

CITY OF HERCULANEUM
BOARD OF ALDERMEN MEETING
MARCH 16, 2015
7:00 P.M.

Meeting called to order by the Mayor.

Roll call: Alderman Elder – Present, Alderman Baker – Present, Alderman Weldon – Present, Alderman Burlage – Present, Alderman Seithel – Present, Alderman Novak – Absent.

Pledge of Allegiance.

Citizen of the Month

Could not attend this meeting. Will be at first meeting in April.

Public Forum

Motion to amend agenda and move the public forum portion of the meeting to after #8 on agenda by Alderman Burlage, second Alderman Weldon. Roll call: Alderman Elder – Aye, Alderman Baker – Aye, Alderman Weldon – Aye, Alderman Burlage – Aye, Alderman Seithel – Aye.

Visitors

Wesley Blaylock Jr. – Everyday Networking Solutions, LLC – Business License

Alderman Seithel – Do you have any employees? Mr. Blaylock – No.

Alderman Baker – Will clients be dropping off things to you? Mr. Blaylock – No, I will pick up.

Dodie Graves – Will you be having any outside storage? Mr. Blaylock – No.

Motion to approve business license to Everyday Networking Solutions, LLC by Alderman Weldon, second Alderman Elder. Roll call: Alderman Elder – Aye, Alderman Baker – Aye, Alderman Weldon – Aye, Alderman Burlage – Aye, Alderman Seithel – Aye.

Approval of Minutes

Motion to approve the minutes of the March 2, 2015 Vicious Dog Hearing by Alderman Burlage, second Alderman Seithel. Ayes: Alderman Elder, Baker, Weldon, Burlage and Seithel.

Motion to approve the minutes of the March 2, 2015 open session by Alderman Burlage, second Alderman Weldon. Ayes: Alderman Elder, Baker, Weldon, Burlage and Seithel.

Motion to approve the minutes of the March 2, 2015 closed session by Alderman Burlage, second Alderman Elder. Ayes: Alderman Elder, Baker, Weldon, Burlage and Seithel.

Approval of Ordinances

BILL NO. 2020, ORDINANCE NO. 1204-2015 – AN ORDINANCE APPROPRIATING AND AUTHORIZING THE PAYMENT BY THE CITY OF HERCULANEUM, MISSOURI SUCH CLAIMS AND DEMANDS ASSERTED AGAINST IT BY PAYEE’S SPECIFICALLY NAMED HEREIN AND PROVIDING AN EFFECTIVE DATE THEREFOR.

Motion to accept the first reading by Alderman Burlage, second Alderman Elder.

Discussion: None

Roll call: Alderman Elder – Aye, Alderman Baker – Aye, Alderman Weldon – Aye, Alderman Burlage – Aye, Alderman Seithel – Aye.

Mayor Haggard – At this time we will move on to citizen comments. What we do is give each speaker three minutes. There will be no discussion from the board or no action taken at this point. I have received several emails and I have tried to respond to every one of them.

Unknown Speaker – I do have a question, you are asking us to respond before we hear the proposal. This seems like we are at a disadvantage. Has anything changed from last weeks’ proposal? **Mayor Haggard** – This is strictly the change in zoning. That is the only issue before the board tonight.

Unknown Speaker – Have any of the facts at the rezoning changed? **Mayor Haggard** – No. **Unknown speaker** – It stands as delivered last week, okay. **Mayor Haggard** – Through the emails we know that people have concerns with traffic flow, destruction of the woods, noise pollution but tonight all we are doing is voting on the recommendation of the Planning and Zoning Board and voting on that. There is no voting on a plan or anything like that.

Planning and Zoning Recommendation

Mayor Haggard – The next item on the agenda is the review of the recommendation of the Planning and Zoning Commission of the City of Herculaneum, Missouri, with respect to certain parcels of land referred to as Parcel #117.025.00008.01 from the R-3 Planned Unit Development zoning classification and Parcel # 117.025.0009 from the R-1 zoning classification to the C-2 General Commercial classification. This request was presented to the Planning and Zoning Commission on Monday, March 9, 2015 by Larry Sapaugh, the owner of the above tracts.

Mayor Haggard - Would the applicant and anyone here on his behalf please identify yourself and provide your address and telephone number?

