

**CITY OF WASHINGTON
PLANNING AND ZONING COMMISSION MEETING
LIBRARY MEETING ROOM – FIVE POINTS WASHINGTON
WEDNESDAY, JANUARY 4, 2017
6:30 P.M.**

AGENDA

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. APPROVAL OF MINUTES –** November 2, 2016 regular meeting
- 4. NEW BUSINESS**
 - A. Public Hearing: Waiver of the Requirements to Obtain Certificate of Occupancy, Zoning Code Section 154.237
 - B. Public Hearing: Early Certificate of Occupancy Prohibition Draft Text Amendment (Subdivision Code & Zoning Code)
- 5. COMMISSIONER’S COMMENTS**
- 6. STAFF COMMENTS**
- 7. ADJOURNMENT**

DRAFT

**CITY OF WASHINGTON, ILLINOIS
PLANNING AND ZONING COMMISSION MEETING
WEDNESDAY, NOVEMBER 2, 2016
WASHINGTON DISTRICT LIBRARY
380 N. WILMOR ROAD – 6:30 P.M.**

Vice Chairman Brian Fischer called the regular meeting of the City of Washington Planning and Zoning Commission to order at 6:30 p.m. in the meeting room at Washington District Library.

Call to Order

Present and answering roll call were Commissioners, Rich Benson, Brian Fischer, Louis Milot, and Tom Reeder. Commissioners Mike Burdette, Steve Scott, and Doug Weston were absent.

Roll Call

Also present was P & D Director Jon Oliphant, B & Z Supervisor Becky Holmes and City Clerk Pat Brown.

Commissioner Milot moved and Commissioner Benson seconded to approve the minutes of the October 5, 2016 Planning and Zoning Commission meeting as presented.

Appv min 10/5/16 PZC meeting as presented

Motion carried unanimously by voice vote.

Case No. 110216-V-1 -- A public hearing was opened for comment at 6:31 p.m. on the request of Washington Area Community Center (WACC) for a waiver of setback requirements variance at 360 N. Wilmor Road. Publication was made of the public hearing notice, and there were no "interested parties" registered.

Public Hearing: waiver of side & rear setbacks & front yard variance request, WACC

P & D Director Oliphant provided a written overview of the variance request that noted the following: the petitioner has applied for a variation of the front, side, and rear yard setback requirements; the property is zoned R-1; the standard front yard setback is 25', the side yard setback is 5' (with a total of 12' for the two sides), and the rear yard setback is 20' or 20% of the lot depth, whichever is greater; an agreement was entered into that requires the real estate underlying the Library to be conveyed to the Library in fee simple no less than 10-years after the signing of the agreement; and this conveyance would allow the Library to split into a separate parcel with a party wall separating the Library from the remaining Community Center on the west and part of the south sides. He shared the following in regards to each setback: 1) front yard: a proposed 5,000 s.f. addition is being planned for the future which would be constructed within 10' of the proposed front property line thus requiring a 15' variance; 2) side yard: the southwest corner of the Library would have a party wall with no setback thus requiring a 5' variance; and 3) rear yard: the west side of the Library would have a party wall with no setback thus requiring a 38' variance. He shared that this is a very unique case and it is staff's opinion that it would not change the character of the neighborhood and there does not appear to be a self-imposed hardship and due to these factors staff supports the request for a waiver of the side and rear yard setbacks and a 15' front yard variance.

Petitioner comments: Mr. Bob Brown, and on behalf of Mr. Bob Schmidt, both representing Washington Area Community Center, shared that P & D Director Oliphant has accurately stated their position.

Public comments: None.

At 6:34 p.m. the public hearing was closed.

Close Public Hearing

Vice Chairman Fischer clarified with Mr. Brown that the waiver of the setbacks will be mutual waivers for both the Washington Area Community Center and the Washington District Library as stated on Page 3, Statement #4 of the submitted application for variation. Vice Chairman Fischer entertained a motion of the waiver of the side and rear yard setbacks for Washington Area Community Center and the Washington District Library so the properties can be separated properly and for a 15' front yard variance for the Washington District Library parcel once separated. Commissioner Reeder moved and Commissioner Milot seconded to approve the variance request as stated.

