

PLAN AND ZONING COMMISSION
MEETING MINUTES - DRAFT
August 4, 2020

CALL TO ORDER: The meeting was called to order at 7:00pm on Tuesday August 4, 2020.

ROLL CALL:

Members Present: Jay Roloff, Steve Briney, Mike Buzicky, Bob Buchanan, Robert DeAtley and Damian Spencer.

Members Absent: Earl Seamands.

Others Present: Village Attorney Joe Chamley, Village President Sean Widener, Village Administrator Patrick Brown, Village Planner Kelly Pfeifer, and Planner Abby Heckman.

PUBLIC COMMENT: No one came forward.

Mr. Roloff asked if there was anyone present at the Village Hall.

Kelly Pfeifer stated that she and Patrick Brown were sitting in the board room at the Village Hall and that there weren't any other members of the public present.

REVIEW/APPROVE MINUTES: July 7, 2020

Mr. Roloff asked if the Commission had any changes to the minutes.

Buchanan moved to approve the July 7, 2020 minutes as presented. Briney seconded the motion. ROLL CALL. 4-0-2. Spencer and DeAtley abstained. Motion Passed.

PUBLIC HEARINGS:

ETHOS DESIGN BUILD, LLC

A RESOLUTION CONCERNING THE PETITION FOR RELIEF FROM MORATORIUM ORDINANCE #20-5-02 BY ETHOS DESIGN BUILD, LLC

Mr. Roloff read through the public hearing script which was included in the PZC meeting packet. He stated the case information was included in the PZC meeting packet and is displayed on the screen.

Joe Chamley stated that anyone that testifies must be sworn in.

Mr. Roloff asked Christopher Oswald (attorney for Ethos Design Build LLC), Steve Lehman (representative for Ethos Design Build LLC), and Steve Kerr if they swore to tell the truth and all three responded yes.

Christopher Oswald stated he is an attorney with Miller Hall & Triggs, LLC out of Peoria, IL representing the petitioner and that he submitted an application on July 3, 2020 that started this hearing process. He stated that in the application was a reservation of rights and the petitioner believes it has vested rights in the development irrespective of the moratorium that was imposed. He stated that by appearing here tonight they were just looking to cooperate with your process and go through the administrative channels before they take any further steps. He stated they respect the Village's right to evaluate ordinances from time to time, but in a situation like this where a petitioner has expended significant

resources in furtherance of an allowed use and then those rights are taken from them late in the game. He stated they have a problem with that and fortunately your ordinance for a moratorium on multifamily development provides a mechanism for relief. He stated that is why they were here tonight. He stated that he thinks after you hear our testimony, you will agree with us that not only has our developer incurred significant economic hardship as a result of this moratorium because he has no other reasonable use of the property, he's made substantial irrevocable investment with reasonable reliance on the current ordinance, and that the development would otherwise comply with your other ordinances. He stated that you're going to find that we're pretty far along in the game here. He stated this is a significant project for our client, he wants to be a part of the Mahomet community, and he's looking for your support. He stated he wanted to call his first witness, Steve Layman, who is the person behind the entity that is Ethos Design Build LLC.

Mr. Roloff stated for the record I'll just affirm that Steve did provide that oath that he would be telling the truth.

Steve Lehman stated that is correct. He stated that he has meet with Abby, Kelly, Patrick and many others. He stated for several months have been working many hours on this project and have been part of the community for many years and our family has a lot of a vested interest in Mahomet doing well.

Christopher Oswald asked Steve what this project means for his company.

Steve Lehman stated his company is medium size and they try to identify a good opportunity to enhance a community so we do one or two projects per year and this is one that was identified as being a good opportunity for the community and for our business.

Christopher Oswald asked Steve how much of your staff time do you think would be committed to this project over the next 18 months if it were to go forward.

Steve Lehman stated that it was our primary project for the next 18 months.

Christopher Oswald asked Steve what would the failure of the project look like to the company if you already expended efforts to set it up and you thought you were close to the permanent.

Steve Lehman stated that it's devastating because we had already expended quite a bit of time, effort and money into it and up to this point, we had staffed up with the ongoing expectation of building based on the current rules. He stated that suddenly not being able to proceed entirely cuts off the blood flow and the revenue stream for our company for the next 18 months, which means people lose their jobs and our company may not exist going forward. He stated it's a crippling effect to us and if we can sustain it will take a big toll.

Christopher Oswald asked Steve if it is fair to say there would be a significant economic hardship.

Steve Lehman stated yes.

Christopher Oswald stated he sent a letter July 3rd, 2020 with attachment. He wanted to skip to exhibit C where you'll see we've itemized expenses and comes to \$314,000. He stated it represents both internal and external costs associated with putting together a project of this size and total estimated

project hard costs at 2.9 million. He asked Steve if the information was a reasonable estimation of what the project would cost to construct.

Steve Lehman stated the raw cost of construction is in that ballpark of the \$2.9 million and the cost already expended is at \$314,000.

Christopher Oswald stated Ethos planned to own and operate this facility in addition to building it.

Steve Lehman stated there are three line items, the \$319,000 is lost revenue during the construction activities throughout the next 12 months, if we weren't able to construct. He stated \$379,000 is the estimate of lost revenue from operation year after year if they are unable to construct. He stated there is the \$314,000 that is already spent, the \$319,000 of lost revenue during construction activities, and the \$379,000 of lost ongoing revenue.

Christopher Oswald asked Steve if they knew the project wasn't viable then would they have found another project.

Steven Lehman stated if he had known this was not viable they wouldn't have invested the \$314,000 into it and would have diverted our attention and efforts into something else.

Christopher Oswald asked Steve if he had looked at this property for multifamily residential development and asked if they would be able to do anything else with this property.

Steve Lehman stated the property is currently zoned for multi-family and there's nothing else viable for this property that were aware of.

Christopher Oswald asked Steve if the property is under contract with Mr. Tabeling and if you're unable to pursue the project, would you acquire the land.

Steve Lehman stated yes they are under contract and no they wouldn't acquire it because the value of the land is limited.

Christopher Oswald stated he wanted to go over the process before May 26 when the moratorium was passed. He asked Steve when he first approached the Village about this project.

Steve Lehman stated it was this last winter.

Christopher Oswald stated he wanted to shift everybody's attention to the very first email from exhibit B. He went through the emails included with exhibit B.

Steve Lehman stated they met with Village staff back in January of 2020 and we talked with Kelly Pfeiffer, Abby, as well as Patrick to discuss goals and interests of the Village. He stated they care about Mahomet and wanted to find a way that would work well for everyone and explore different ideas. He stated the Village had a downtown master plan which includes multifamily developments which they went over with Village staff.

Christopher Oswald asked Steve if that was the last communication.

Steve Lehman stated no, they also looked at other properties that were currently zoned for multifamily and found a property on Patten Drive already zoned for multi-family. He stated they pursued the property because the property didn't have any hinderances in terms of needing support from TIF money or enterprise funds and the property was the most buildable with our current funding. He stated they wanted to invest in the Village without asking for any financial support from the public or from the Village.

Christopher Oswald asked Steve if he meet with the Village in person.

Steve Lehman stated yes, we met in person a few times and then our communication was over phone, email and text since the limitations with Covid-19.

Christopher Oswald asked Steve if there was dialog from January to March and asked if anyone raised the moratorium issue during that time.

Steve Lehman stated yes their was dialog and no there was not mention of a moratorium.

Christopher Oswald asked Steve in April, I assume you still had some communications ongoing.

Steve Lehman stated yes. He stated they were working hard and spent a lot of hours on this, so whether it's in person, over email, text, phone calls, we were communicating with multiple methods and media throughout those multiple months.

Christopher Oswald asked Steve if in April did anybody say anything to you about a potential for a moratorium that would affect this project.

Steve Lehman stated no.

Christopher Oswald asked Steve when the first time he learned about the moratorium.

Steve Lehman stated it was May 22, 2020 when Kelly emailed him asking him to call her. He stated he called Kelly to chat which confused me to find out there would be resistance building up. He stated Patrick called him later the same day insinuating they were going to do all they could to stop development. He stated he told Patrick they had spent \$300,000 already.

Christopher Oswald stated that the hearing was set for May 26 so Ethos put together an application for site development which is exhibit A.

Steve Lehman stated they submitted for a permit. He stated they have a full set of building plans that were designed with our collective team. He stated they do an integrated delivery model which involves some consultants, some in-house between civil engineering and architectural design. He stated they use both our staff and outsourced consultants.

Christopher Oswald asked Steve if their design professionals had been working with the Village on preparing those.

Steve Lehman stated yes for several months.

Christopher Oswald asked Steve if they filed on May 26 and if the plans were prepared in compliance with the rules and regulations and zoning requirements in the Village.

Steve Lehman stated yes.

Christopher Oswald stated he was finished with his questions for Steve.

Mr. Roloff asked if anybody on the Commission has questions or clarifications for Steve. He asked if anybody from public has questions and as a reminder, if you speak, you'll be subject to questions too. He stated someone can raise their hand in zoom or in the chat, or somehow indicate that you're that you you've got a question. No one responded. He asked Christopher Oswald if he had anyone else to speak.

Christopher Oswald stated he would like to call Steve Kerr on behalf of the petitioner.

Steve Kerr stated he resides in Peoria Illinois and is owner of Mohr & Kerr Engineering and Land Surveying. He stated they worked with Steve to prepare a site plan for this development which is included in exhibit A.

Christopher Oswald asked Steve when he was first involved with work on this project.

Steve Kerr stated his first involvement was the end of February with some zoning review, but they didn't take off until March 20th when they did the field survey of the property. He stated they worked on it through May to make sure we had a site plan that met all the zoning requirements and the detention requirements for the Village.

Christopher Oswald asked Steve if he worked with village staff during that period.

Steve Kerr stated they had some early conversations with the Village regarding setbacks and regarding a piece of the property on the West side that was going to have to be conveyed to an adjacent parcel. He stated that they moved some things around based on that conversation. He stated they also had some conversation with the Village engineer regarding detention requirements and believes they submitted plans and calculations to the Village engineer.

Christopher Oswald asked Steve if that continued through April and into May.

Steve Kerr stated yes.

Christopher Oswald asked Steve if the site plan in exhibit A was a culmination of your efforts. Steve Kerr stated it was a culmination of an overall an overall view of what the final development would be.

Christopher Oswald asked Steve if he believed the site plan was prepared in accordance with all ordinances and regulations of the Village.

Steve Kerr stated that as far as he knew, it meets all zoning requirements and detention requirements.

Christopher Oswald asked Steve if he believed it would be reasonable that if there were minor issues, it could be slightly modified.

Steve Kerr stated he wouldn't expect we submit something and not get a comment back.

Christopher Oswald asked Steve if he ever received any comments.

Steve Kerr stated no not since we submitted for the permit but they received some comments back regarding the detention and how to interpret the detention ordinance because we were struggling with that a little. He stated his employee Josh Moore submitted detention calculations with this plan with building permit but prior to that we had submitted detention calculations to the Village engineer to review and make sure that we were heading in the right direction.

Christopher Oswald stated he had no further questions for Steve Kerr.

Mr. Roloff asked the Commissioners if there were any clarifications needed on any of the answers that Mr Kerr gave.

Mr. Buzicky asked the applicant to go over the site plan for clarification of the size and scope of the project. He asked for the overall property size, number of units and buildings.

Steve Kerr went over the site plan. He stated there is a portion of the property that is zoned C2 that they would not be developing and the part of the property zoned R3 is 4.66 acres. He stated that the zoning ordinance allows one unit for 3000 square feet which would allow us to have 67 units in three buildings with a community center and a pool. He stated they were meeting or exceeding the setbacks required. He stated that two parking spaces are required per housing unit plus additional parking for the community center, so we have a total of 144 parking spaces. He stated it meets ADA requirements. He stated detention takes up a big part of the property and drainage generally flows from the northwest to the northeast.

Mr. Buzicky asked who owns the property and will the project be phased.

Steve Lehman stated the plans show the complete project and it is under contract with the property owner.

Christopher Oswald stated it's under contract and he has site control. He stated the property owner Shawn Tabeling would speak next.

Mr. DeAtley asked how many bedrooms the units would have and the total bedrooms for the site.

Steve Lehman stated they are close to an average of 2 bedrooms per apartment, so we're at 134 bedrooms total. He stated they wanted to leave some green space for common area so that people who live here could enjoy some greenery and common space to socialize

Mr. Roloff asked if there were any other questions from commissioners and if not, are there any questions from the public or anyone else. He stated that no one spoke up so we would move on to the next witness.

Christopher Oswald stated he would like to ask Shawn Tabelaing to speak.

Mr. Roloff asked Shawn Tabelaing if he swore to tell the truth.

Shawn Tabelaing stated yes. He stated he lived in Mahomet and is a developer and builder in Mahomet for the past decade. He stated the property was farmland which he rezoned the property prior to purchasing it.

Christopher Oswald asked Shawn if he was the owner of the property and was under contract to sell the property to Steve's development group. He asked Shawn if he supported this relief petition before the Plan and Zoning Commission.

Shawn Tabelaing answered yes.

Christopher Oswald asked Shawn if there was any objection at that time to your rezoning to R3

Shawn Tabelaing stated not that I recall.

Christopher Oswald asked Shawn if the property wasn't going to be used for multi-family residential, would it have any other reasonable economic use for you or Steve.

Shawn Tabelaing stated no, not for me. He stated their intent going in was to build apartments.

Christopher Oswald asked Shawn if he were going to develop it as something else would that significantly alter the infrastructure that would be required.

Shawn Tabelaing stated yes, you'd have to add a quite a bit of expense to do any kind of other single-family or duplexes or anything like that.

Christopher Oswald asked Shawn what types of additional expenses would be involved.

Shawn Tabelaing stated municipal roads, and extension of utilities, water, sanitary, and storm. He stated he would not be interested in developing duplexes.

Christopher Oswald asked Shawn if anybody approached him to do any other kind of development on that site.

Shawn Tabeing stated no, not outside of Steve and another group that was also interested in doing apartments

Christopher Oswald asked Shawn if he was not able to sell this property to Steve for multi-family apartments would he have some difficulty selling it.

Shawn Tabeing stated yes, I believe I would.

Christopher Oswald ask what expenses were incurred to date to put in infrastructure and he has done with the property so far pursuant to your original development agreement.

Shawn Tabeing stated 600 feet or so of Patton Drive was put in along with sidewalks along Patton and along US150 and all the utilities, water, sanitary and extensive storm lines.

Christopher Oswald asked Shawn if that work has been completed and approved by the Village

Shawn Tabeing answered yes.

Christopher Oswald asked Shawn what it cost to put that in.

Shawn Tabeing stated hundreds of thousands.

Christopher Oswald asked Shawn if he weren't able to sell this for multi-family would you would incur some significant economic hardship

Shawn Tabeing stated yes he would.

Christopher Oswald stated he had no further questions for Shawn.

Mr. Roloff asked if any of the commissioners, the public or anyone else have any questions for Shawn about the answers he gave. He stated that no one spoke up so we can move on to the next witness. Christopher Oswald stated he would wrap up by saying, he thinks they've submitted evidence this evening that meets the burden, which is that we've incurred significant economic hardship, no other reasonable use of this property other than as multi-family based on the current ordinances and we've suffered and expended significant or substantial irrevocable investment. He stated that the development would, in all other respects, comply with the ordinances of the Village and therefore we respectfully request that the commission recommended approval of our request to seek relief from the moratorium on multi-family development and allow this project to go forward.

Mr. Roloff stated the petitioner has made their case, called some witnesses, and had some good discussion here. He stated that now is a time for anybody else that might want to say something, either in support or against this petition, or just a general statement.

Abby Heckman stated that she just checked email to make sure that we didn't receive anything in writing and at this point nothing had been submitted by email.

Mr. Briney asked when the moratorium is supposed to end.

Joe Chamley stated the terms of the ordinance says it will expire December 31, 2020, unless prior to that time, the Village Board has terminated it. He stated the moratorium ordinance was included in the meeting packet and referred to section 2B

Mr. Briney asked how significant it is to the applicant or the property owner to wait until the moratorium expires.

Mr. Roloff stated it would expire approximately 4.5 months from now.

Christopher Oswald stated his understanding is that the Village is looking to make changes to the ordinances that could significantly impact this project. He stated that is why we are seeking relief at this time. He stated they believe we've expanded. My client is extended the funds and the efforts to develop this project under the current ordinance, and if we wait until the moratorium is lifted, there may be aspects of this project that are not allowed to go forward. He stated he would let Steve speak to what the economic consequences that would be to make this project wait until the end of the year. Steve Lehman stated there are several aspects that would still inflict financial damages to us, which is pushing us out of the leasing season, difference in interest rates 6 or months from now, and we don't know if there will be new rules with any ordinance revisions. He stated this puts the whole project in flux and it could make it not feasible or financially viable.

Christopher Oswald stated he couldn't speak to what your Village board will do in terms of the new ordinance but if it significantly reduces the number of buildings or the number of units that were able to be constructed on this project that could completely change the financial pro forma this this project and makes it less attractive to investors and lenders.

Mr. DeAtley asked the petitioner to speak to the market considering the Village has seen a large flood of similar units come available in the last year and a half. He asked when your market analysis was done and whether it has taken into account the market as is as it exists today.

Steve Lehman stated he has first hand experience with multiple properties in Mahomet and Champaign and we saw that the Village had just signed a redevelopment agreement supporting a multifamily property which shows that there would be normally a support for it as well as a master plan for downtown redevelopment, which includes some multifamily there. He stated they have financial institutions who are ready to loan us the funds for the property.

Mr. Roloff asked for and questions from commissioners or the public.

Mr. Buzicky asked if the north part of this property is still zoned commercial.

Steve Lehman stated yes but they will only utilize the area already zoned multi-family.

Christopher Oswald stated that if that were ever going to be used as commercial at some point in the future, they'd have to come through and try to subdivide that to make that work but otherwise it just be greenspace as part of the development.

Mr. Roloff stated he would entertain a motion to close the public participation portion, suspend the rules, and have a discussion amongst the members of the Planning and Zoning Commission. He stated the discussion would be open and on public record, so I'd entertain a motion to do that.

DeAtley moved to close the public participation portion and suspend the rules. Buchanan seconded the motion. ROLL CALL. 6-0. Motion Passed.

Mr. Roloff stated we've now heard some input, had a nice presentation, several questions and answers. He stated there is a resolution that has been provided for us and the next step of this process is going to be that we're going to need to go through those four findings of fact. He asked if everybody had enough information at this time to be able to make those determinations of finding a fact or is there some additional information that we think we need or do we think we're ready to move forward.

Mr. Buzicky stated it's a lot to take in. He stated we're trying to speak for the Village and the feelings that the Village residents had. He stated we as a Commission put in the moratorium and then the Board of Trustees approved it for a reason and this is only a few months later. He stated we're taking in a lot of information here and trying to digest it so I probably need more information, I just don't have the questions right now, but I'm just taking it all in.

Mr. Roloff asked Abby to scroll to the last two pages of the packet which shows the findings of fact question which are the questions we need to answer.

Mr. Roloff asked Joe Chamley if it was appropriate to continue this public hearing until next month so that we can digest the information and potentially formulate some questions.

Joe Chamley answered yes. He stated this is quasi judicial and you're supposed to deliberate and take this very seriously which you certainly are by your questions and concerns. He stated you have that right to say you may need some more time to figure out what our responses for these things will be.

Mr. Roloff stated on the screen are the four questions we need answer to make a determination whether there was a significant economic hardship on the applicant, whether there is some other reasonable use of the property in question, whether or not the petitioner has made substantial irrevocable investment in the development, whether or not there is reasonable reliance on the regulations as they stood at the time and whether or not the proposed development complied with Village ordinance regulations and rules. He stated he would poll the commissioners to see where everyone is, if everyone is ready or if there are other questions.

Mr. Buchanan stated items 1, 3 and 4 have clearly been met but item 2 is unclear whether it has been met. He stated he has talked to others in the community with concerns about multi-family development.

Mr. Roloff stated that it is good that you are talking to the community but that isn't directly relevant since the request is asking for relief from the moratorium.

Joe Chamley stated the focus here is on this project and the particulars of this project, this development, this location, it's this project, their situation that they have right here.

Mr. Roloff stated we're probably not going to get a good answer for number 2 even in a month or two because there could be other reasonable uses, we probably all have our opinions, but we're not going to be doing market studies in the short term.

