

MUNICIPALITY OF MONROEVILLE

PLANNING COMMISSION

JULY 20, 2022

MINUTES

The meeting was called to order at 7:30 p.m. by Chairman Anthony Pokusa.

PLEDGE OF ALLEGIANCE AND A MOMENT OF SILENCE

The Pledge of Allegiance was recited and a moment of silence was observed.

ROLL CALL

The Recording Secretary, Sharon McIndoe, called roll and the following were present: Anthony Pokusa, Kimberly Krivda, Bruce Walker, Paula Montgomery, Ronald Massung, Leonard Bertoni and Paul Whealdon. Ms. Lawrence was absent.

APPROVAL OF MINUTES

There being no corrections, additions or deletions to the minutes of the Regular Meeting of June 15, 2022, a motion was duly made by Mrs. Krivda to approve them, as submitted and Mr. Massung seconded it. Upon a voice vote, the motion carried unanimously.

OLD BUSINESS

REZONING 22-1-Z

LAW FUNERAL HOME

The applicant is requesting to rezone the portion of Tax Parcel 587-M-195 that is currently zoned R-1, Single-Family Residential to C-2, Business/Commercial. The total area of the property is 4.411 acres. The property is located at 2555 Haymaker Road.

This item was tabled at the June 15, 2022 meeting.

Mr. Whealdon advised this item has to be taken off the table before any action can be taken.

Whereupon, Ms. Montgomery duly made a motion to untable Rezoning Application 22-1-Z and Mr. Walker seconded it. Upon a voice vote, the motion carried unanimously.

Mr. Tom Lonich, attorney, came forward representing the applicant. He reported they are requesting a portion of residential property be rezoned to commercial to allow it to be used for a funeral home. He indicated there was lengthy discussion at the last meeting and the planning commission requested additional documentation that has been provided to the zoning officer. He explained he included a draft of an agreement where the Laws will agree that if the property is rezoned it can only be used as a funeral home. He provided language that a covenant would be attached to the deed. He also followed up with law indicating that a restrictive covenant is enforceable in Pennsylvania. He stated if it is only to be used as a funeral home and any accessory uses and it is in the deed, it runs with the land and not to the ownership. He explained it would have to be used as a funeral home in the

future. He reported the Laws want to make it clear that there is some consideration about maybe it would be used as a crematorium as an accessory use. He reiterated their testimony from last month is that they are seeking the rezoning for purposes of a funeral home. He stated if a crematorium fits into their plans and the need of the community they may consider it in the future. He asserted they would have to meet all municipal regulations at that time.

Mr. Lonich reported he provided some information about crematoriums. He stated it would be all enclosed within that building, it is an enclosed furnace, there is a short smoke stack, the entire process would take place interiorly and there would not be any additional traffic. He asserted a crematorium operation could take place and no one would know it is there. He stated the information was provided because the commission requested it.

Mr. Lonich requested a favorable recommendation from the planning commission to rezone that property to commercial to allow the funeral home. He stated they agree to be restrictive to only that use and they would be happy to answer any questions.

Mr. Pokusa mentioned the equipment on the interior and that it is all contained. He questioned whether there is a backup system in case there is a malfunction or breakdown of the equipment. Mr. Lonich answered affirmatively and explained the system is monitored and the provider of that system also has a 24-hour hotline. He explained it could possibly be resolved on the computer by contact with the manufacturer or someone could be sent immediately to the premises to resolve the problem. He stated it is a furnace operation that goes in but it is all monitored. He added someone would have to be present to monitor the process so it is never left alone.

Mr. Pokusa inquired whether they have crematoriums on any other site or whether it was all a third-party service. Mr. Dwayne Law, the applicant, came forward to explain his request. Mr. Pokusa questioned whether there are crematorium services on the other sites or whether there are done at a third-party location and Mr. Law answered they are done at third-party locations.

Mrs. Krivda inquired whether they could extend their services to other funeral homes that do not have crematoriums if they added it. Mr. Law answered affirmatively. He reported they would be the first minority funeral home in western Pennsylvania and currently they are under-represented. He explained their family goes back 100 years and they have operated six facilities in six different locations with exemplary records in each one of them. Mr. Lonich emphasized they are requesting the rezoning for purposes of a funeral home and they will comply with all municipal restrictions in place at that time. He reported the applicant wanted to be transparent with the board and wanted to maintain their credibility as to their intentions for the property with the rezoning. He again stated they will comply with all restrictions on the property. Mr. Law explained their primary objective is a funeral home but they are aware of the current trends that burials and cremations are approximately 50/50. He asserted they want to prepare for the future.

