

# **VILLAGE OF BOLIVAR**

## **COUNCIL - PUBLIC HEARING**

**November 12, 2018**

The Bolivar Village Council for a Public Hearing on Monday, November 12, 2018 (at the Bolivar Fire Department as advertised in the paper). Mayor Hubble called the meeting to order at 6:00pm. The Pledge of Allegiance was said. Gettan, Lang, Lawver, Lebold, Lloyd, and Vincent all answered to roll call

The Mayor stated the purpose of this meeting was to consider Massillon Material's request for rezoning of Tuscarawas County Parcel Nos. 37-00726-000 and 37-00728-000, and being 2.485 acres and 65.209 acres respectively, from agricultural to business/commercial. The application was submitted to the Planning Commission and, after the required notice, the Planning Commission held a public hearing and voted to recommend the petition be granted.

The Planning Commission recommendation was presented to Council on October 1, 2018. At that time, the date, time and place of today's hearing was set, and it was announced at the meeting. It was also published in the paper on October 9, 2018, and notice was sent out to the adjoining landowners in compliance with the Ohio Revised Code.

The Mayor announced at this time, we would ask that Massillon Material's formally present their request. Attorney Brian Barger was called up to begin the presentation.

Brian Barger stated he is the attorney representing Massillon Materials and the property owner of Lake Region Development. He stated their process started in June 2014 when they resolved their issues with the Village with respect to the development of the sand and gravel portion that lies to the North of the river.

In that settlement agreement, the entrance road for the sand and gravel operation would come down through the 65 acre parcel that abuts State Route 212. The apron, gate and blacktop road going back to the river is complete. The aggregate operation has not really started yet. One of the things they are waiting on is to get this final piece of the settlement agreement accomplished. It's been a long time coming.

Barger stated the primary purpose of that 65 acre parcel is to allow for the ingress/egress to the sand and gravel part. He went on to express they are hopeful there will be other ancillary uses that could take place on that. Barger noted, in regards to the 65 acres, it was at the recommendation of the Planning Commission to request to be amended the other 2 acre parcel. Therefore the total subject property is approximately 67 acres. He said there's a little flag lot that lies basically where the access drive starts. He said they are hopeful with this piece, the final piece of the project will come together.

Barger acknowledged that the Planning Commission had some questions in regards to some other potential intended uses of the property. He added, "As many of you know there is a city water well on that parcel. There are some oil and gas wells and a power line that runs across that". When they had their engineers look at it, there were some large swaths that aren't developable, at least at the present.

To the extent they would have residential there, if it becomes economically viable to extend the sewer line across to that parcel, the residential part would be the back side of Delaware Street.

Barger stated that's about the extent of the planning at the present. He added that they are asking to have the property re-zoned to allow for the drive use and any potential use that would be there that is consistent with that development model. What that would be at this exact time is not clear due to some engineering difficulties with respect to that site. He noted this would be a good first step with that in order to move that part of the project along.

Barger recapped by stating a fair amount of the parcel is not developable given the current, already existing uses. Should those uses change in the future, it opens up other opportunities.

Barger said the property is currently being used for agricultural uses. That would continue until another development opportunity presents itself.

Barger concluded by stating he is glad to answer any questions Council may have.

The Mayor asked if there were any further comments from Zoning. (There were none)

Since there weren't any comments from Zoning, the Mayor turned it over to public speaks. She also noted public comments were limited to three (3) minutes each.

Dusty Addington stated he was not able to attend any of the meetings due to being out of town. He said he is located at the corner of the property being developed. He would like to know what they are planning on putting in. He knows right across the street from them is supposed to be housing. He went on to ask if part of the land is in the flood plain.

The Mayor reiterated that most of the land can't really be developed except for across from Delaware Street. She said that was the plan all along dating back to Burfields. The plan was to sell off lots on the opposite side of Delaware. If it becomes economically feasible, they will develop that area.

The Mayor explained at this time, usually when you do the business/commercial tier, it starts out with your premier zoning which is business/commercial and you go down from there. So once you have that zoning you can have the residential zoning and agricultural which falls underneath that.

Barger said the site certainly has some developmental challenges. To the extent there are any plans so to speak or ideas, it would just be that residential strip, but at this point the numbers really aren't working in favor of immediately going out there and doing that. Should something change in the future, they would revisit that. The primary use of the property remains to be the access road and continue with the agricultural use.

Dusty asked what kind of businesses are we looking at. He imagines when somebody has a property like that, who dictates what goes in there.

The Mayor said if they get the business/commercial zoning it would be dictated by the Villages rules and regulations. There can be no type of industry. If they plan on pursuing anything, there could be things such as a lawyer's office, a doctor's office or similar. Dusty asked, "Not a block plant"? The response was a firm no. Gettan said no, that's industrial. Dusty said no one knew that block plant was going across the

street. The Mayor said that had nothing to do with Bolivar. She said we are pretty concise with our zoning; there is no block plant going in there.

Barger interjected, as the Council and Planning Commission is aware, before anything could happen on the property it would have to come back for review and approval. He went on to say even though the economics aren't there, it would just be the residential component.

Dan Oberlin stated he has been around town most of his life. He wanted to know, to get this thing going how much money has been spent in legal fees. He said it's been an expense for the Village up until now. He went on to say everything he understands about it, that the I's are dotted and the T's are crossed. He would like to see the fighting stop and for this project to go through without spending any more of the Villages money. He said it seems like everything has been taken care of and this could be a plus for the area. He added that it didn't affect the property values on LaDyne and Dale Avenue because those houses sold quickly for a fair amount of money in the last two years. He hates to see any more money wasted.