Mr. DeAtley stated he is disappointed in the community because the testimony that was provided in my opinion does answer the four questions. He stated that he tends to agree with Bob that the second question is less certain, but based on the testimony provided, it appears that those four questions have been answered. He stated he's been contacted by people not with regard to this case, but who have concerns with additional development so I'm just disappointed that in light of the testimony presented and in light of the ordinance, I feel like our hands are tied. He stated I'm not sure that the community wants it, but I'm not sure that we have a choice.

Mr. Roloff stated that more time may not help.

Mr. Briney stated he had questions about the process. He stated there are the four questions and underneath that there is a place for reasons. He asked if the reasons are required to go with each statement. He asked if the overall grant or deny decision is based on how of the individual questions are answered one way as opposed to the other.

Mr. Roloff stated this is a draft resolution and we have the ability to change this draft resolution in whatever way that we see fit. He stated they will have to weigh all of the answers to those four questions and then make that decision on the grant or deny. He stated that this is just a recommendation to the board.

Joe Chamley stated these are the factors that the ordinance calls for the Plan Commission to consider as recommendations, just as you said Jay, that will eventually go to the full board of Trustees. He stated it's contemplated that to get relief they are to satisfy all four of the factors. He stated a party would be entitled to relief if they can satisfy these four conditions.

Mr. Buchanan stated he thought it would be appropriate to give a reason for each one of these questions.

Mr. Roloff asked Joe Chamley for advice on process.

Joe Chamley stated if it is the desire of the Commission to get more input from the public, either the petitioners or the public you certainly could go back to the public participation portion to see if there's more input or questions from the public, the petitioner, etc.

Mr. DeAtley stated the petitioner has stated they believe they meet Village Ordinances. He asked staff if it has been reviewed and a permit issued for the project.

Mr. Roloff stated it seems like we need to reopen the public participation portion to address those questions. He stated he would entertain a motion to reopen public participation.

DeAtley moved to reopen the public participation portion. Buzicky seconded the motion. ROLL CALL. 6-0. Motion Passed.

Mr. Roloff called Kelly Pfeifer to testify for Village staff. He asked Kelly if she swore to tell the

Kelly Pfeifer answered yes.

Mr. DeAtley asked Kelly if staff has completed a review of the submitted documents and if a permit is able to be issued based on the documents submitted in and then as a follow up question for the petitioner, what their started construction is based on everything.

Kelly Pfeifer stated the process where we are is that they submitted an application package as you heard, Steve Lehman explain, the week before the moratorium was heard and acted on.

Kelly Pfeifer stated the application has not been reviewed because the moratorium gave us instruction to not review any site plan development for multifamily. She stated she could say that it contains the components that are generally what we receive with the first application for a site plan review and its contents. She stated they had an application form, civil plans, architectural plans and a check for the filing fee because they provided me with the estimated cost of the site construction, which is how we base the fee. She stated so whether those components, are ready to be built, in my experience, no, we usually go about two rounds of review comments to get a full complete site plan set that we can then say is it is approved. She stated there are components that were not included that we would normally need before we approve a site plan such as landscaping and other design features. She stated she only briefly looked at it because our instruction from the board is to not review because of the moratorium. She stated the particular piece of property that the site plan covers is actually a part of a lot and not the entire lot. She stated that as a point of information, the infrastructure was just last month accepted by the Board along Patton Drive and put into a one year warranty period. She stated the property on the South side of Patton Drive is currently one lot. She stated that Steven testified there is a portion of that lot that is already encumbered because it needs to be transferred and combined with what's currently Middletown Place apartment complex property. She stated there are two buildings that, without this strip of land transfer, do not meet setback requirements. She stated she sent the developer and Shawn Tabeling, the owner of lot 102, an email stating the developer was planning on developing the portion of the property that isn't available and that the developer needed to talk to the landowner before they went any further. She stated a Certificate of Exemption process was going to be used to transfer that piece to the adjoining Middletown Place property. She stated that she informed the property owner that no building permit could be issued on Lot 102 until that land transfer happened. She stated in talking with Shawn it appeared that Ethos wasn't designing for the entire lot, nor all the property. She stated that it wasn't just that little exemption that needed to be transferred, but that Shawn was looking to divide and make a lot out of the commercially zoned area and a lot out of the multi-family zoned area and also transfer the adjoining piece to the neighboring property door, so that's three pieces. She stated lot 102 needed to go through a subdivision process to be made into pieces before anything can happen with respect to a permit. She stated it is not uncommon for us to be working through a development plan site plan review process at the same time that a subdivision process is going on, which is why we require a pre development meeting between all parties, engineers, attorneys, owners, land owners, renters and anybody else we think needs to be in meeting. She stated that meeting

requirement is in our subdivision ordinance. She stated we have not yet held that meeting with them. She stated yes, we met with Steve and his group informally, this past winter, who were really eager to get some apartments into Mahomet and they were looking at downtown when we started. She stated that anything downtown would need subdivision, potentially rezoning, potentially development agreement, they pursued this other parcel, I think in that February, March, April timeframe. She stated we never had another meeting where we all got back together and figure out what was going on. She stated that while discussions were being had with our engineer where she was answering all the proper questions about our ordinances and Abby was being asked questions as well about what our ordinances are. She stated that we were unaware of the actual piece of property, what was going to be built on the property and how far they went into design. She stated that is a very unusual situation for us. She stated they had submitted some information for a cursory review and have included statements on the site plan that they comply with the zoning ordinance. She stated I cannot say that it complies with the subdivision ordinance because right now that lot is not buildable and needs to be subdivided. She stated the process could be what we call a minor subdivision and the PZC wouldn't see it because it is a staff approval. She stated if you're asking staff whether or not they can have a permit, the answer is, even if their plans were complete today, the parcel doesn't exist and until it's subdivided. She stated that the subdivision would take a couple of months. She stated I cannot tell you whether it does or does not comply because the moratorium told us to cease review.

Mr. Roloff asked if anyone had questions on the responses that Kelly gave.

Christopher Oswald asked Kelly if the boundary line in question is the western boundary line that would need to be adjusted.

Kelly Pfeifer stated that the western boundary line where that strip of land is your engineers did appropriately remove that land from what was originally submitted. She stated appropriately now the stormwater management doesn't have that portion in it and it looks like it could be transferred. She stated that her impression is that you're not designing stormwater for the rest of the parcel of lot 102. She stated you're only planning on and designing for the R3 portion. She asked if it was correct that you're not buying all the rest of 102.

Steve Kerr stated you are correct in the stormwater detention is only designed for the R4. He stated the C2 portion of the parcel it would all be grass and if it develops it would have to have its own detention. He stated he didn't know if it's a simple subdivision that would go through the subdivision process. He stated he talked to Shawn about having to split that off and we assumed that was a simple subdivision that wouldn't require planning and zoning and village board approval included. He asked Kelly if that was correct.

Kelly Pfeifer stated correct. She stated parts are corrected and parts aren't so we're caught in the middle. She stated originally it was simply that he had lot 102 and a strip of land needed to go over to the Middletown place, so the remainder of lot 102 was going to be for one buyer.

Steve Kerr answered correct.

Kelly Pfeifer stated that a certificate of exemption process is very easy, it is a subdivision process but it is fast. She stated that is what we were going to do for the last year at various times. She stated it

became evident to her that you weren't designing for the rest of 102 and you were only going to buy part. She stated that means Shawn has to go through a minor subdivision and he can't go through a minor subdivision within 12 months of having gone through another subdivision so when Ethos wasn't going to design for the rest of it he couldn't do the quick and easy certificate of exemption process and he needed to do a replat subdivision of all of lot 102 so he only did a subdivision once. She stated he would make the R3 or whatever your client was going to buy one piece and a commercial piece, which he says your client isn't going to buy, and then the transfer strip would just be an outlot and be transferred. She stated so if he had executed the easy, then what would have to be sold to your client to be buildable is the entirety of what's left. She asked if that was what was going on because she is not privy to the contract.

Christopher Oswald asked Kelly if it's correct then that if they were acquire the whole site, that a simple subdivision to move that boundary line between property owners could be accomplished administratively and would not be a significant issue.

Kelly Pfeifer stated that is correct, if they only needed to transfer the strip of land which is like 13 feet and the remainder was one property, then there is no other subdivision that has to occur and if the site plan reflects the entire boundary of the remainder and the ordinance is applied to that, then we're fine.

Christopher Oswald asked Kelly if there was anything that requires them to subdivide that commercial out if Ethos acquired the whole site.

Kelly Pfeifer answered yes. She stated this is why our subdivision ordinance requires a pre development meeting because we would figure out to make sure that all the coordination is happening so something is buildable. She stated we would talk about if it was part of a parcel and about whether easements are necessary. She stated at a glance it looked like the boundaries that they're buying and that they're designing for and they want a permit on is not the entire property even without the little strip. She stated our next step with Steve and the team would have been to schedule a pre development meeting and conference so we can see where they are, what property they are using and what steps have to be done.

Christopher Oswald stated we know that that's the initial process when you submit for a permit like this, you sit down and talk about the finer details.

Kelly Pfeifer stated we usually do not have anyone this far into a design in the site plan before we have that kind of meeting.

Christopher Oswald asked if this was something that would prevent a permit application from going forward.

Kelly Pfeifer answered no. She stated we try to be flexible here versus extremely rigid. She stated this is a first submittal, it gets it in the door and then we need to now mobilize and talk about who has to do what and when. She stated that until I have an owner and a developer in the same room, I don't really have a project. She stated we've had a lot of people that have designed and done things on land that they don't even have a legal interest in. She stated I'm not privy to the contract. She stated I was working with Shawn on what he had to do for his land and his needs and he asked about dividing the

commercial and the multifamily land and that made us cease doing the certificate of exemption, which we would really like to do so we can clear out Middletown Place because that project needs it. She stated the moratorium popped in during this time said timeout so that's what we've done. She stated that's all I know from my standpoint of where we are in the process. She stated that right now, even if relief is granted I can't say they get a permit tomorrow because the land needs to go through a subdivision. She stated that it doesn't mean it can't happen, but it takes a couple of months usually.

Christopher Oswald asked Kelly if the subdivision can be administratively approved.

Kelly Pfeifer answered yes it requires a lot of deeds for approval, but it's a pretty easy process.

Christopher Oswald asked Kelly if it's typical on this initial permit phase that there would be some other details that would be worked out between the landowner and the Village as it moves through the process.

Kelly Pfeifer answered yes.

Christopher Oswald asked Kelly if it was unusual.

Kelly Pfeifer answered it is not unusual except for the fact that Mahomet has not had very much multi-family developments. She stated she worked with the Solace Apartments for probably a year but it was a different piece of land that needed a development agreement. She stated I don't have a lot of other experiences but when I did talk to Steve and I called him to let him know about this moratorium and he said what had been done, I was extremely surprised that he had gone that far in that process without us sitting down with him and Shawn Tabeling. She stated it caught me off guard an. She stated she agreed to what was testified earlier that I suggested to Steve that he talked to Patrick or to the Mayor because I had nothing else to tell him other than I was giving him a heads up but that I expected it to be a short just through the end of the year.

Christopher Oswald asked Kelly that assuming that Shawn and him were to workout that administrative subdivision of that strip, so long as that site plan meets setback requirements and bulk requirements, it is essentially approvable.

Kelly Pfeifer answered if that strip is transferred through the certificate exemption process, which was nearly done and the balance of it was submitted with the rest of the lot, then yes, I think the answer your question would be yes.

Christopher Oswald asked Kelly but for the moratorium, you would have probably had that meeting with them to sit down and go through the site plan and correct any deficiencies.

Kelly Pfeifer answered yes we would have scheduled it but for the moratorium.

Christopher Oswald stated he had no further questions for Kelly. He stated that you guys may have some others for follow up but I will probably want to call a couple of other witnesses to speak to that.

Mr. Roloff asked if the commissioners and the public had any other clarifications you need from Kelly on the answers that she gave. No one spoke up. Mr. Roloff stated there was a comment typed in the chat from someone identified as iPhone. He stated the person needs to identify who they are and their address.

Matthew Dallas, by typing in the chat, asked how about we see what Ethos' answers are to these four questions.

Mr. Roloff stated that in their presentation Ethos indicated that they believe the answers to those four questions are the moratorium has caused significant economic hardships, the applicant has no other reasonable use of the property, the applicant has made substantial, irrevocable investment which the investment was made in reasonable reliance on the regulations, and the development does comply with all ordinances. He asked Chris or Steve to correct him if he is wrong. He stated that was in your original presentation.

Christopher Oswald answered he thought that was correct and that they have some additional evidence to follow up on Kelly's comments.

Mr. Roloff stated to Chris that if you've got additional witnesses that you'd like to call, now would be the time.

Christopher Oswald stated he would like to recall Steve Kerr.

Mr. Roloff reminded Steve that he is still under oath.

Christopher Oswald stated Kelly had raised the issue of this administrative subdivision. He asked Steve to tell where we're at in the process to make that boundary adjustment.

Steve Kerr stated he talked to Kelly and Steve about the 17 and a half foot strip and then I subsequently called Shawn to say we're not working with the right property. He stated they needed to transfer that property but I don't know where that is in the whole process. He stated the property owner's engineer was supposed to draw up because they had already done all the platting and everything for the original submission. He stated that he shows that strip as an exception on our site plan.

Christopher Oswald stated he is not going to ask Steve anymore questions on that. He stated he mistakenly thought he knew about that. He stated he would call Steve Lehman.

Mr. Roloff asked the commissioners and the public if there were any questions or clarifications they need on that response. No one responded.

Christopher Oswald stated he would also like to call Shawn Tabeling back but they were having a little bit of technical difficulty because he had dropped off the meeting. He stated Shawn was trying to get back on so he would call Steve Lehman back.

