

# Planning Commission Meeting Minutes

March 3, 2020

Present: Cottrell, Galbavi, Lambert, Lewis, Porter, Ottke, Leland Scott

Call to order 7pm

Approval of agenda, moved by Porter, second by Lambert – passed unanimously

Approval of the minutes from February 3<sup>rd</sup> meeting, moved by Lambert, second by Galbavi – passed unanimously

## Request for rezoning B-1 to I-1

Motembo Foods requested a rezoning change from B-1 to I-1. Email from Justin English City Attorney stating the following can be used for B-1 zoning: see Perry Zoning ordinance.

Q: would moving from commercial to light industrial put the city at risk in the event another business came in under the radar? Yes, if the property is sold to another business, it could establish another I-1 use. Could the property be rezoned for I-1 only for Motembo? Yes, under Contract Zoning the applicant may submit an offer to rezone the property under conditions acceptable to the city. If the property owner failed to comply with the contract zoning requirements, the property would automatically revert back to B-1. Very involved by the City and the City Attorneys, expensive, opens the door for litigation on the issue. Applicant is not restricted to a proposed use after the Planning Commission rezones it.

Concerns from PC members include: water capacity, sewer capacity, industrial discharge permit necessity, chemical disinfectants volumes, chemical storage food testing vs. food production, retail area a fit for the requested rezoning, spot zoning

Water requirements have not been provided by Motembo, only verbally as “minimal use” by applicants to Leland Scott. Concerns about expansion of future facility having impact to water/sewer systems.

Site plan does not show chemical storage, safety response plan.

This is going to be a new building, no existing building on site.

Can the City of Perry be forced into develop further capacity to the water and sewer system? Leland Scott says no. Can the company dig their own well to provide water to the facility if needed?

City will need to administrate an industrial wastewater pretreatment plan to accommodate. Perry does not currently have one. Will include EGLE, MDARD and County permits, but Perry is the sole administrator.

Need to set a public hearing before rezoning can happen; want questions answered regarding water and sewer before setting a public hearing. Table until next meeting after the following questions are answered:

What are Motembo’s water needs in gallons per day?

What is Motembo’s Anticipated effluent to lagoon in gallons per day?

What is the current capacity of Perry's water system?

What is the current capacity for Perry's lagoon system?

What does Perry need to leave in reserve water for firefighting capabilities?

Offer invitation to Motembo for next Planning Commission meeting

## **Zoning Ordinance 3.26 - Answers from attorney from October 2019**

City Attorney agrees that the proposed changes to the Zoning Ordinance are indeed legal and plausible and made recommendations

**QUESTION:** "1. Can section 3.26 of the zoning ordinance be amended to specifically exclude proposed 1-1 and 1-2 development from obtaining a permit without a site plan review?"

**ANSWER:** If I understand the question correctly, the request is asking if section 3.26 for issuance of temporary use permits can be amended to require a site plan review prior to the issuance of any temporary use permit on I-1 or I-2 zoned property. Previously, the zoning administrator could issue a temporary use permit as provided in Section 3.26 without the need for a site plan application. Below is a proposed change that would require a site plan application under Chapter 14 prior to the issue of a temporary use permit for property zoned I-1 or I-2. (Paragraph B added and remaining sections letters changed accordingly).

### **SECTION 3.26 TEMPORARY USES AND BUILDINGS**

B. All temporary uses shall be allowed on I-1 and I-2 zoned property in conjunction with a properly submitted and approved site plan only, as required by Chapter 14 herein.

**QUESTION:** "Can Chapter 12 of the zoning ordinance be amended to have all I-1 and I-2 development undergo a site plan review?"

**ANSWER:** A site plan would be required for development. The previous issue arose when a proposed use fell within the allowable uses for I-1 and I-2 zoned property and the use proposed fell within section 3.26 for the issuance of a temporary use permit. There was no development of the property, just use. A use with no development was allowed without a site plan. The change proposed in answer to the first question would eliminate this option for temporary uses that fall within the uses available to I-1 and I-2 zoned property without a site plan. Meaning any use or development would now require a site plan if the changes are adopted.

**QUESTION:** What is the correct term for a performance bond, so the zoning ordinance can be amended appropriately?

**ANSWER:** It depends on the protection the City is looking to have. If the concern is restoration of any property to its original condition than what would be required is a remediation bond. The City can add it to the zoning ordinance and the definitions. The proposed definition would be as follows:

*Remediation Bond:* A bond issued by a State approved insurance or bond company to protect the City from the costs associated with any emergency abatement, site investigation, monitoring, remedial

action plan development, site remediation, system design and installation, and operation and maintenance due to any use or development of real property in an amount sufficient to restore the real property to its original character.

**QUESTION:** Can PC recommend a zoning ordinance that would not allow temporary use permits to be issued in 1-1 and 1-2 zones and site plan reviews are required in these areas?

**ANSWER:** I believe the answer to the first question addresses this issue and would require a site plan application before the issuance of any temporary use permits for I-1 and I-2 zoned property.

**QUESTION:** Can review of all temporary permits be required to go through review by the PC?

**ANSWER:** Yes. There is no requirement that temporary use permit be allowed by a zoning administrator only. I believe the idea of having a temporary use be sent to a zoning administrator rather than the planning commission is to expedite the request for a use that is not intended to be permanent. This is intended to allow a zoning administrator to handle minor matters administratively rather than require these uses to go through the planning commission review process. When reviewing the temporary uses that can be authorized by the zoning administrator, it is fairly restrictive. The uses for I-1 and I-2 property being the exception as those uses would now have to be approved through a site plan review prior to being authorized if the changes are adopted.

## **Discussion of Fee Schedules:**

PC members note wide disparity in length and detail for regional communities for fee schedules. Soil and erosion permits, right-of-way permits and building bonds and penalty fees were items noted in other communities. Decision to continue discussion of Perry's fee schedule at next Planning Commission meeting.

Meeting Adjourned