Oberlin went on to ask if the entrance/exit that goes out to Sherman Church will be used? Is that still in the planning stage? He knows there is real estate up there that's available too.

Barger said at this time, the entrance is where they have already spent the money putting in that entrance. Barger went on to say if things happen in the future and there's any proposed change, it would have to come back to Council.

The Mayor asked Fred and Debbie Scherer if they would like to speak. Fred said he added his name to the list in case he wanted to speak. He didn't have any comment.

The Mayor said there weren't any other names on the list to speak. Before moving on she wanted to make sure everyone got an opportunity to speak. She asked a second time if there was anyone else from the public that would like to speak.

Dick Harvey said he would like to. He stated the exit road is a very nice road they put in. It serves the purpose. His thoughts are, "They have a right of way to 102, Sherman Church, which is closer to their business". He often thought to avoid congestion within town and there have been so many problems with the bridge out there where people have been hitting it; He feels it would be more beneficial to Bolivar, maybe not to Massillon Materials, to exit off on 102. He said it said it seems more reasonable for Bolivar to have the exit road come out on 102.

Harvey went on to note, the problem for Massillon Materials is they couldn't come through town because of the zoning and if using Sherman Church they would have a lot of hills if heading north.

Harvey went on to reiterate the road they have now is fine; they put a lot of money putting the entrance in and the roadway. But for Bolivar's sake he can't help believe with exhaust fumes, noise and safety's sake it would be better off on 102.

If Council said no tonight, they could still access 102. He said it's your decision to make a difference where the trucks are going to go as far as Bolivar. The noise, exhaust and traffic will come from them.

Your decision to make a big difference may be tonight. He added, "I don't know all the ramifications for that. It just seems logical to use the access they have right now to 102 going north. That's all I have to share".

The Mayor turned it over to Council to ask any questions. "If you have any, feel free to ask them at this time."

Vincent said she understands tonight's process. She went on to ask if they had any idea as to how far out before the mining would begin. Mr. Wenger replied, "probably the end of next year". Vincent asked Mr. Wenger if he had any comment in regards to what Mr. Harvey was saying in terms of the convenience level of coming out 102 vs. coming out on 212. Vincent added, "Either way, it's not coming through the Village". It was corrected that it would come through the Village on Route 212 which is a truck route.

Barger asked to make a suggestion. He said, "We are hearing this". We could get our heads together and think about that. If there is intent to pursue that, we would be back to Council or the appropriate committee to talk further about the idea.

The Mayor asked if there were any other comments from Council members. (There were none)

Harvey said he respects Mr. Wenger and thinks he's a very good man. He went on to state his thoughts have always been for the welfare of Bolivar. Harvey said it would seem logical for the welfare of Bolivar to reconsider the access road straight out to 102.

Harvey added that he understood business wise they would want to come out on 212 to get to Interstate 77. However, Bolivar wise it seems logical to him that there should be some consideration to see if it's beneficial to Bolivar as to which way to take.

The Mayor thanked Mr. Harvey for his comments. She proceeded to open it up for Council discussion. We can openly discuss this; you are free to vote or take it under consideration until the next Council meeting in December which is within the thirty (30) day period. "It will be the pleasure of Council for the next step from here".

Attorney Barger asked if he could make one final comment. He said given the years it has taken to get to this point they would ask that whatever action that the Council takes that it would be done as an emergency measure so they can get their plans and move on and actually get to going forward next year; thank you.

Gettan moved to suspend the rules; seconded by Vincent. In a roll call vote, Gettan, Lebold, Lloyd and Vincent voted yes; Lang and Lawver voted no. Attorney Anderson said that's 4 out of 6; that's not enough.

Anderson said there are two options; they could have a first reading or table it. Those are the two options.

Lang said, "I am not opposed to this moving forward, but I also want to give the community time to have input. There's no reason to move this as an emergency".

The Mayor responded, "When you're saying for the community to have input, tonight was the night for community to have input. We had a public hearing posted in the paper. Tonight is the night public

comes forward to speak and express their feelings". Gettan added, "We also had a zoning meeting where a lot of people showed up". The Mayor noted they had a larger crowd at the zoning meeting. Lang said he understood but "I also think the public needs time in order to digest this and have further comment. There is no reason in my mind that this needs to be pushed through tonight. I am not opposed to it happening but I don't see any reason why it needs rushed through tonight".

Anderson recapped that Council is down to two choices. Choice one is you table it until the next Council meeting. Choice two is to do a first reading of the Ordinance and come back in December to address it at that time. Lang suggested a first reading.

Attorney Anderson presented a first reading by title only of **AN ORDINANCE PROVIDING FOR THE REZONING OF PARCELS 37-00726.000 AND 37-00728.000 OWNED BY MASSILLON MATERIALS, INC. FROM AGRICULTURAL ZONING TO BUSINESS/COMMERCIAL DISTRICT.**

The Mayor announced this will continue at our regular Council meeting in December. The Mayor asked for a motion to adjourn. Lang moved, seconded by Lebold to adjourn until the next regularly scheduled council meeting on Monday, December 3, 2018. In a roll call vote, all members present voted yes. Council adjourned at 6:26 pm.

---

Mayor Rebecca S. Hubble

---

ATTEST: Maria A. App, Fiscal Officer

Approved: