that we haven't affected the outcome up to this point. Mr. Hanson thinks this would be a good solution. Ms. Beckholt said the problem with the sanitary sewer has been ongoing for some time and there still have been discussions about that. There were more mobile homes on this particular site; this has been a decrease in that. Mayor Mavis said one proposal is that the City take a main line extension off the sewer line, and run it back the little right of way which would be on the west side of Mr. Short's business building. Take it back and place a manhole, and they would then run a lateral out to those mobile homes and the other little duplex. Mr. Hanson does not see any purpose in doing that, if the gentleman wanted to plat it with PND, and if he would meet all the requirements that are necessary for that. Mr. Hanson thinks we would continue the problem if the City would do that. Mr. Hanson would not be in favor of the City extending any line there, it would just keep the situation the way it is. Mayor Mavis said the developer would have to do that, and the City would approve the plan. Mayor Mavis said this is one plan proposal. Mrs. Krajenski asked what would happen to the business? Mr. Hanson said that sign that says Mr. Tax has gone up there in the last six to eight months. Prior to that it was a storage building and had something to do with the mobile home office and believes there was a little store in that years ago. Mayor Mavis said if he has a business there and we zone it R1 the Mayor believes he could continue to operate that business, it would be a non conforming use. Ms. Beckholt said the business itself would be a non conforming use, the duplex that is there would be a non conforming use. Mr. Hanson said there are other duplexes in R1 parts of Mount Vernon. Ms. Beckholt said yes and it could not be expanded. Mr. Hanson and Mr. Daniels both agree; if it were no longer used as a business for a period of one year then it would lose its



"grandfather". Mayor Mavis said today's public hearing was for us to receive information, then make a judgement and then next month the public hearing would officially be held to classify that as R1 and sent it on to Council. Mr. Hanson proposes then that we go to public hearing with the Planning Commission recommendation that this be R1. Mr. Hanson moved to close the hearing, Mr. Daniels seconded, all voted in the affirmative, no negative votes, the motion passes.

**Mr. Hanson moves to recommend that we take this to public hearing next month on this Short/Street property with the zoning of R1. Mr. Daniels seconded, all voted in the affirmative, no negative votes, the motion passes.**

**City Owned Collector Well Public Hearing** – This is approximately 22 acres of ground that was purchased by the City from Mrs. Beckholt. The City purchased this north of the sludge lagoons, we do have a new collector well installed there, and we would like to zone this P1. Mr. Daniels comments that as a City owned and operated public utility P1 is the appropriate designation for this property. Mr. Daniels moved to close the hearing, Mr. Hanson seconded, all voted in the affirmative.

**Mr. Hanson recommends to City Council that this 22 acres be zoned P1 classification. Mr. Daniels seconded, all voted in the affirmative, no negative votes, the motion passes.**

Mr. Daniels said it is redundant and costly to have a public hearing for input. What we are doing is having two public hearings. Mayor Mavis said one hearing was done with no recommendation from this body. Mr. Daniels said it is a discussion then, it is not necessarily a public hearing. Mayor Mavis said we have advertised so people can come in and give testimony for that purpose to give Planning Commission some guidance. If you look at the P1, it was advertised with the direction of P1 from this board and from Short/Street. All we said was for people to come in give us suggestions. Mr. Hanson said in the Short/Street situation it is needed. Mr. Daniels thinks a public hearing properly advertised for this body and the recommendation to Council, and they hold a second public hearing properly advertised is plenty of time for discussion of the property. Mr. Hanson suggests that Planning Commission (PC) make a recommendation and then have the public hearing like we did with ST 13 & 661, and then a decision was made on what the PC would propose. Mayor Mavis said this board can not do anything unless they are in session. So it is difficult for PC to have a discussion without being in the public so when we advertise we have to give these folks direction and the only way we can give them direction is to have a public discussion about it. So it is almost a minimum of two unless the person files for rezoning themselves, and then we have direction. But if PC is initiating and is the case here; Mr. Daniels said there is a big difference between a public hearing and discussion and what you are required to do for notification. Ms. Beckholt said normally what happened is we would make a recommendation. When Ms. Beckholt came to you at last regular meeting she recommended P1 for this collector well site, and you had some sort of discussion on Short/Street due to what was actually on the property at that time. Normally when she would present for a hearing for rezoning Ms. Beckholt would make a recommendation at that time and that would be in the public notice. This was just an odd case due to ..... Mayor Mavis said we did go the extra mile by having an extra public hearing. The hearing denotes a little more effort to entice people to come in to make comment. Mayor Mavis said we probably did overdo it.

Mr. Daniels said we did not have anybody here to comment on that today. Mayor Mavis said they had the opportunity.

**Alley and Street Vacation for an unused portion of Fountain and Maplewood**

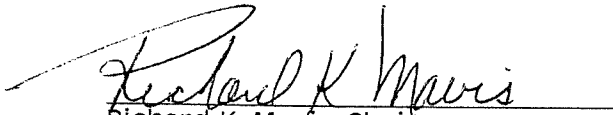
– PC has looked at this for a couple of weeks. The applicant is Donald Lang and owner of the property over to Cherry Street. He just put \$20,000 in this home he just purchased to upgrade and would like to upgrade further. He cannot do that without closing the existing streets to finish some projects he has started. Mr. Lang has lived here for 22 plus years, and in that 22 plus years he has maintained Fountain Street by putting gravel on it, he has mowed the alleys and what is called Maplewood Avenue, so he has maintained that property for 20 some years. Mr. Lang would like it closed. Mayor Mavis said he believes City Council will make the final vacation decision in this effort, they have generally asked the PC to review this and then make a recommendation. Mr. Daniels has asked Engineering to look at this and there are three points they want to make. 1. The portion of the alley between Fountain Street and Cherry Street that is proposed for vacation has an existing sanitary sewer in it. 2. The area of Maplewood Avenue that is proposed for vacation is presently occupied by the flood control levy. This levy will someday also contain the proposed bike path. It is a maintenance responsibility of the City to keep the dike clear of obstructions to a point 10 feet out from the tow of the dike. 3. There are two relatively new storage buildings alongside the dike in this area. They both appear to be on City property and from Engineering records no permits were obtained. They are also within 10 feet of the tow of the dike. Mr. Hanson has a concern that Fountain Street dead ends at the dike and Mr. Hanson's point is that Fountain Street provides access to the dike. Mr. Lang said no, Fountain would be 32 feet, and then it will go to Maplewood Avenue. Maplewood and Fountain will come together, that is actually Maplewood that comes to the dike. Mr. Hanson said okay Maplewood comes to the dike which is also part of property. Maplewood is in the area that Mr. Lang wants to have vacated. Mr. Lang said it now looks like his front yard. Mr. Daniels has looked at the area. Mr. Hanson's concern is one of these streets whether it is Fountain or Maplewood could provide access to the dike in the future if the top of the dike had an extension of the bike path on it. Mr. Lang said he owns the property under the dike. Mr. Lang does not have an easement for it. Mr. Lang has owned the property about 3 months. Mr. White owned that property, and he is the one that allowed the Corp of Engineers to build the dike on his lot. The lot was identified on the drawing. Mr. Lang said there are no records, and Mr. White said he gave them no rights other than just to put the dike on his lot. Mr. Lang does not have a problem with a bike path on the dike, and the only problem he has is the bike path would be 12 foot from his bedroom window. He would appreciate if someone would take a look at putting some kind of protection up for him so people cannot walk down, and do what they want in his yard. Mr. Lang said he does not have a problem, he thinks a bike path is a great idea. Mr. Lang mows as high as he can on the dike, and the City maintains the rest. Mrs. Lang has flowers, and they use the weed eater on it. They did not know Maplewood existed until they bought the property. Mrs. Lang said there is no street, no blacktop, no snow removal in the winter, there has been nothing there for 22 years, and they have totally taken care of it. Mr. Lang said he asked the City to maintain Fountain Street which is just a gravel driveway and one time in 20 plus years the City ran a road grader on it. Mr. Lang said he should have kept the receipts of the hundreds of dollars of gravel that he has put on Fountain Street himself just so it was decent. Mr. Lang drives to his house right straight down Fountain Street. Mayor Mavis said Fountain Street becomes his driveway. Mr. Hanson asks if the driveway goes into the narrow part. Mr. Lang shows on the drawing where he lives and the dike location. Mr. Lang had