Dan Govero – Govero Land Services, 5929 Old State Road, Imperial, Mo.

Larry Sapaugh – Sapaugh Motor Company – Herculaneum, Missouri

Mayor Haggard – Would any member of the public that is present with regard to this matter, please be certain to sign the sign in sheet and place on that sheet your name, address and phone number? At a later time you will be given the opportunity to speak and at that time, please identify yourself fully prior to speaking, again providing your name address and phone number.

Mayor Haggard – As previously stated the next order of business is the subject of rezoning an area in the City of Herculaneum at the request of Larry Sapaugh, the owner of the above described parcel numbers, more specifically , Parcel #117.025.0008.01 which is presently zoned R-3, Planned Unit Development, and Parcel #117.025.0009 which is presently zoned Residential-1 (R-1) . In accordance with the rules set forth in the Planning and Zoning Ordinances, specifically Section 435.040, sub paragraph 1-f, notice of a proposed change by petition of the owner of the property requires that a least fifteen (15) days before the hearing before the Planning and Zoning Commission, notice be given by certified mail, to all owners of any real property within one thousand (1,000) feet of the parcel of land which the change is proposed. In addition, in this case notice was posted at City Hall in the City of Herculaneum and notice of the meeting of the Planning and Zoning Commission was also placed in the *Jefferson Countian*, all in accordance with requirements of Section 435.040.1, which provides the method of amendment and changes to the Planning and Zoning Code by petition of the owner.

Mayor Haggard – Mr. Sapaugh or your representative, would you please provide a list of those persons to whom you sent notice along with the certified mail receipts for such notices.

Dennis Tesreau – Mr. Sapaugh presented these at the Planning and Zoning hearing on March 9th.

Mayor Haggard – In the event any of the alderpersons do not have available at this time the provisions of Article II of the Planning and Zoning Code with respect to District Regulations which sets forth, among other things, the various Zoning Districts and the uses which may be placed in the Zoning District, I've asked Mr. Tesreau to have a copy available for all the Board members. The entire District Regulations consist of Pages 184.6 through 198 of the Planning and Zoning Code contained within the City Ordinances and more specifically the uses permitted in C-2 General Commercial District begin on page 190.

Mayor Haggard – Would Mr. Sapaugh or his representative please advise the Board of Alderpersons with necessary details as to the rezoning of the property to a C-2 General Commercial District and provide the board with intended use of the C-2 General Commercial District is rezoned by this Board?

Dan Govero – Govero Land Services – What the idea is, is to make a shopping center in here. We have already talked to a grocery store that is interested in going in. Hopefully we will get some things like maybe Harbor Freight or maybe a restaurant. The idea is to grade this out and hook it into the Industrial Drive. There is a lot of work to do on this plan, this is just a basic concept to show that we can put lots in here and the type of lots that might be available.

Unknown Speaker – We cannot see what you are presenting to the board.

Dennis Tesreau – We will make the presentation to the board and then turn around and present the same thing again.

Dan Govero – What we are doing, again this is just a concept plan that shows what size lots could be available they may be consolidated if someone wants a bigger lot. The idea is to put a road that connects to Industrial Drive back to Providence Way. In the original Providence Plan this area was going to be apartments. We can adjust this if we have to do some intersections. We would probably have to have a traffic study to look at this whole thing to see the access. But the idea is to get another road that would connect through to the outer road to give you two ways out. The construction will come in off of Industrial Drive. I want to mention that Larry is trying to do this all on his own, he is not asking for any tax districts. He is planning on putting on putting his own money in to build this. You don't see that in the St. Louis area or any place any more. We are trying to bring some additional business into the City.

Dennis Tesreau – Mr. Govero is going to explain to all of you what he just explained to the board.

Mr. Govero – What we are trying to do, and this again a sketch plan, there is a lot of work to do before the final plan. We have to meet with the City, do some traffic studies, we have storm drain detention that we have to look at. This is going to be graded out, and these are type of lots that would be in here. They may be consolidated if we have a big user that wants to have a bigger lot. The idea is to put a grocery store. We are going to have a roadway come through and connect to Industrial Drive. From Industrial Drive, this would be the construction entrance all the way out this way. This gives a second access down to the outer road because I know they said this gets congested. Again, this was going to be 360 apartments, this was the roadway that went into those apartments. We are going to look into moving this down south some. We are going to be doing similar grading that they would have to put apartments in, the only difference is commercial will go in now. We are going leave a buffer up here of 50 foot. We are going to try and leave a buffer here from 70-75 to 115 foot. There is a creek in there and we are not going to take the creek out, we are going to leave the creek.

