

FAIRMONT PLANNING COMMISSION

The regular meeting of the Fairmont Planning Commission was held on February 20, 2019 at 7:00 p.m. in the Public Safety Building located at 500 Quincy Street.

President Greene called the meeting to order at 7:00 p.m. and asked for a roll call of members.

ROLL CALL OF MEMBERS

MEMBERS PRESENT

Commissioner Yann
Commissioner Wean
Commissioner Jura
Commissioner Majic
Commissioner Greene
Commissioner Parker
President Straight

MEMBERS ABSENT

Commissioner Carpenter
Commissioner Richardson

Commissioner Straight motioned to excuse Commissioner Richardson from tonight's meeting.

Commissioner Yann seconded the motion.

Motion carries 7-0

CITY STAFF

City Planner – Sandra Scaffidi
Senior Staff Assistant – Maria Cipolla

PLEDGE OF ALLEGIANCE

Commissioner Straight led everyone in the Pledge of Allegiance.

APPROVAL OF MINUTES

January 16, 2019

Commissioner Parker approved the minutes as submitted.

Commissioner Yann seconded the motion.

Motion carried 7-0

PUBLIC HEARINGS FOR February 20, 2019

1. Chaplin Group is requesting a right-of-way abandonment between parcels 3-35-79, 80, 81, 82, and 85 as well as 3-35-88, 3-35-87, 3-35-90 and 3-35-89 near Garrett Avenue.

President Greene asked if there was anyone to speak in favor of this request.

Steve Fox, from Chaplin Construction, stated they are request for the right-of-way to be abandoned in order to comply with their approved subdivision plat.

President Greene asked if there was anyone to speak against this request.

There were none.

President Greene asked for a motion to close the public hearing.

Commissioner Straight motioned to close the public hearing

Commissioner Wean seconded the motion

Motion carried 7-0

President Greene asked for the staff report.

Sandra Scaffidi: The applicant owns property on both sides of the ROW and wishes to abandon the ROW so that the property can be connected. The Planning Commission previously approved the major subdivision for this property, but I neglected to include the ROW abandonment in the application.

The legislative intent of Fairmont City Code indicates that Council may abandon right-of-ways if it finds and declares that within the City there are one or more streets, alleys and public rights of way:

1. That do not, have not or will not in the future serve any public purpose
2. That exist only by means of appearance on plats or maps of sections of the City
3. That it would be in the best interest of the City to abandon and vacate such streets, alleys and public right of ways, thereby absolving any actual or contingent liability;
4. That would otherwise permit more appropriate land use within the City thereby promoting orderly development of the city.

I recommend that we approve the ROW abandonment and send it to City Council for approval.

Commissioner Parker asked if there are any utilities in the right-of-ways.

Sandra Scaffidi: I don't believe so.

President Greene asked for a motion.

Commissioner Majic motioned to approve this request.

Commissioner Wean seconded the motion.

Motion carried 7-0

2. * Tabled item from previous meeting*** Mr. Eugene Payne Jr. requests a variance from the Subdivision Regulations Design and Planning Standards Section 7.5.6.A.i which requires no new lots to be created with less than 6,000 square feet. Mr. Payne is requesting review as identified in the Variance Proceeding in Section 7.2.6. Mr. Payne purchased a substandard lot which was not approved by the City prior to its recordation and sale in 2006.**

President Greene asked for a motion to take this item off the table.

Commissioner Parker motioned to take this item off the table.

Commissioner Yann seconded the motion.

Motion carried 7-0

President Greene asked if there was anyone to speak in favor of this request.

Eugene Payne, Jr, property owner: I am here to request a variance from the subdivision regulations. I have had this property resurveyed again. I bought this property in 2012. This wasn't a problem when I bought the property. It became a problem in 2006. We have been going through a lot. I have already missed out on two sales of this house from people interested in purchasing the property as a result of this. I have someone interested in the home now. I am a Vietnam Veteran and I sold my home in California and I have never gone through this much trouble as I have been this one. I am just trying to move on so I can continue to do what I am doing because it is becoming a hardship now. I have to pay for a home in Charleston plus continue to pay for a home in Fairmont. When you are living on a fixed income, it is hard to do. I am just trying to get this behind me. I have been working with the Planning Department trying to get this behind me so we can move forward. I thank you for your time.

Percy Clay, a retired attorney: I practiced law here in Marion County for twenty eight years; some of you probably remember me. I speak in support of the variance because the problem arose with the previous owners who subdivided the property without getting your (City of Fairmont) permission or without giving a proper description of the property they were subdividing. That impacted on the adjacent property. Now the description of 200 Highland Avenue property and the other property is not correct in accordance with the deeds that exist right now. I did talk with the surveyor who has made a description and two deeds for 200 Highland Avenue and the adjacent property on Liberty. This will be straightening it out. Actually the variance that you are giving, it is just straightening out something that should not have

been. I strongly urge and request that you would grant the variance. For what I understand, they already have the description prepared. All they have to do is give it to the lawyer and the lawyer is going to prepare the deeds. Then the deeds will come to you and you will be able to see it (inaudible). He is paying taxes here in Marion County in Fairmont. As a resident of Fairmont, (inaudible). I asked that you grant this.

President Greene asked if there was anyone against this request.
There were none.

President Greene asked to close the public hearing
Commissioner Yann motioned to close the public hearing.
Commissioner Wean seconded the motion.
Motion carried 7-0

President Greene asked for the staff report.

Sandra Scaffidi: As our two speakers mentioned, this property was originally a 7,260 square foot property had been administratively divided since 1950 due to the desire to be taxed separately for an apartment unit verses a primary residence. The building, which is shown on tax maps as two separate tax parcels, were then surveyed into two separate lots, however, they were recorded without the City's approval or knowledge. The owner of the parcel, Mr. Eugene Payne, purchased the property in 2006, without the knowledge that the property was not properly subdivided. It was only after Mr. Payne decided to sell the property and a subsequent buyer, in conducting due diligence, found the discrepancy and clouded title. This request is to clear a clouded title. I do not have the administrative authority to grant variances to the Planning and Zoning Code. As a result, the Planner suggested to the applicant to apply for a variance hearing before the Planning Commission. In this instance, Council may, when authorized by the Planning Commission, and pursuant to Section 7.2.7 authorize a variance from these Subdivision regulations when, in its opinion, undue hardship may result from strict compliance. No variances shall be granted unless council finds that there are special circumstances affecting the property such that the strict application of these regulations would deprive the applicant of the reasonable use of this land; that the variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner and that the granting of the variance shall not be detrimental to the public welfare of injurious to other property in the territory in which the property is located. It is my opinion, that while the situation is not the result of an error on the part of the City, that the Planning Commission approves the variance request and send it to City Council for final approval. Without approval from the Planning Commission and City Council, I believe that the property will not be able to be utilized causing undue hardship on the part of the owner.

President Greene asked if there were any questions or discussion on the matter.
There was none

President Greene asked for a motion
Commissioner Yann motioned to approve this request.
Commissioner Straight seconded the motion.
Motion carried 7-0

President Greene: Mr. Payne, this will be forwarded to City Council for their final consideration.

Maria Cipolla gave the dates this matter will go before City Council for the introduction and public hearing.

PUBLIC HEARINGS TO SET FOR March 20, 2019

None

NEW BUSINESS

None

CITIZENS PETITION (For items not listed on the agenda)

(Citizens must register in advance with the recording secretary)

None

OTHER BUSINESS

1. Commissioner Comments:

Commissioner Majic welcomed **Commissioner, Mike Jura** to the Planning Commission

2. Staff Updates:

Sandra Scaffidi: The annexations has been approved for Norway Loop Project area and welcome our new commissioner, Mike Jura.

ADJOURNMENT

President Greene asked for a motion to adjourn.

Commissioner Straight motioned to adjourn.

Commissioner Yann seconded the motion.

Motion carried 7-0