

## **Motion**

Bryan Chamberlain made a motion to approve RZ11-15, 11140 and 11160 West Road, Broadwell property. Joe Piontek seconded the motion. Hearing no further discussion Smith called the question.

The motion passed unanimously. 5-0.

## **REZONING AND CONDITIONAL USE**

**11-0696**

**CU11-06 & CV11-04**

**HEAL OUR LAND MINISTRIES FEDERATION, INC.**

**1565 Holcomb Bridge Road**

**Land Lot: 613**

Brad Townsend stated that this application is requesting a conditional use to use existing buildings for a church, church offices and nursery for the church. The requested variances are to the existing buildings of the property. Townsend pointed out the gymnasium location, the existing church offices and nursery location, with the playground area. He pointed out Holcomb Bridge Road, the fire station and the old realty buildings. He pointed out the subdivision Martin's Landing on the southern and eastern property. There is commercial property to the west. The property is located at 1565 Holcomb Bridge Road. The subject property is zoned C-3. The buildings are currently vacant and unoccupied. They have been...R-3...they have been unoccupied for several years once the prior school vacated the property.

Staff would recommend approval of the conditional use application with the three conditions that are included in the resolution before the Planning Commission this evening. The applicant has submitted the proper site plans showing the use of the property to be utilized as a church as well as for office space for ancillary non-profit uses of the office space within the current buildings.

Townsend stated that he would be happy to answer any questions the Planning Commission might have.

Harvey Smith asked if there were any questions for staff. Hearing none he stated that the Commission would now like to hear from the applicant at this time.

Chad Ranzifer stated that he was the attorney for the church, Heal Our Land Ministries Federation. As the Commission heard, the applicant is asking for a conditional use zoning. They would like to also have approved the setback that they have that is located adjacent to the Martin's Landing subdivision. They have met with the Martin's Landing homeowners' association as well as they have apparently a sub-set of their homeowners' association. One that would be representing people contiguous to the church property and they have offered that

if the Commission would like they could provide a tree buffer between the Martin's Landing property and the church property. That is not currently on the application but they most certainly have offered that. The homeowners' association did not request that they put that tree buffer in there but they most certainly would. The homeowners' association asked whether they were going to request any kind of outside lighting. The applicant is not nor any outside PA system. Ranzifer thought they were probably concerned about whether they were going to have some athletic events for the church, etc. That would not be the case. The church is extremely small, less than 100 members and so if any activity like that were to go on it would probably be in the gymnasium.

The applicant has designated an area inside the gymnasium to be the meeting place for the church. As per Roswell's requirement that would have a requirement of 57 parking spaces, which they have. But that is on the plans.

With that Ranzifer stated that he would rest their case unless the Planning Commission would like for him to point on the plans where the potential tree buffer could go if they are interested.

Harvey Smith stated that he would appreciate that. Ranzifer stated that on the west side is the Martin's Landing...north side is the Martin's Landing. To this building there is a buffer here that is rather bare in the ground. There are a few loblolly pine trees but it is somewhat barren here and they said that they would be more than happy to put some Leyland Cypress. Then they would be completely overlooking the homes on this West Side. That would be purely up to the Commission. Right now there is just really some loblolly pines there that are 20-30 feet tall. One can see through the bottom of them. Ranzifer added that they are not requesting anything on either the buildings or at the gymnasium, any kind of outside lighting or any kind of outside speakers or any thing like that.

Harvey Smith asked if there were any questions for the applicant. Bryan Chamberlain and Chad Ranzifer if there is a similar issue. He is not remembering the plantings on the south side of the property between the north boundary of Martin's Landing and the south side of the property. Are there trees needed there? Ranzifer stated that is where the ReMax building is. Chamberlain stated all of the way down at the bottom. Ranzifer stated no. That is fairly well-covered, small bushes, trees. It is only this little area here where apparently they had some outside activities and the ground is rather bare.

Lisa DeCarbo stated that she lives in Martin's Landing and was, just for disclosure, a former president of their board. She took a look at that property and she would say that there is also a problem from what she understands from the neighbors down at the southwest corner of that property was also an area where children played a lot very close to the homes and there were sound issues there. She would not say that there is a very well-landscaped area either. She would want to condition any kind of approval to coordinating with the neighbors on a

couple of items. She thinks the addition of the Leyland Cypress is very good where the applicant has those indicated but there may be a need for them elsewhere. The other concern that has been brought up to DeCarbo is the fact that along both the southern and the eastern boundary of the applicant's parcel, which backs up to Sailwind and to Lakestone Court there are a variety of places in that chain link fence where there are gates. She would like to see the applicant coordinate with those homeowners in particular as to whether they want those to remain or if those would need to be a fixed permanent fence right there.

Chad Ranzifer stated that there would not be a problem with that. He sees no reason to continue with the gates and if there would be a need for a privacy type of fence, that would be fine with the applicant. But if there are gates there, he sees no reason why the church would need the gates to continue.

Lisa DeCarbo stated that one of the other questions that came up is she noticed in the conditions that the zoning department talked about there needed to be a change and a turn-around, a radius in part of the parking. She wondered how that would be accomplished. Chad Ranzifer stated that he did not know. When he saw that the fire department asked for a 50-foot turn-around space. So, he had it on his notes that he wanted to go talk to the fire department to see because as one can see on the drawing there is a driveway around the buildings. So he didn't know whether the fire department was concerned that that turning radius was enough and that they needed a 50-foot to back something up. So Ranzifer wanted to ask them to clarify that because he did see the 50-foot radius. He really didn't see where they were going to do it, not that they can't do it, but he wondered if the fire department really knew that there was a continuous paving completely around where the gymnasium is, around in front of the wooden buildings and then out.

Lisa DeCarbo stated that just in looking at that she would suspect that perhaps the radius is not sufficient on those particular turn-arounds.

Brad Townsend stated that he thinks what they are dealing with is a couple of areas within the parking lot are probably tight and they just need to clarify with the fire department where they are talking about those locations. If they come straight south into those properties the turns are probably where the parking islands are getting out of that parking space in front of the gymnasium. So they just need to discuss that with the fire department.

Lisa DeCarbo stated that the only reason that she brings it up at all is in the event that it might require additional impervious surface as to what is already on the property and storm water runoff is always an issue when one does that kind of thing. That would be something that she thinks the neighbors would need to know about and would need to be coordinated properly too.

DeCarbo stated that there were a couple of other questions that came to her from members of her community. It sounds like a lot of the things that people ask for the applicant has already covered. The concern was that there would be a daily daycare there and it sounds as if the daycare would only be the kind of thing that happened during services. Is that correct?

Chad Ranzifer stated that was true.

DeCarbo stated that the questions also came as to what is the frequency and the hours of the services. Are there evening services during the week?

Chad Ranzifer stated that there may be Wednesday evening services along with the Sunday morning, but that would be all.

DeCarbo stated that she thinks the applicant has covered the exterior lighting. One of the concerns that Martin's Landing has is that there would not be a couple of things happening:

1. The buildings would not be added on to.
2. There would be no increase in the amount of exterior lighting.
3. There would not be outdoor events like concerts, athletic events, what have you.

The other concerns, a couple of people asked what the other uses were for or if there would be any charity type events. Would they fundraisers? Would they have a soup kitchen or take in anyone who is homeless, that kind of thing?

Chad Ranzifer stated that at this point there is no intent to use any of the space for that type of activity.

DeCarbo stated that there would be one thing that she would suggest if the applicant does expand what they are going to be doing on the property. Again, come to the neighborhood.

DeCarbo state that was all she had. She thanked the applicant.

Bryan Chamberlain asked Chad Ranzifer just as thought if the fire department requires a change to the existing surface, not knowing for sure where it is required. There is a chance he may be giving up some parking spaces. So that needs to be considered as it relates to the...Ranzifer stated that they have enough parking spaces so that they could give a few up to provide for that. But the property is also extremely close to the existing fire station there on Holcomb Bridge Road. Chamberlain suggested they just run a hose. Ranzifer stated that if they cut an easement through there and they would have a round-about to the fire station, but no, he understands.

Lisa DeCarbo stated that she did have one other question. She noticed on the site that there is a small pool. She is sure that one of the conditions that the Commission would like to see is that an appropriate code compliant cover goes on that because right now it is exposed. Ranzifer agreed.

Harvey Smith stated that if there were no further questions from the Commissioners he has if there was anyone in the audience that would like to speak in favor of the applicant. No one came forward. Smith asked if there was anyone in the audience that would like to speak in opposition to the applicant.

**Curt Foster**  
**750 Lakestone Court**

Curt Foster stated that he has owned his property and has lived there for about 95 percent of the time since 1987. He has been there for a long time. He certainly, and he is coming tonight not to speak for his family but also for three immediately adjacent neighbors, 740, 760 Lakestone Court as well as 630 Sailwind Court. Foster told these property owners that he would be speaking tonight that he had spoken with Jackie Deibel and Ms. Diamond and also Chad Ranzifer all of who were very helpful and responsive and they appreciate that.

In a nutshell as small as Foster can make it the homeowners have quite a history on that property in the past. Initially they have absolutely with the Heal Our Land Ministries coming in as a church. But their history with the noise back there has been quite extensive. Again, to put it in as small of a nutshell as he can, Foster stated that he moved there in 1987. As early as 1988 he was having a great deal of difficulty at the time with Ms. McGuire who at that was Briar Marsh Academy. He knows she was running a very good business there and a lot of people that are in their 30s now actually were kids in that particular facility. Foster thinks she probably ran a pretty good school but it was quite a crowd.

In the graphic that indicates due North, Foster stated that they would be in fact as Lisa DeCarbo suggested, they would be on the southeast corner of the property. Behind the house if you will, the improved house. And it wraps around, they are almost right on that corner. There is as Ranzifer referred to, kind of a barren area that runs down the side of that, which would be the eastern boundary. Ms. McGuire, and he knows she had quite a crowd running through there had quite a bit of children in there and some other activities even during day hours and it was quite noisy. If one would go to the back of that property, in back of the house, which would be to the southern border, there is a small grass area back there and in fact, that does back up quite closely to the houses on Sailwind Drive. Quite closely, it's quite amazing Foster thinks looking at it now and living there for almost 25 years that that particular day care center was allowed to come in up that close to the fence. He has heard some stories how that happened and the people who were involved at that time.

Foster would suggest and he thinks these people if they were asked would agree, he would suggest definitely all around the west, east and south border that one would want some type of noise buffer for landscaping particularly on the back, the south and on the east. He doesn't want to speak too much for the people on Sailwind Court, but he knows how noisy it must get. Going forward with that a little bit and they did have a lot of luck with Ms. McGuire. They contacted and spoke with Mike Sullivan, who at one time was the city attorney and Sullivan was very helpful. He pointed out to Briar Marsh Academy that the zoning on that property, which is R-3. When R-3 goes up against R-5 it is an unusual situation but again there were some persons involved in the early 1980's that allowed that to happen. That is okay. It was quite noisy. Sullivan came and said then that they have to observe and honor a buffer zone for the noise decibel levels that are being violated here. They found as Foster shared with Chad Ranzifer, they found a loophole in that if you will and said there is nothing between an R-3 and an R-5 in the current codes that allow for that and then the noise has started all over again. It got so bad that they had to call the city police out a couple of times. Not to be mean but it was just abusive. It was a public nuisance quite frankly and it was violating their right to privacy and enjoyment. He then complained to Vicki Barclay in Community Development. She had an officer come out and he listened to it. He agreed and when they got into court with it they were fined for a noise violation. This was probably 10 years ago. It has been so long ago Foster stated that he could not remember now. They have had two neighbors come and go since then. So, that seemed to solve it.

Then, Amana Academy came in. Foster met them speaking for the same group of neighbors. He told them of the problems that they had. He took a VHS cartridge into court (that will tell how long ago it was) to display the evidence of how loud and how close the problem was. He asked if they could please avoid this. They never went into the buffer area to the east or to the south. They didn't know that they were there and it was okay that they were. The neighbors feel the same way about Heal Our Land Ministries. That's fine. They know that there is a parking lot; they know that is a property that people are going to use and that is fine. But the noise because of the activities because the land is so close to these house, it is on top. Foster invited the Commissioners to take a look. It is almost impossible to not create a disturbance when one is in that area.

Foster stated that on the west side of the property there is a kind of developed play area there to the west of the pool that Lisa DeCarbo spoke of. That seems to be kind of down lower in a pit and that doesn't create near as much of a nuisance. But when they come on the other side of that pool and get up where the houses are closer, his on Lakestone and Sailwind with Jeff's and everyone else. That is when the noise violation comes in.

To cap it, Foster's understanding from speaking with Jackie Deibel was that when they were going to be in the "house" portion, if one will, which he guessed would be their offices, they are just using 900 square feet, something in that area

for office space. That is fine. The only childcare that there is going to be is just going to be on Sundays or Wednesdays. That is going to only be in the gym. The neighbors are not concerned with what they are doing; it is just that it is not right behind their houses and their yards. That is all there is to it. They had quite a set of years.

Foster had a couple of other things that he made notes on. The south and east border, he would say definitely the entire, and if one would look at it he thinks he might agree it might need the Cypress sound buffers. The gates that were mentioned would be a good idea because there are some young kids that come up through Lakestone Court. They cut through the side yard and come through the gate and they go up to the 7-11. They have learned, that is their trail. Foster has seen them. A privacy fence sounds like a good idea. He thinks that would be nice but the main thing, what is really going to block the noise and be put in initially and permanently as a condition of the Heal Our Land's petition. That is what he is interested in. So that as these folks grow their business in three to five years down the road they are not having a problem.

One other thing Foster would like to say is when Briar Marsh put the gym in and the city of Roswell's records will reflect this. Again, it has been many years. Mayor Mabry was still in office. Don White was on the council at that time and Foster came in and spoke about their concerns because they had had so many problems with the house. Foster remembers White directly saying to the McGuire's that "he remembers when they did this R-3 to R-5 backup they asked that they were not going to take advantage of it by creating sound disservices." He kind of winked at them. Remember they kind of had that handshake, Foster supposed. Foster knows that he is not with the city any longer but that conversation did take place. Foster stated that putting R-3 against R-5, when he spoke with Ms. Diamond, she even expressed surprise that something like that would go that closely together.

Foster stated that he is only speaking for at least four neighbors. Mr. Pedula is the homeowners' association president but North Pond is almost like a garden association. Legally, it is a homeowners' but it is almost a garden association. They don't really get involved with much in there. They just do some landscaping at \$75.00 a year. Foster wants for the immediate adjacent neighbors to be heard, not just Pedula. Foster appreciates his activity but he doesn't know. He doesn't live on top of this school like Foster et al do. So, anything that can be put in to resolve noise now and permanently that they are not two or three years down the road in here talking about it again at the mayor and city council meeting. He is prepared to do that but he would like not to. Noise is their only concern. Foster would ask that the applicant not use the east and back yard for any activities. And not to tell someone how to use the property but it is so small and just right up against the houses. If it was deeper and was in a different plane it would be different. But there is just no way getting around it and it is loud.

Harvey Smith thanked Curt Foster for those comments. As far as the applicant it sounds like their greatest concern is going to be sound attenuation. Smith thinks that Lisa DeCarbo has addressed a lot of other comments; she is a resident, too. Smith stated that he does not think Foster's concerns and comments will go unheard. The Planning Commission will make sure that they are incorporated as they do agree that it is a tight site.

Foster stated that it was and again, they have no problem or distress with the folks coming in and what their business is. It means nothing. He would mention something that Lisa DeCarbo asked and it is a very good question. That is if he recalls, he has been through the house and he thinks that is about a 9000 or 10,000 square foot house. He thinks that was the Chatham's house many, many years ago when Martin's Landing was still mostly in woods. That is just what he has been told. It is a very good size property. It is ample in fact, to house residential. It is sizable, Foster has been in there. It is not a bad little house. It is jumbled up because they used it for daycare. But that is a concern. And if there are people coming in that...he has real estate also that he rents so he understands. He thinks that any kind, if it is a transient or not a regular residential type of use, that would be a concern also regardless of who they are. It doesn't matter. That was left at office.

Foster inquired if residential was allowed on an R-3. Brad Townsend stated that it was an allowable use. Foster stated that is something that is concerning also, again because of the noise. The lighting he thinks has been addressed. There is no public address system, no alarms. If all of those could be put in they would ask as the immediate neighbors as a group that that be put in initially and permanently. He thinks that solves all of their issues, lighting, noise, traffic.

Harvey Smith thanked Foster and asked if there was anyone else present to speak in opposition besides Foster. He spoke on behalf of several of the neighbors. Hearing no more comments, Smith asked if there was anything that the applicant would like to say before he closes the public portion of the meeting.

Chad Ranzifer stated that they have no opposition to doing the tree buffer either on the east or the south side. He just wanted one clarification. If they were to ask the minister to reside at that property, is that permitted under the current zoning?

Brad Townsend stated that it was permitted. It would be considered a parish, which would be accessory to the church facility.

Ranzifer stated that they have no plans to run any commercial activity at all out of the buildings that are wooden in structure with the gymnasium. The only thing that he can see going forward is that they might allow the minister to reside in that one house. At this point they would have a minister and one or two administrative assistants. It would be a minimal amount of use of those buildings and most certainly, no children's activity outside the buildings where Curt Foster



was talking about on the south of the east side. They have no real plans on having anything of use there.

Harvey Smith clarified that Ranzifer would not have a problem designing the tree buffer for sound attenuation, not just for aesthetics but also maybe coming up with...Ranzifer stated that would be fine, no opposition.

Harvey Smith asked if there were any further questions for the applicant. Hearing none, at this time Smith closed the public portion of the meeting for discussion by the Planning Commission.

Bryan Chamberlain stated that he had a question for Brad Townsend. In the overall presentation there was a reference to connectivity in relation to the 2030 plan. He is confused as to how that would be accomplished in relation to closing the gates that currently exist or what the plan is for providing connectivity?

Brad Townsend stated that he thinks there is probably a difference in the connectivity in the 2030 plan that was looking for automotive connectivity when anything would be redeveloped or changing in use. When they are trying to deal with an existing situation, in not tearing down a building or trying to get something connecting to additional properties, the connectivity that is being utilized is pedestrian connectivity. Neighborhoods have the right to not infringe on this property but if the kids are using it by jumping the fence or going through holes in the fence, they are finding the quickest way to the 7-11 that they can find with their bikes and things of that nature. It is going to be if the church desires to control that, they can close those gates and lock them because it is their property to control at that point. But if they can find an understanding and mutually agree to leave them open, that's what the plan was trying to go for and at least provide alternatives for people having to get in their cars and traverse all the way around to Holcomb Bridge Road to get to the 7-11.

Chamberlain clarified that as it relates to this particular request and the 2030 plan reference to when there are changes, attempt to add to connectivity. He is unclear as to what next steps are as it relates to that issue and this plan in terms of meeting the 2030 plan.