Mr. Roloff reminded Steve that he was still under oath.

Christopher Oswald asked Steve to tell more about where you and Shawn are in that subdivision process.

Steve Lehman stated that as Kelly mentioned it is one parcel right now. He stated our agreement with the property owner is flexible where they can buy the whole parcel. He stated they don't have to subdivide it because we will take on the commercial the entire R3 portions and the boundary with Middletown Place is adjustable because we have a dollars per acre that we've already agreed to with Shawn. He stated the whole thing has been a design process trying to coordinate design with the neighbor, engineer, you. He stated if it wasn't for moratorium, what we would have already done months ago is Shawn Tabeling, Steve Kerr, Chris Hartman would have come to the table together discuss all this, figured out all the nuances of how the property interacts with neighboring properties and satisfied Village requirements. He stated that but for the moratorium we would have been able to continue on this path and done it well for the community in collaboration with Kelly and the whole village of Mahomet. He stated our agreement with Shawn is written so it's the entire property with a plus or minus, based on the adjustments that the Village needs to be satisfied.

Christopher Oswald asked Steve if in order to satisfy the plat approval, you would purchase the commercial site not subdivided.

Steve Lehman answered yes. He stated dividing a lot could be more cost prohibitive rather than just taking it and utilizing it as lawn area or whatever.

Christopher Oswald stated he was done questioning Steve.

Mr. Roloff asked if there were any questions from the Commission or the public for Steve.

Mr. Buzicky asked if the discussion between the property owner, Ethos and the Village just was about the strip of land and how to deal with that or was the development of the apartments ever discussed. He asked when dealing with this strip of land was it just strictly trying to get the land and zoning and property dealt with.

Christopher Oswald stated they needed clarification on that you're saying.

Mr. Buzicky stated there's been a lot of discussion these properties, but we're talking about strips and how to transfer. He asked if there was discussion about what the actual apartment development was.

Steve Lehman answered they had talked early on about multi-family and how it relates to Downtown development and the Downtown master plan. He stated we discussed how that works and then also discussed other areas zoned for multi-family and that's when we found the existing R3. He stated through that whole process, our interactions with our civil engineering partner and ourselves and emails back and forth has always been the fact that it's multifamily.

Steve Kerr stated that he wasn't 100% sure, but believed he sent a preliminary site plan. He stated he believed that Kelly responded saying she thought we were working with the wrong property lines. He stated they had thrown some plans back and forth but I wouldn't say we've over communicated by any means. He stated the plan has been out there and then once we knew about the strip of land and we

took that out of our property, moved apartments around and redesign with things based on based on the advice from Kelly and then talking to Shawn.

Kelly Pfeifer stated she did see an aerial site plan that showed multiple buildings, a detention basin, a parking lot and that's when I told them that they didn't appear to be designing for the right property. She stated we assumed those are multi-family buildings, but we didn't know number of floors or units. She stated none of that was discussed at that time. She stated we had no architectural drawings until they submitted the application, but we had looked at a piece of the property and were able to tell them they were using the wrong side yard setback for what looks to be a building that you want to build because 17 and a half feet needed to go to the adjacent property. She asked Steve Kerr if that was what he recalled.

Steve Kerr stated we didn't give you any building plans or anything but I don't think there was any question it was multi-family because losing the strip of ground reduced to the number of units that we could have on the on the parcel that remained which was brought up over email.

Mr. Buzicky stated thank you.

Mr. Roloff asked if there were other clarifying questions for Steve.

Steve Kerr stated that until the moratorium happened we thought we were heading the right direction. He stated once the moratorium happened we stopped working on it and there's been no other coordination with others. He stated he was sure things would have been taken care of in review of the plans. He stated the moratorium makes it a little more adversarial when up until that point I don't think it was adversarial at all. He stated everybody was working towards having a development here.

Mr. Buzicky stated he would like to add that from our point the Commission and the board kind of sets those tones for the moratorium and development, general visions for the Village. He stated there are lots of layers here and we're just trying to learn a little bit more. He stated we took action on the moratorium as a Commission and a Board based on lots of comments from residents, so now we're just trying to react but thank you.

Mr. Roloff asked if there were other clarifying questions for Steve. He stated now that Shawn Tabeling is back on where you going to call him.

Christopher Oswald stated he see where Sean Weidner still has a question for Steve that just came up on the chat.

Sean Widener stated he would tell the truth. He stated he had a public question based on the petitioner's earlier testimony as far as the timeline. He stated Steve mentioned that from January to March there was dialogue with the Village and meeting with staff to discuss R3 development downtown and then it went from downtown to this location as the new development project. He asked Steve Lehman if at any point did staff make a point to give you any indication as far as the difficulty of R3 development within the Village of Mahomet. He asked Steve Lehman if the seller Shawn Tabeling make any mention of the current climate of R3 development in the Village of Mahomet because as you know he just went through that with Middletown Place. So just that question to Steve Lehman please just for clarification.

Steve Lehman stated the seller and Fairlawn did give him information on that which I appreciated. He stated staff told him there would be resistance but that was after we invested into the property.

Sean Widener asked if it was a factual statement that he had no knowledge of the political climate for R3 development within the village Mahomet prior to the moratorium being implemented. He asked Steve if he believed R3 was a doable development in the Village of Mahomet.

Steve Lehman stated he looks at the existing zoning of a property and a Village that's reputable, and I've worked with the Village staff to try to design and make an improvement to that property based on everything that's in place at that point in time. He stated he thought that multi family or R3 was doable in a place that's approved for R3.

Sean Widener stated he would clarify his question. He stated in previous testimony you mentioned or somebody stated the moratorium was a surprise to your team. He asked in your prior dialogs with Village staff looking at the Downtown Master Plan, another places in the Village did Staff indicate the political concerns of the Board of Trustees with further R3 Development based on existing developments that are currently underway. He asked in working with the owner Shawn Tabeling which has gone through an apartment development himself, was there anything expressed from him to you and your team as far as the difficulty or potential difficulty of further development of R3 within the Village.

Steve Lehman stated he usually takes it at face value and if something is approved then I want to proceed with something that makes sense and that's approved. He stated in terms of feedback that I got from the Village I had discussions with Kelly, Patrick and Abby where we looked at the Downtown master plan. He stated the master plan had been created for a grand plan of improving in the downtown area, which makes sense. He stated he like to improve downtown areas for a thriving community. He stated no mention of a moratorium had occurred over several months, January through May. He stated for five months or so we had been making progress in understanding what's a good way to enhance Mahomet and be financially viable. He stated when I had talked with Patrick and the others about the downtown development, we were told it was a TIF district where there's some incentives and that type of thing to help out and encourage people to follow the master plan. He stated they thought there might be some great incentives that make sense to really help out that area. He stated the vibe I got at that point was the incentives are probably not going to be as strong as you think for this downtown area. He stated he did get that vibe about the downtown TIF district but it was confusing to me because it was following the Master Plan but since we caught that vibe we decided to go look for something that's outside that was already approved and does not require any special incentives, so to speak.

Christopher Oswald asked Steve if it is fair to assume that even if you felt that the climate was difficult for R3 development or that there was a poor political environment that so long as you met the requirements, it would still be allowed under existing zoning.

Steve Lehman answered yes.

Mr. Roloff asked if there were any clarifications from the commissioners or the public. No one spoke up.

Christopher Oswald stated he wanted to question Shawn Tabeling.

Mr. Roloff reminded Shawn Tabeling he was still under oath.

Christopher Oswald asked Shawn that if Steve wanted to buy the entirety of lot 102, including that additional 17 foot strip and the C2 property, he'd be able to do that under your agreement.

Shawn Tabeling answered yes.

Christopher Oswald asked Shawn if the site plan required that land then Steve could buy it from you, and that wouldn't be a problem.

Shawn Tabeling answered correct.

Christopher Oswald asked if there was an agreement about the 17 foot strip as to you having that drawn out so that you could submit that to the Village without too much trouble.

Shawn Tabeling answered yes.

Christopher Oswald stated he had no further questions for Shawn.

Mr. Roloff asked if there were any clarifying questions from the commission or the public. No one spoke up. He asked Chris if he had other witness he wanted to call.

Christopher Oswald stated that was all of the witnesses he would call but he did have a couple of points he wanted to make before you closed the public session again. He stated that as to point #2, which is the reasonable alternative developments of the property he wanted to clarify that that Shawn previously testified that that he laid out his subdivision and rezoned it with the intention of this being multi-family. He stated that Shawn acquired the property to be R3 in this area and Shawn and the petitioner prepared all of this for a multifamily development. He stated there hasn't been any other evidence presented as to other alternative uses for this property either being proposed or economically feasible. He stated since the petitioner has been the one that's presented the lion share of the evidence here this evening, we believe we've satisfied the four requirements for development, and we would object to the hearing being tabled given that there's not any substantial alternative testimony that's been given.

Mr. DeAtley asked, in light of their testimony, what is the timing to develop the parcel.

Christopher Oswald stated guys are just giving a recommendation on approving lifting the moratorium and the village would still have to approve that.

Mr. DeAtley stated he believe it gets to the point of whether or not tabling the issue for a month to gather additional data is pertinent.

Christopher Oswald stated he was just talking about the legal standpoint so if the moratorium was lifted, the petitioner would have to answer from the development standpoint

Steve Lehman stated the construction process takes about 12 months from start to finish with their ideal timing they would start in the leasing season and end in the leasing season.

Christopher Oswald stated he thinks the question to Steve is if you were to get relief by September 1 what is the construction timeline.

Mr. DeAtley stated yes that is what he is asking.

Steve Lehman stated it would be a 12 to 18 month construction timeline.

Mr. Roloff stated that assuming you got the relief by September 1 when would you start construction, would you have people out there on September 2.

Steve Lehman stated there would be collaboration with the Village and our engineering to make sure things coordinated tightly in a reasonable way. He stated possibly starting in October and then 18 months from them to complete.

Mr. Roloff asked if there were any clarifications on that answer.

Steve Kerr stated they would probably have a couple of EPA permits that we have not apply for yet. He stated those permits would probably have a 30 day timeline for approval. He stated they had stopped working on them.

Steve Lehman stated the moratorium push them out of the ideal construction window.

Kelly Pfeifer stated we have an application and knowing how quickly that they have been responsive, and how competent their consultants and designers have been compared to others that we have dealt with, I would anticipate that it would probably take about two months before we would have a completely approved site plan and be able to sign off on EPA permit application that they'd be putting together. She stated that 60 days is doable from our standpoint even though 60 days is tight because they have a very professional set of consultants.

Christopher Oswald stated he thought it would be possible to have some of that discussion in the interim while we're waiting on village board approval. He stated they wouldn't want to get too far down in preparation of additional documents, but I could certainly see them meeting with you in the next 30 days to talk about what needs to happen now, whether you'd be released to actually review those is another question.

Kelly Pfeifer stated right now I'm on pause because of the moratorium but when we are off of pause I would say 60 days is a reasonable time period of for us to do all that would then need to be done for us to say yes on a site plan review. She stated this is assuming they're buying the entire parcel.

Steve Lehman stated he thought Kelly was correct that it will probably take a couple of months from now before we can have it 100% ready to go and start moving dirt. He stated if the public concern is too much apartments coming on board this year, then I guess that solves the problem. He stated the moratorium has already inflicted financial damages to us because of the delay, the delay from leasing

season etc and they don't know what new rules are going to be put in place between now and then. He stated they have a variety of concerns with the moratorium, but I think Kelly's timeline is probably pretty accurate about it being a month or two for us to coordinate.

Mr. Roloff asked Steve given that it would be November at best before you actually start construction and that close to winter, would you wait until next spring before you started.

Steve Lehman stated it is definitely possible to start in November to get underway, but it's probably still an 18-month process to get completed.

Mr. Roloff asked if there were any more questions before we go into public comments. No one spoke up. He stated he would read a public comment from the chat. Mr. Roloff read the following comment into the record.

Josh Dallas typed the following: This is Josh Dallas currently living in Mahomet and I've been listening to this from the beginning and have been involved with Ethos for years and with communication of this building/lot for months. I was even involved in the Downtown Mahomet property meetings with Kelly and Patrick as they were basically approving everything that Steve had sent them with a few minor changes, that he adjusted only to be side swiped with them saying the Downtown property is a no go as well. What I'm basically seeing is that Mahomet approved construction of Chris' property on 150 that became an eyesore and the town started to complain about what was taking place with that construction. Therefore, leaving the Village to make changes based on that construction and not this particular property.

Mr. Roloff asked if there were any other comments from the public. No one spoke up. He stated it is late and sensitive to Zoom fatigue. No one spoke up. He stated they would go on for ten more minutes and work through the findings of fact. He stated he would suggest what he thinks that answer might be and then we can vote on each one.

Mr. Buchanan stated he thought the commission needed to specify the reasons for each.

Mr. Roloff stated that could be a longer process. He asked if they wanted to continue so they could be deliberate not rush. Mr. Roloff stated they could start and if it takes too long, we can consider continuing.

Mr. Roloff read the first finding of fact including has caused or will caused. He asked for a straw poll on the questions. He asked if anyone disagreed. No one spoke up. Mr. Roloff read the second finding of fact including has some other reasonable use of the property, assuming they could rezone the property. He asked if anyone disagreed.

Mr. DeAtley stated since it is specific to the applicant, he didn't think they had another reasonable use of the property.

Mr. Roloff read the second finding of fact including has no other reasonable use of the property.

Mr. Buzicky stated he understands but he could look at it both ways because there are always other zoning options.

Mr. Roloff stated that it sounded like everyone, but one agreed on the second finding of fact.

Mr. Roloff read the third finding of fact including has and was. He asked if anyone disagreed. No one spoke up. Mr. Roloff read the fourth findings of fact including does not.

Mr. Buchanan stated he agreed because as Kelly mentioned, the subdivision ordinance requires that pre-meeting to take place.

Mr. DeAtley asked Joe Chamley to explain if all of the answers had to be either for or all had to be against to forward to the BOT.

Joe Chamley stated the ordinance is written so the four factors have to be met to recommend relief.

The Commission discussed the findings of fact.

Mr. Roloff stated if the answer to number 4 is does not then we would have to recommend denial. Mr. Roloff stated the petitioner may prefer a continuance to provide more information.

Mr. Buchanan stated the petitioner may want to go ahead even with the denial recommendation because it is the board that will make the final decision.
The Commission discussed the process with a continuance.

Mr. Briney stated isn't it possible between now and the board meeting the petitioner could provide more information. He stated it wouldn't change our recommendation it could clear things up for the board.

Mr. Roloff agreed with Mr. Briney.

Joe Chamley stated that is correct because this is just a recommendation.

Mr. Roloff stated he wanted to move forward and take votes.

Christopher Oswald stated they have presented evidence that they believe it is code compliant and the Village has stated they cannot review it to say it is code compliant until the moratorium is lifted which is a tough position to be in. He stated if staff doesn't review then we have a catch-22 situation.

Mr. Roloff asked Joe Chamley if waiting would help.

Joe Chamley stated he understands their point, but staff was obligated to follow the ordinance.

Mr. Briney stated it wasn't compliant because of the 17 foot strip.

Christopher Oswald stated they have testified has the plans in place to get that done.

Steve Kerr stated the plans excluded the 17 foot strip so they just need to follow through with the subdivision. He stated they know they won't get a building permit until it complies.

Mr. Roloff stated we don't know what we don't know at this point because staff hasn't reviewed. He stated the next regular Board of Trustees meeting is August 25, 2020.
The Commission discussed what they don't know.

Mr. Roloff stated they needed to use their best judgement. Mr. Roloff asked Joe if they could alter the wording of number 4.

Joe Chamley answered yes.

Mr. Roloff stated he proposed for number 4 finding of fact to change the wording from does to may and add a reason stating that the petitioner's engineer believes it is in compliance but the Village has not completed their review so it is not clear if it does comply.

Mr. Buzicky agreed.

RESOLUTIONS and MOTIONS (TO BE ACTED UPON)

ETHOS DESIGN BUILD, LLC

A RESOLUTION CONCERNING THE PETITION FOR RELIEF FROM MORATORIUM ORDINANCE #20-5-02 BY ETHOS DESIGN BUILD, LLC

Mr. Roloff proposed finding of fact 1 with an answer of has caused or will cause.

Buzicky moved to answer finding of fact number 1 with has caused or will cause. Spencer seconded the motion. ROLL CALL. 6-0. Motion Passed.

Mr. Roloff proposed finding of fact 2 with an answer of has no other. He stated the reason would be because the applicant testified they are only interested in developing multiple-family.

DeAtley moved to answer finding of fact number 2 with has caused or will cause and the reason is the applicant's testimony. Roloff seconded the motion. ROLL CALL. 6-0. Motion Passed.

Mr. Roloff proposed finding of fact 3 with an answer of has and was.

Mr. DeAtley stated they have certainly outlined a number of costs. He stated whether or not some of these costs could be utilized with this project on another site is questionable, but it is evident that there are costs.

Buchanan moved to answer finding of fact number 3 with has and was. Roloff seconded the motion. ROLL CALL. 6-0. Motion Passed.

Mr. Roloff proposed finding of fact 4 with an answer of may comply instead of the wording of does comply as written in the draft presented. He stated the reason would be that the petitioner's engineer testified that it does comply, but Village staff has not made an assessment as of this date.

Briney moved to answer finding of fact number 4 with may instead of does with the reason as stated by the chair. Spencer seconded the motion. ROLL CALL. 6-0. Motion Passed.

Mr. DeAtley asked if everyone would be comfortable adding a statement that the development construction as proposed may comply with all Village rules and that the petitioner has reiterated their intent to comply with ordinance and requirements.

DeAtley moved to amend the previous motion to add his statement to the previously stated reason for finding of fact number 4. Buzicky seconded the motion. ROLL CALL. 5-1. Buchanan voted no. Motion Passed.

Mr. Roloff stated the motion has been amended so now we need a vote on the amended motion.

Briney moved to answer finding of fact number 4 with may instead of does with and with the reason as stated by the chair and with the additional language from Mr. DeAtley. Spencer seconded the motion. ROLL CALL. 5-1. Buchanan vote no. Motion Passed.

Mr. Roloff stated they needed to vote to grant or deny the relief petition.

Roloff moved to grant relief. DeAtley seconded the motion. ROLL CALL. 5-1. Buchanan vote no. Motion Passed.

BE IT THEREFORE RESOLVED this 4th day of August, 2020, by the Plan and Zoning Commission of the Village of Mahomet that:

- A. The Plan and Zoning Commission does hereby set forth the following recommended findings of fact concerning the requested relief:
1. That the effect of the Temporary Moratorium **HAS CAUSED OR WILL CAUSE** a significant economic hardship on the applicant.
Reasons:

 2. That the applicant **HAS NO OTHER** reasonable use of the property in question other than the proposed use.
Reasons:
The applicant stated in testimony that he is interested in only developing R3 property.

 3. That the applicant **HAS** made substantial, irrevocable investment in the development that is affected by the Temporary Moratorium, which investment **WAS** made in reasonable reliance on the regulations in effect prior to the Temporary Moratorium and without

knowledge of pending changes in such regulations (including this Temporary Moratorium), and based on a probability of zoning approval by the Village; and;
Reasons:

4. That the development or construction as proposed **MAY** comply with all other Village ordinances, regulations, and rules.

Reasons:

Testimony from the applicant's engineer that they have done a compliance review and in their judgement the project complies. Village staff has not done a compliance assessment as of the date of this meeting. The petitioner reiterated their intent to comply with Village Ordinances.

- B. The Plan and Zoning Commission does hereby recommend that the Board of Trustees of the Village of Mahomet **GRANT** the Petition for Relief from Moratorium Ordinance # 20-5-02 by Ethos Design Build, LLC.

Mr. Buzicky stated he hoped there was better communication next time. He stated it was too bad it got to this point.

Mr. Roloff stated part of this was to get information out for the Board of Trustees.

Roloff moved to close the public hearing. Briney seconded the motion. ROLL CALL. 6-0. Motion Passed.

COMMISSIONER / STAFF COMMENTS: NEXT PZC MEETING – SEPTEMBER 1, 2020

ADJOURN:

Buchanan moved to adjourn the meeting. Briney seconded the motion. ROLL CALL. 6-0. The meeting was adjourned at 9:50pm.

Respectfully,

Abby Heckman, Planner