Approve Case No. 110216-V-1, variance request

Commissioner comments: A discussion ensued on the common walls that will be shared and how both parties are dealing with situations surrounding the maintenance, etc. of those walls and the need for the 15' front yard variance to allow for an expansion of the Library at a future point in time. Both Mr. Brown and Mr. Schmidt assured the Commission that the original agreement addresses the common components and that all code requirements were satisfied during the initial building process.

There was no additional discussion and on roll call the vote was:

Ayes: 4 Benson, Fischer, Milot, Reeder

Nays: 0

Motion carried.

Findings of Fact – application was made by owners of property; fees were paid; property is zoned R-1; waiver of side and rear yard setbacks and 15' front yard variance request to allow conveyance of underlying real estate and a proposed addition. A public hearing was held on Wednesday, November 2, 2016, all present were given the opportunity to be heard; there were no "interested parties"; there were no objections to the granting of the variance; character of the neighborhood would not be changed; and the hardship is not self-imposed due to the requirement of state law.

Finding of Facts

Public Hearing: rear yard variance request, Washington Village Estates, LP c/o Christian Homes, Inc.	<p>Case No. 110216-V-2 – A public hearing was opened for comment at 6:46 p.m. on the request of Washington Village Estates, LP c/o Christian Homes, Inc. for a rear yard variance at 1150 Newcastle Road. Publication was made of the public hearing notice, and there were no “interested parties” registered.</p> <p>B & Z Supervisor Holmes provided a written overview of the variance request that noted the following: the property is zoned R-2; the petitioner is requesting to construct two 2-unit buildings and four 4-unit buildings on the site; three of the buildings on the south side of Newcastle Place encroach into the required 50’ rear yard setback requiring a 26’ rear yard variance; the east half of the lot contains an existing 3-story assisted living facility; and the property abuts Five Points Washington on the south and Central Grade School on the south and west.</p> <p>Petitioner comments: Mr. Phil Martin with Martin Engineering introduced himself and Mr. Bill Glore from Christian Homes. He shared that they are requesting the variation from the 50’ setback requirement in order to extend the private roadway from the parking lot to meet with Newcastle Road. He shared they are proposing six buildings with 20-units and if they had to go with the 50’ setback we wouldn’t get enough density to make it work financially and that the proposed layout fits with the neighborhood.</p> <p>Public comments: None.</p>
Close Public Hearing	At 6:47 p.m. the public hearing was closed.
Approve Case No. 110216-V-2, variance request	<p>Commissioner Milot moved and Commissioner Fischer seconded to approve the variance request as presented.</p> <p>Commissioner comments: Commissioner Reeder asked if rear decks are being planned and Mr. Martin shared that some will be decks and some will be patios. The following information was confirmed by Mr. Martin and B & Z Supervisor Holmes: the buildings are one story; Christian Homes will retain ownership of the entire parcel which includes the proposed development as well as the assisted living facility which is located on the east half of the parcel; the proposed roadway is already stubbed in from the parking lot of the assisted living facility; all parking requirements are being met; the setback requirement on the west property line is a side yard setback of 5’: it was shared by Mr. Martin that Central Grade School is not opposed to the development; and the entire parcel is approximately 5 acres in size.</p> <p>There was no additional discussion and on roll call the vote was: <u>Ayes: 4</u> Benson, Fischer, Reeder, Milot <u>Nays: 0</u> <u>Motion carried.</u></p>
Finding of Facts	<p><u>Findings of Fact</u> – application was made by owners of property; fees were paid; property is zoned R-2; 26’ rear yard variance in order to allow for the construction of one 2-unit and two 4-unit buildings. A public hearing was held on Wednesday, November 2, 2016, all present were given the opportunity to be heard; there were no ‘interested parties’; there were no objections to the granting of the variance; property cannot yield a reasonable return because a lower density would not be financially feasible; plight of the owner is due to unique circumstances as the existing stub road from the assisted living facility limits the layout options of the development; and character of the neighborhood would not be altered as the adjacent properties are a community center and a school.</p>
Public Hearing: zoning code text amendments, Definitions & Special Flood Hazard Area Regulations	<p>A public hearing for the purpose of hearing comment pertaining to proposed amendments to the Zoning Code for the purpose of adding/deleting text was opened for comment at 6:56 p.m.</p> <p>P & D Director Oliphant shared that §154.004, “Definitions” will reinstate the ‘front yard’ definition that was inadvertently deleted in July when the amendment that clarified the definition of a corner lot was approved. He shared a brief update on FEMA’s process of modernizing the floodplain maps for Tazewell County which are scheduled to become effective on February 17, 2017. He shared the City currently has a floodplain ordinance based on the state’s model ordinance and the IL Department of Natural Resources is requiring communities to adopt the regulations in the latest model ordinance prior to the new maps becoming effective. Following are the minor amendments to each section: 1) §154.186 (Definitions) adds and revises existing definitions; 2) §154.187 (Base Flood Elevation) substitutes effective dates; 3) §154.188 (Duties of the Building Official) revising section references; 4) §154.189 (Development Permit) requires applicant to submit any other local, state, and federal permits; 5) §154.190 (Preventing Increased Flood Heights & Resulting Damages) pertains to bridge and culvert crossings of streams in rural areas; 6) §154.191 (Protecting Buildings) sets and revises various items related to the protection of buildings; 7) §154.192(A)(3) (Subdivision Requirements) encourages public grounds, streets, and parks to preserve natural streams and channels; 8) §154.193(A)(5) (Public Health and Other Standards) requires critical facilities to be 3’ above the 100-year floodplain in situations where a 500-year floodplain has not been determined; 9) §154.194(C) (Variances) establishes conditions for which variances to the building protection requirements can be considered for historic structures; 10) §154.196(B) (Penalty) establishes the conditions for the issuance of a stop-work order; 11) §154.197 (Abrogation and Greater Restrictions) date substitution for the floodplain ordinance amendment; 12) (Carrying Capacity and Notification) adds a new section that requires projects to maintain the existing flood carrying capacity of watercourses and notification requirements to adjacent communities; and 13) §154.199 (Severability) adds that any particular provisions and sections are deemed separable and the invalidity of any portion of the ordinance does not affect the validity of the remainder. He shared that staff has also added an amendment</p>

in §154.193(A)(6) to address the need to restrict any fencing within a floodplain which mirrors what we have been doing all along in the permitting process. Public Hearing Cont.)

At 6:59 p.m. the public hearing was closed.

Close Public Hearing

Commissioner Benson moved and Commissioner Reeder seconded to recommend the text amendments as presented.

Recommend approval of zoning code text amendments

Commissioner comments: None.

There was no additional discussion and on roll call the vote was:

Ayes: 4 Fischer, Milot, Reeder, Benson

Nays: 0

Motion carried.

None.

Commissioner Comments

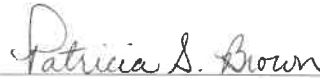
P & D Director Oliphant shared that he may have some general items for December's meeting but if nothing comes in by the deadline we may hold off until January.

Staff Comments

At 7:00 p.m. Commissioner Milot moved and Commissioner Benson seconded to adjourn.

Adjournment

Motion carried unanimously by voice vote.



Patricia S. Brown, City Clerk

CITY OF WASHINGTON

PLANNING & DEVELOPMENT DEPARTMENT

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MEMORANDUM

TO: Chairman Burdette and Planning and Zoning Commission
FROM: Jon R. Oliphant, AICP, Planning & Development Director
SUBJECT: Cherry Pointe Section 2 Early Certificate of Occupancy Variance Request
DATE: December 21, 2016

(Please note that this case is rescheduled due to a lack of quorum at the December meeting.)

The final plat for Cherry Pointe Section 2 was approved by the City Council in August. Later this fall, staff received building permit applications for three lots in this section from Tanner Rave of MKR Properties. Staff informed MKR Properties that while building permits could be issued for these lots, certificates of occupancy (CO) could not be issued until such time that the public infrastructure improvements were reviewed and approved by the Public Works Director. It is anticipated that all of the infrastructure can or would be done prior to the occupancies of these houses with the exception of the paving of Calvin Drive and Brown Court.

Iuvo Constructum, LLC (developer), has applied for a variance allowing for the CO's to be issued for these houses prior to the completion of the infrastructure improvements. The developer has offered to treat these streets as private and to enter into an agreement releasing the City from any liability associated with the use of the streets prior to final paving. Our City Attorney's office has indicated that this is a request for a variance from Section 154.237 of the Zoning Code (see below).

Section 152.019(H)(I) of the Subdivision Code provides the Code Enforcement Officer general authority to delay the issuance of the CO if the property does not comply with the Code, such as a failure to have access and frontage on a public street. Section 154.237(B) states that a CO "shall be issued within three (3) days after the construction shall have been approved" by the Code Enforcement Officer.

Any streets are required to settle according to Section 152.025(V): "Street pavement in residential subdivisions shall not be installed until the trenches for underground utilities have settled through a winter and spring season." If work started now, the homes could feasibly be finished sometime in late winter or early spring, likely before the paving could be completed. Mr. Rave has asked about the possibility of issuing the CO's with a temporary gravel road in place and that any maintenance and snow plowing would not be the responsibility of the City.

Staff would be concerned about the impact of having homes occupied before the road paving has been completed and approved by the city. The variance application submitted on behalf of the developer incorrectly states that the CO is issued "upon completion of construction." Instead, as referenced above, the CO is issued after the construction has been approved by the City. As a result, staff would recommend not approving the variance request.

A public hearing is scheduled for the January 4 Planning and Zoning Commission meeting. Please note that the PZC vote is a recommendation on this case to the City Council, which would then have two ordinance readings prior to its vote.

CITY OF WASHINGTON, ILLINOIS – APPLICATION FOR VARIATION

- (1) Full name(s) and addresses(es) of all legal owners:

Iuvo Constructum, LLC, an Illinois Limited Liability Company (Developer), 1709 Tullamore Avenue, Suite B, Bloomington, Illinois 61704

How would you like to receive correspondence? _____ Mail xx Email

Email Address(es): emegli@lbbs.com (Elizabeth B. Megli, attorney)

- (2) Full and complete legal description for the property (also attach a copy of your deed and/or property tax bill)? Please see attached Final Plat of Cherry Pointe Section 2

- (3) Address for the property: Please see attached Final Plat of Cherry Pointe Section 2

- (4) Present zoning classification: R-2 Multi-Family Residential

- (5) Present use of property: Undeveloped land; intended for residential development purposes

- (6) Describe how your property cannot yield a reasonable return, if it is required to be used only under the general conditions of your zoning classification:

Prior to being advised of the restriction on obtaining Occupancy Permits, Developer entered into two (2) contracts for construction of single-family residences ("Pre-Sold Contracts"). Additionally, Developer was advised that it could obtain Building Permits, which Developer anticipated would result in issuance of occupancy permits in accordance with Section 154.237(B) of the Washington, Illinois Code of Ordinances ("Code"). Requiring Developer to comply with the City of Washington's interpretation of Section 154.237 of the Code will result in Developer's default under each of the Pre-Sold Contracts. Additionally, the required infrastructure allowing for completion of construction on the pre-sold lots will necessarily implicate infrastructure for additional lots; the cost of which is a financial burden upon Developer in the event Developer is prevented from obtaining Occupancy Permits until the streets are completed. The restriction on obtaining Occupancy Permits impacts the completion of Calvin Drive and Brown Court.

- (7) To the best of your knowledge, can you affirm that the hardship described above was not created by an action of anyone having property interests in the land after the Zoning Ordinance became law? Yes _____ No xx

If "no", explain why the hardship should not be regarded as self-imposed. (Self-imposed hardships are NOT entitled to variations.)

Developer relied upon Section 154.237(B), which provides that an Occupancy Permit is available upon completion of construction, and is triggered by application for, and issuance of, a Building Permit. Developer sought confirmation that Building Permits were available

prior to final pavement of streets, and it was advised Building Permits would be available during that timeframe. Based upon that representation, Developer applied for and received Building Permits. It was only then that Developer was advised that an Occupancy Permit would not be available until completion of street paving.

- (8) Describe how your situation is unique or different from other property:

Developer is not privy to the circumstances, negotiations, or outcomes related to issuance of building and occupancy permits to other developers and/or builders, by the City of Washington. As a result, Developer cannot offer an informed response to this inquiry.

- (9) Describe the alternation or change, if any, in the basic character of the neighborhood the variation, if granted, would make:

Unlike many applications for variation, this Application would not alter the character of the neighborhood in any respect. Instead, it would allow for further development, resulting in new homes for residents of the City of Washington, as well as those seeking to move to the area.

- (10) Describe the nature of the variation you are requesting (*attach a dimensional site plan*):

Developer is requesting issuance of Occupancy Permits upon completion of construction, and prior to paving of Calvin Drive and Brown Court. In consideration for the requested variation, the Developer is willing to maintain Calvin Drive and Brown Court prior to final paving. Developer proposes these streets be treated as "private" streets until such paving occurs and, to that end, is willing to enter into a mutually beneficial agreement. Developer is also willing to seek an acknowledgment from any purchaser, releasing the City from liability associated with the use of streets prior to final paving.

I/we certify that all of the above statements and the statements contained in any papers or plans submitted with this Application are true and accurate to the best of my/our knowledge.

I/we hereby expressly consent to the entry in and upon the premises and property described in this Application by any authorized official of the City of Washington for the purpose of posting, maintaining, and removing such notices as may be required by law and for the purpose of verifying any statement or statements herein contained.

DATE: November 8, 2016

Iuvo Constructum, LLC, an Illinois Limited Liability Company

By: _____

Tanner Rave
Tanner Rave, One of Its Managers

NOTE: *This application must be signed by the true legal owner or owners of the property.*

CITY OF WASHINGTON

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MEMORANDUM

TO: Chairman Burdette and Planning and Zoning Commission
FROM: Jon R. Oliphant, AICP, Planning & Development Director
SUBJECT: Public Hearing – Early Certificate of Occupancy Prohibition Draft Text Amendment
DATE: December 12, 2016

There is not currently language in place in the Subdivision Code that explicitly prohibits the issuance of Certificates of Occupancy (CO) for houses completed prior to the approval of all public infrastructure improvements. While there is language in place, that allows the City to not issue CO's until after such time when the improvements have been approved, there is a desire to have a policy making this clear.

Attached is a draft text amendment that would prohibit the CO's from being issued until after the City has approved the infrastructure improvements. It would also withhold other public services include street maintenance, snow plowing, and garbage pickup until the approval of the improvements. This amendment is based largely on language that the Cities of East Peoria and Pekin have in their codes. This would be placed in both the Subdivision and Zoning Codes in order to help ensure that any interested parties are aware of this requirement.

Public hearings are scheduled for the January 4 Planning and Zoning Commission meeting for a recommendation on the adoption of the identical language in both the Subdivision and Zoning Codes prior to two ordinance readings by the City Council.

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF
THE CITY OF WASHINGTON, ILLINOIS BY AMENDING SECTION 152.005 OF CHAPTER 152
ENTITLED "ENTITLEMENT OF RECORD UPON APPROVAL"**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WASHINGTON,
TAZEWELL COUNTY, ILLINOIS, as follows:**

Section 1. That § 152.005 of Chapter 152 of the Washington Municipal Code of Ordinances titled "Entitlement of Record Upon Approval" is hereby amended by adding § 152.005(F) in its entirety thereof:

"§ 152.005 ENTITLEMENT OF RECORD UPON APPROVAL

- (F) The City shall not issue a Certificate of Occupancy for any building in a subdivision in which all public infrastructure improvements required in accordance with this Chapter have not been installed and approved by the City. Any damage done to improvements during construction shall be corrected prior to issuance of a Certificate of Occupancy for any building. The City will withhold all public services of any nature, including the maintenance of streets, snow plowing, or garbage pickup until final acceptance of all public improvements."

Section 2. That this ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Section 3. That all ordinances or parts thereof in conflict herewith are hereby expressly repealed.

PASSED AND APPROVED this _____ day of _____, 2017.

AYES: _____

NAYS: _____

Mayor

ATTEST:

City Clerk

ORDINANCE NO. _____

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF
THE CITY OF WASHINGTON, ILLINOIS BY AMENDING SECTION 154.237 OF CHAPTER 154
ENTITLED "CERTIFICATES OF OCCUPANCY"**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WASHINGTON,
TAZEWELL COUNTY, ILLINOIS, as follows:**

Section 1. That § 154.237 of Chapter 154 of the Washington Municipal Code of Ordinances titled "Certificates of Occupancy" is hereby amended by adding § 154.237(F) in its entirety thereof:

"§ 154.237 CERTIFICATES OF OCCUPANCY

(F) The City shall not issue a Certificate of Occupancy for any building in a subdivision in which all public infrastructure improvements required in accordance with this Chapter have not been installed and approved by the City. Any damage done to improvements during construction shall be corrected prior to issuance of a Certificate of Occupancy for any building. The City will withhold all public services of any nature, including the maintenance of streets, snow plowing, or garbage pickup until final acceptance of all public improvements."

Section 2. That this ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Section 3. That all ordinances or parts thereof in conflict herewith are hereby expressly repealed.

PASSED AND APPROVED this _____ day of _____, 2017.

AYES: _____

NAYS: _____

Mayor

ATTEST:

City Clerk