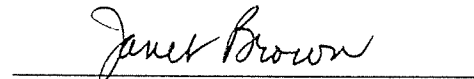
a survey and the stake is on the other side of the dike. The two storage sheds are portable (one 8 x 10 and the other 10 x 12) and are on Maplewood Avenue. Fountain Street was part of the original plat but was never developed. Mr. Lang said Mr. White said they had talked of building bridges all the way down through there at one time, and that is the reason that they took the streets to the dike. After the flood in 1959 everything changed. Right now Fountain needs a lot of work, the manhole is sinking. Mr. Lang said when he talked to Mr. Daniels about this the original one he wanted was Maplewood, because he would like to put a two car garage at the end of Fountain Street, and because he does not have room on his property with the dike there. Cherry Street is an existing paved street, and it comes down to Maplewood and goes off this way and then Arch Park is over here some place. Mr. Daniels asks Ms. Beckholt about another property on Maplewood that was vacated a number of years ago wasn't it in this neighborhood? Ms. Beckholt said the question came up before, but she believes it was a different scenario with the shape of the lots and the relationship to the dike. Ms. Beckholt said it was below lots 55 and 56 where it would not have abutted lots on either side where the street was platted beyond the lots may have been the case. This is not Mr. White's lots; it is on further to the east. Mr. Lang said when he discussed this with Mr. Daniels he asked for the alleys and Maplewood to be closed, and Mr. Daniels said why not close Fountain Street if it is just a gravel street and you have maintained it. Mr. Lang said it does not matter to him, but then after further discussion Mr. Daniels said if Mr. White or Mrs. Schwartz would sell their property and someone was to buy that then they could tell Mr. Lang he could not use his driveway. So that is when Lang's decided to go from the alley down instead of the full length. Mr. Lang said the dike is on this area too. Maplewood Avenue is where it starts at the dike and will run down through there and then cross his property. Mr. Lang's mother accesses her property from Cherry Street, and it faces Cherry Street. Mrs. Lang did not know the alley existed or did Mrs. Schwartz. Mr. Daniels said there is a sewer going through the alley and Mr. Daniels is not certain we could vacate that alley because of the sewer being in there. The sewer is between Fountain Street and Cherry Street. Mr. Lang pointed out the manhole and described where the sewer hocks in. Mr. Lang hires someone to plow snow on his driveway, because they cannot get the City to plow it in a timely manner. Mr. Daniels said the Street Department does not realize that is a platted street. Mr. Lang said he made it clear. Mr. Hanson asked to make a suggestion and he does not mean to dispute Mr. Lang's surveying skills or who ever Mr. Lang had survey it; but Mr. Hanson's concern is that the City not give up any more, if in fact the dike is on property now owned by Mr. Lang. Mr. Hanson does not want to be in the a position of losing more of the dike. There seems to be lots of confusion being what is where here. Even on Mr. Lang's part the City says the storage buildings are on city property. Mr. Lang bought the property from the City on Fountain and Cherry where his mother house is in the late 70's. Mr. Hanson said he hopes Mr. Lang understands what his concern is, he does not want the City to be giving up any of the dike. Mr. Lang said right, and they would not be on the Maplewood Avenue. The only part of the dike is sitting where it goes across Mr. Lang's lot. Mr. Hanson said the City has not surveyed they have just eyeballed it. Mayor Mavis said it has not been surveyed. Mr. Lang had it surveyed, they had trouble finding the back pin, and they show it right dead center of the dike the back corner of his lot and then the front corner because the dike jogs back through there. As far as what Mr. Lang is asking to be vacated has nothing to do with that part of the dike, it is just flat land that he mows. Mayor Mavis is asking Mr. Lang what specifically he is asking for. Mayor Mavis will not vacate where the sewer line is. Mr. Lang points out the areas but did not give a verbal description. Mr. Lang refers to something being 31 feet from a corner and discussion continues

about the location and access ..... Mr. Hanson said his concern is that Mr. Lang had a survey and lives there so Mr. Lang has a sense of what is there and what isn't and Mr. Lang believes the way this is. Mr. Hanson would be really reluctant to recommend anything to Council without getting some real clear notions of exactly what the City is giving up. The only way we can do that is with the City doing the survey or hiring somebody to do the survey. Mr. Lang said his survey is his lots. Mr. Lang can measure from his points to locate the alley. More discussion continued about the locations ..... Mayor Mavis said Mr. Daniels suggestion is that we come down there and bring somebody from engineering to meet Mr. Lang and specifically identify some areas that PC could support and not support in some cases. Most of these alleys were 16 foot wide but these are just 12 foot. There was more discussion ..... Mr. Hanson said that plat does not show where the dike is. Mayor Mavis took Mr. Lang's phone number to meet with him sometime. Mayor Mavis said they will plan a site tour, put this back on the agenda and inform Council that we are still trying to identify some areas that may be recommended. Mr. Daniels suggests that we let Mr. Dice know as well, because he has been working on this with Mr. Lang. Mr. Lang said Mr. Dice sees no problem with this.

Mayor Mavis said in two weeks the PC will meet with Mr. Smith to talk about the alternatives of the Brook Run subdivision.

Mr. Hanson moved to adjourn, Mrs. Krajenski seconded, all voted in the affirmative and the meeting adjourned at 5:38 p.m.

  
Richard K. Mavis, Chair

  
Janet Brown, Secretary

Minutes taken from tape/jrb