Unknown Speaker – I can't read what the streets are, do you have any idea where is at?

Mr. Govero – Providence Way, Durham Drive goes up this way and this is Stonewick Court. This is where the firehouse is going to go. This is McNutt School Road, this where your second entrance ties in up here. Any questions.

Unknown Speaker – Yes

Mayor Haggard – Wait we need to move on and the board needs to ask questions of him first.

Unknown Speaker – In all due respect Mr. Mayor I asked you before this began, has anything changed. This is quite different from what was presented a week ago. Is customary, I am no accustomed to these kinds of things. We did not here this.

Dennis Tesreau – State your name. Paul Wilcoxon, 2313 Providence Park Lane. Dennis Tesreau – Let the board ask questions of Mr. Sapaugh, Dan Govero and Dodie and then we will get to the names on the list here.

Mayor Haggard – Are there any questions from members of the board.

Alderman Baker – Can you go over with us what the buffer was. I think that was one of the issues.

Dan Govero – This is common ground up in Providence. This is where the firehouse is proposed. We are going to have fifty foot along here. There is a creek right in here, that is over 100 and some feet and they have common ground in here. Along this bluff here we have fifty foot and it is going to be cut down. Then from over here there is a creek, we are going to leave the creek and leave the bank on this side. There is a fifty foot road easement that goes back to this church property. We have to look at intersection and a traffic will help us do that. There is a lot of work to do but the first step is the rezoning of the property.

Alderman Baker – Asked that other options be looked at for a road.

Alderman Weldon – Are there any plans for walkways to get down there. Dan Govero – We could look at that but the problem is there is no accesses to this common ground. There is no walkways proposed.

Dan Govero – I know traffic is what everyone conceives as a big problem. Traffic studies would be needed.

Alderman Baker – When would that happen? You don't want to rezone this and then the intersection just fall apart.

Dan Govero – That would happened before we design the plan.

Mayor Haggard – Are there any other questions from the Board?

Alderman Seithel – How much of a buffer zone is there on the residential side?

Dan Govero – They have a 20 foot buffer, you are gonna be almost a 100 foot.

Unknown person – Make the 20 foot buffer clear and let us see it.

Mayor Haggard – Right now we are still trying to get the board questions answered.

Dennis Tesreau – Is that 20 foot pretty much all the way through?

Dan Govero – It runs all the way along the back where this bigger common ground is.

Alderman Baker – My thing was on the C1-C2, I guess just go through the thought process of C2 vs C1.

Dan Govero – C2 gives us more things that you can put in the shopping center. One thing I want to point out to by cutting this down there will not be lights shining into the subdivision because they are going to be shining into a bluff.

Alderman Baker – I don't know if the board would recommend C1 instead of C2 if that would have to go back to Planning and Zoning?

Mayor Haggard – Mrs. Graves as the Building Official for the City of Herculaneum and the Planning and Zoning Official, do you have any information which you feel is necessary to provide the Board of Alderpersons at this time?

Dodie Graves – The issue that we are voting on tonight is strictly for the rezoning of the property only.

Mayor Haggard – Is there anyone here this evening who wished to either present any evidence or testimony, whether it be in support or in opposition to this proposal. I want to remind those speaking that they should identify themselves and provide their names and addresses.

Paul Wilcoxon – 2313 Providence Park Lane

Point #1 – The first directive in the city of Herculaneum Zoning Ordinance Purpose according to Ordinance No. 258-100 are to lessen congestion in the streets to secure safety from fire, panic and other dangers to promote health and the general welfare – Mr. Sapaugh 's proposed rezoning from Residential to C-1 Commercial would adversely impact traffic flow through Providence subdivision by co-opting Providence Park Land and Durham Drive as the most direct route from McNutt School Rd. for people traveling to and from northwest Festus, points east and west of Hwy Z and southeast Pevely to his development. Arguably, it could encourage folks outside of Providence to use these residential streets even more routinely that present as a so called short cut to reach other businesses in Herculaneum. Permitting the rezoning would not lessen congestion in Providence streets, reduce dangers to Providence children, or promote the health and the general welfare of Providence families as mandated by Herculaneum Ordinance No. 258-100.