Brad Townsend stated that the 2030 plan would not require automotive connectivity with this type of approval.

Harvey Smith asked if there were any other questions for staff or the applicant. Hearing none, Smith...

Brad Townsend stated that staff would like to get some clarification related to the buffering and landscaping so everyone can understand what is being requested. Townsend pointed out what is labeled as the house building and the southern property line and the eastern property line. What staff would like to have an

understanding of is if the objective is for Leyland Cypresses, they would like an understanding as to how big and how many and when they get put in. That is kind of what staff needs to be able to put in a condition if it is recommended to council. When one is dealing with this piece of property, there's 210 feet in this location. The areas that are property located from that point of the building here south as well as to probably from this shed location to the east. So they are probably talking anywhere between 100 to 120 feet... 120 feet here, maybe 100 feet here. So, in 100 feet they need at least six or seven Leyland Cypresses, 10 Leyland Cypresses. He is not sure.

Harvey Smith stated that what he has seen and Lisa DeCarbo, who is the landscape architect, he would suggest at least six feet on center is what he is seeing in his dealings. Lisa DeCarbo stated that most of the time when they plant them elsewhere in the landing and they use them as a screen or buffer they put them anywhere from six to eight feet on center.

Brad Townsend clarified that if they are dealing with 100 feet they need at least 12 to 15 on this side. Are they talking the same number along the southern property line? Lisa DeCarbo stated approximately yes in that area. Townsend asked if the applicant understands that that is the amount that they are looking for.

Chad Ranzifer stated that they have no opposition.

Townsend stated that was approximately 30 Leyland Cypresses planted anywhere from six to eight feet on center along the southern and eastern property line.

Chad Ranzifer stated that he would agree with that. Lisa DeCarbo added that she would agree with that.

*Inaudible...I think we are going to be required to..*

Brad Townsend stated that when they are dealing with landscaping they have made some provisions as to determine that they could wait until the next planting season. They control that to determine by December 31<sup>st</sup> of 2012 that the 30 Leyland Cypresses would be planted according to architectural plans approved by the landscape architect and the Design Review Board if the Board chooses. Townsend asked if the trees normally start at six feet. Lisa DeCarbo stated that she would say at least to six-foot. Brad Townsend stated that they are usually to six to eights or tens. DeCarbo stated that she was not a landscape architect by they way. She is a building architect.

Harvey Smith asked if there was any further discussion by the Commissioners. Does he hear a motion for the applicant?

## **Motion**

Lisa DeCarbo made a motion that the Planning Commission recommend adoption of the resolution as stated in their packet with three conditions but adding others.

1. The owners will install and maintain a landscape buffer as was just described. Up to 30 Leyland Cypresses planted six to eight-foot on center along the fence on the southern and eastern boundary of the parcel.
2. The portions of the lot to the south and east of the wood structure will not be used as a child's play area. The portion on the southwest corner would be used for that primarily and the structured playground area.
3. The owners shall coordinate with the adjacent homeowners as to the configuration and material on the fence again along the southern and eastern boundary of the parcel.
4. A code compliant pool cover be installed.

DeCarbo amended the first condition to say instead of up to 30 trees, at least 30 Leyland Cypresses.

Brad Townsend clarified that they be planted prior to December 31, 2012.

Sidney Dodd clarified that Townsend would run that through the Design Review Board. Brad Townsend stated that if required staff would run it by them.

Lisa DeCarbo stipulated that they would run it by the Design Review Board and with the approval of and recommendation of the city arborist.

Harvey Smith asked if there was a second for this motion.

Sidney Dodd seconded the motion.

Harvey Smith asked if there was any further discussion. Hearing none he called the question.

The motion passed unanimously, 5-0.

At this time the Planning Commission took a five-minute break.

## **TEXT AMENDMENT**

**11-0445**

**RZ11-14**

**Text Amendment to the Sign Ordinance related to the distribution of allowable ground and wall signage square footage.**