Mrs. Montgomery referred to the map and inquired whether there is commercial across the street and Mr. Lonich answered affirmatively. He pointed out the subject property which is a triangle. He reported there is a small portion of it that is already zoned commercial. He explained on the map everything in red is commercial and the grey or lighter green is the residential. Mrs. Montgomery

inquired about the property across the street and Mr. Lonich pointed out the residential. He explained it is separated by Haymaker Road. Mrs. Montgomery inquired whether the property directly behind it is commercial and Mr. Whealdon answered negatively. Mrs. Montgomery questioned about the big rectangle directly behind the property and Mr. Pokusa answered that is commercial. Further discussion ensued.

Mr. Pokusa explained if it is rezoned commercial there would be a whole list of different uses that could be done on the property in the future. Mr. Lonich stated that is why they provided the restrictive language. Mr. Law asserted their current funeral home in Penn Hills is operated under a restrictive deed. Mrs. Montgomery inquired whether it is in a residential area and Mr. Law answered affirmatively. Mr. Lonich added a funeral home in a residential area is probably the least intrusive use. He questioned if that four and a half acres were divided how many more residential uses could go on the property. He pointed out that the way the property is set up the roads lead into the property then back out to Haymaker Road so traffic is removed from Haymaker Road and is all contained within that piece of property. He stated it will only be used as a funeral home and if for some reason it is not, then it will revert to the residential zoning designation and the property owner, the Laws, waive and relinquish any right to challenge that whether it is non-conforming or not .

Mr. Walker inquired whether all the lawyers agree on this issue. Mr. Whealdon reported he forwarded the submitted information to the municipal solicitor for review. He stated the solicitor does not agree and believes the municipality cannot enforce any encumbrances on a rezoning. Mr. Lonich disagreed. He suggested if it is a restrictive convenient in a deed that runs with the land it is enforceable in Pennsylvania and the land can only be used for that purpose.

Mr. Whealdon reported the solicitor agrees that it is part of the deed and is enforceable to some point but the municipality cannot enforce it. Mr. Lonich argued that is a distinction without a difference. He felt it was enforceable and there can be a developer's agreement which the applicant is willing to do. Further discussion ensued.

Mrs. Krivda inquired whether the property has already been purchased and Mr. Law answered affirmatively.

Mr. Whealdon read a comment from the Allegheny County Department of Development, "as with any rezoning requested it is important to note that the municipality is rezoning to a district not a plan. As a result, if the subject property is rezoned, it should be noted that the property can be developed in accordance with any of the permitted uses within the C-2 District which permits restaurants, bars and offices as permitted uses. As a result, the township should not rezone any request based on any representation of any plan."

Mr. Lonich did not disagree with that and felt it was a correct analysis but contends they are willing to restrict it to only be used as a funeral home. He suggested the concerns of the planning commission that once something is rezoned they could bring in any bar, restaurant, etcetera in a residential neighborhood is legitimate but they are taking that out of the equation by agreeing to only allow it to be used as a funeral home. He stated if it is not enforceable by the municipality then any of the neighbors could go in to enforce that restrictive covenant. He asserted the municipality could

inform one of the neighbors that it cannot be enforced by the municipality but the neighbors can enforce it with the results being the same that it can only be used as a funeral home.

Mrs. Montgomery inquired whether all of the neighbors have been notified and Mr. Whealdon answered negatively. He reported the public notice is for the public hearing at the council meeting not planning commission meeting. He stated the property has not been posted, the public notices have not been posted and it has not been advertised in the newspaper.

Mr. Pokusa felt that is a potential legal concern in the future whether the planning commission recommends approval or denial to council, council has their own vote on the issue with their solicitor. He stated it could be an issue that is not determined by the planning commission.

There being no further discussion, Mrs. Montgomery duly made a motion to approve Rezoning Application No. 22-1-Z and Mr. Walker seconded it. Upon a roll call vote, the motion carried unanimously.

Mr. Lonich indicated they will continue to work with the zoning department or the planning commission and will be glad to answer any questions or supply any additional information.

#### NEW BUSINESS

#### CONDITIONAL USE 22-3-C TRANSFORMING MEDIA, LLC

The applicant is requesting conditional use approval to install a 150 square foot billboard pursuant to Monroeville Zoning Ordinance, No. 1443, as amended, Section 307.14. The property is located at 4400 Broadway Boulevard in the M-2, Industrial Zoning District and known as Tax Parcel ID 747-S-147.

Mr. Whealdon reported the applicant has requested tabling.

Whereupon, Mr. Walker duly made a motion to table Conditional Use Application No. 22-3-C and Mr. Massung seconded it. Upon a voice vote, the motion carried unanimously.

#### ADJOURNMENT

There being no further business to come before the planning commission, at this time, Mr. Walker duly made a motion to adjourn the meeting at 7:54 p.m. and Mrs. Krivda seconded it. Upon a voice vote, the motion carried unanimously.

Respectfully submitted,

Anthony Pokusa  
Chairman