Points #2 & #3 – According to the city of Herculaneum's Table VII-A Speed Limits – Special Speed Limits Unless otherwise designated herein, the speed limit for all streets within the corporate limits of Herculaneum, Mo. shall be (20) miles per hour unless said street is herein designated as a thoroughfare. The speed limit for a thoroughfares shall be (30) miles per hour. It further states the following streets are thoroughfares, Riverview Street, McNutt School Road, Scenic Drive, Joachim Avenue and Main Street.

Apparently the city of Herculaneum does not recognize Providence Park Lane or Durham Drive to be a thoroughfare. The speed limits on the Providence subdivision streets is (20) miles per hour and neither street is listed among the other thoroughfares.

Meanwhile in section 350.150 Parking Prohibited on Narrow Streets Ordinance No. 03-2009-5, 1-12-2009 A. The city traffic engineer is authorized to erect signs indicating no parking upon any street when the width of the roadway does not exceed (20) feet or upon (1) side of street indicated by such signs when the width of the roadway does no excel (30) feet. B. When official signs prohibiting parking are erected upon narrow streets as authorized herein, no person shall park a vehicle upon any street in violation of any such signs.

It is also apparent that the city of Herculaneum has restricted parking to one side of the street along Providence Park Lane from McNutt School Road to Durham Drive and from Durham Drive to Providence Way because the City traffic engineer has deemed these streets as narrow. Therefore, Herculaneum officially recognized these streets in Providence as narrow and not suitable to be a thoroughfare. That's further evidence against permitting the rezoning because it would not lessen congestion in Providence streets, reduce dangers to Providence children, or promote the health and the general welfare of Providence families as mandated by Herculaneum Ordinance No. 228-100.

The City of Herculaneum Section 445.070 Definitions of a Subdivision street states that it be sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the building erected or to be erected thereon.

When Providence subdivision was established, its streets were a sufficient width to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon. These streets were not designed to bear the traffic of a commercial artery like McNutt does along Mr. Sapaugh's dealership. Rezoning Mr. Sapaugh's property would negatively impact Providence residents and impose an undue burden on subdivision homeowners. The increased traffic would also pose a danger to our neighborhood children. Rezoning would not be in the best interest of Providence residents nor would it be in compliance with city ordinance number 258-100. Based on these facts, it is incumbent upon the Aldermen and Mayor to reject the rezoning.

Jason Moser – 1336 Durham

We were the first family to move into the Providence subdivision. They keep saying they are going to leave the creek. They have to leave the creek so that is a moot point. These streets are not thoroughfares, they are not there to make money. The board needs to look at the Planning and Zoning sections/Master Plan and the Strategic Plan.

Phil Colewell

Had the certified letter we received concerning the March 9th meeting contained a drawing of the changes along with details I am sure the negative response at that meeting would have been much stronger. We bought this subdivision because of the buffer of trees between the residential area and the commercial area. If you destroy the trees, you destroy the buffer and drastically degrade the character of the subdivision. When you degrade the area, of course you degrade the property values. Who is going to buy a house that looks at the back of a strip mall or next to a road used by trucks at all hours to stock the strip mall? No one. If no one buys houses for the remaining lots, the current residents will have to continue to pay for repairs to the roads on top of the real estate tax we pay. This is an untenable situation for the residents. We currently have a problem with people using Providence Park Lane, Durham and Providence Way as a cut thru even though there are no Thru Traffic signs posted, which aren't being enforced. This causes more wear and tear on our street which we have to pay for. If you build more stores on McNutt we will have more traffic and more wear and tear that we have to pay for because no one will buy the remaining lots.

There are currently times in the AM and PM where I have to wait to pull out of my driveway because of the amount of traffic.

The proposed new intersection on Providence Way will adversely impact the entrance and egress from the subdivision further degrading the quality of life for our residents. Another resident has proposed widening McNutt and McNutt School Road to allow greater access to the businesses on McNutt.

Mike Ziegler – 1308 Durham Drive

I have lived in the Providence Subdivision for five years. I think the question what is the quality of life going to be like for the Providence residents if this property is rezoned? There are three options, it can increase, stay the same, or decrease. I want my quality of life to increase. Blasting is a concern that I have and I think there should be before and after pictures of all the home to document any damage. This would benefit the residents and also the company doing the blasting.

Chris Winkelman – 930 Union

I feel there should be a traffic study done before there is any voting done to rezone this property.

Alan Napier – Did give address on sign in sheet

I drove and did a quick check from the west entrance of Providence Park Land, down Festus/Horine road down to McNutt. It is quicker to cut through Providence Park Way. This is going to cause a danger to playing in or near the streets. Dozens of children are already in danger from the traffic that goes through the subdivision.

Diana Rystrom – Did not give address on sign in sheet.

The buffer behind my house is the creek and the bluff. You are talking about stair stepping the bluff. What protection do I have to protect my kids from climbing up this? Now it is straight up. Is not the real reason you are wanting to stair step the bluff is to remove the silica sand. How long will it take from this point until the project is finished?

Larry Sapaugh – Everyone requested that the buffer zone be increased and we have done that. We have to develop for commercial before we can put a plan together. Yes – There is a financial benefit for me but this development will be up to par and I am using all of my own money to develop this. There is a chance there could be sidewalks put in. I am putting in a new road with my money.

Other questions/comments made

Ron Carroll – I have complained against Sapaugh on several occasions.

Kathy Carrol – Why don't you put the road through your car dealership?

Pat Parsons – The noise is going to be bad. Are you willing to put a noise barrier? Mr. Sapaugh – No that is not feasible, the cost is too much

Terry Armbruster – These were going to be high end apartments and would have fallen under our subdivision covenant.

Dennis Tesreau – The covenant is only binding on the subdivision. The City can rezone the property and the subdivision covenant would not apply.

Mr. Napier – Have you owned this property all along? Mr. Sapaugh – I have owned 35 acres for about 25 years and I bought an additional 22 acres less than a year ago.

Mayor Haggard – I would ask if a member of the Board of Alderpersons has a motion to either amend or not to amend the zoning district map of the City of Herculaneum to rezone the property described as Parcel #117.025.0009 from R-1 Residential and the property described as Parcel #117.025.0008.01 from R-3 (PUD) to General Commercial C-2 District.

Motion to amend the zoning district map of the City of Herculaneum to rezone the property described as Parcel #117.025.0009 from R-1 Residential and the property described as Parcel #117.025.0008.01 from R-3 (PUD) to General Commercial C-2 District by Alderman Burlage, second Alderman Weldon. Roll call: Alderman Elder – Aye, Alderman Baker – Nay, Alderman Weldon – Aye, Alderman Burlage – Aye, Alderman Seithel – Nay.

Mayor Haggard

It is the decision of the Board of Alderpersons of the City of Herculaneum that Parcel #117.025.0008.01 be rezoned from R3-PUD to General Commercial C-2, and that Parcel #117.025.0009 be rezoned from R-1 General Commercial-C2.

Financial Report

Jim Kasten presented the February 2015 financial report to the Board of Aldermen.

Board of Aldermen/Department Head Reports

Alderman Baker

- Thanked Mike for getting the boulder from Iron Mountain. All of the rock was donated.
- We will be leaving Thursday morning to see the work done on the volcano.

Mayor Haggard

- You have an invitation for Tree City ceremony. If you want to go call Pam.
- The plaque dedication will be Sunday at 2:00 at the high school.
- The Easter egg hunt and the 5K race are coming up.

Mark Johnson

- The sodding company will be in town tomorrow to work on Scenic.
- The lift station is completed at the sewer plant.

Motion to enter into closed session with closed record and closed vote pursuant to litigations provisions, subsection one, RSMo 610.021 by Alderman Seithel, second Alderman Burlage. Roll call: Alderman Elder – Aye, Alderman Baker – Aye, Alderman Weldon – Aye, Alderman Burlage – Aye, Alderman Seithel – Aye.

Motion to adjourn by Alderman Elder, second Alderman Weldon. Roll call: Alderman Elder – Aye, Alderman Baker – Aye, Alderman Weldon – Aye, Alderman Burlage – Aye, Alderman Seithel – Aye

These minutes were approved this 6th day of April 2015.

WILLIAM C. HAGGARD, MAYOR

ATTEST:

Stephanie Noce, City Clerk