

# PLANNING COMMISSION MEETING

*April 8, 2010*

The Planning Commission convened in Courtroom No. 1 at City Hall for their regular meeting. Chairman Fitzgerald called the meeting to order at 7:30 PM. He asked the secretary to call the roll. Members in attendance were, Mr. Brian Temming, Ms. Christine Shoop, Mr. David Komjati, and Chairman Thomas Fitzgerald. Absent was Mr. Andrew Eade. Also present were, City Manager Rita McMahon, Assistant City Manager/Community Development Director Douglas Lewis, City Planner Russ Schaedlich, Assistant Law Director James Lyons, and Secretary Lynn White.

**MINUTES:** Chairman Fitzgerald asked if there were any additions or corrections for the Planning Commission Meeting Minutes of March 11, 2010. There being none, he asked for a motion. Motion by Ms. Shoop, seconded by Mr. Komjati to approve the Planning Commission Meeting Minutes from March 11, 2010 as submitted. All members present said "aye". Motion carried.

## **NEW BUSINESS:**

Chairman Fitzgerald asked the secretary to read the Notice for Refusal No. 2180.

### **REFUSAL NO. 2180 CONDITIONAL USE PERMIT REQUEST**

**Applicant:** Matt Blatnick  
B. C. Auto Body  
**Location:** 158 Chester Street  
Permanent Parcel Number 15-D-012-0-00-043-0  
**District:** M-2 Heavy Manufacturing District  
**Section:** 1127.05

The City of Painesville has received an application from Matt Blatnick, B. C. Auto Body, for a Conditional Use Permit. The applicant is proposing to provide retail sales of used automobiles at 158 Chester Street (Permanent Parcel Number 15-D-012-0-00-043-0). The property is located in the M-2 Heavy Manufacturing District. Section 1127.05 does not list retail sales as a permitted use in the M-2 Heavy Manufacturing District. A conditional use permit for a Similar Use designation is requested.

Chairman Fitzgerald asked if there was anyone present to speak on behalf of this request. Mr. Matt Blatnick, 158 Chester Street, stated that he would like to make some personal car sales. He indicated the State allows you to sell six to seven cars a year. He is not looking to run a car lot. He has been at this location for seven years doing auto repair. There is now a problem with him selling cars at this location. He indicated he did not know selling cars at this location was an issue. He is requesting that he be allowed to have the ability to sell what the State allows. Mr. Blatnick indicated that every business in the past five weeks has had a car for sale in front of their location. He named the numerous areas that he has seen for sale vehicles. He spoke to other businesses in the street and wondered why he had been singled out.

Mr. Schaedlich responded that the sale of vehicles at this location is not a permitted use. There was a complaint regarding the vehicles for sale in the area. He stated that it seems to be a wide spread issue that the Community Development Department Staff is working on correcting. Enforcement by the Housing Inspectors has been more direct in this area.

Chairman Fitzgerald asked if Mr. Blatnick had any issue with the stipulations outlined in the Staff Report for his request. Specifically the number of cars for sale at one time being limited to two. Mr. Blatnick replied that he does not have an issue with the stipulation and indicated he would be fine with limiting the number to one. He stated that he is interested in being in compliance and wants to keep doing what he has been doing over the past several years.

Chairman Fitzgerald asked if members of the Commission had any questions. Mr. Komjati asked where do the cars come from that are for sale. Mr. Blatnick replied that some of the cars are collateral from a bill and he has several cars that belong to him that he is looking to sell. Mr. Komjati commented on the photograph that was submitted with Mr. Blatnick's request. The area seems to be very congested. He asked if this would be an issue in regards to parking. Mr. Blatnick commented that when Mr. Schaedlich had visited the site last Thursday, they were in the process of cleaning out the garage and all of the vehicles were out. This is not a normal circumstance. Mr. Schaedlich

verified Mr. Blatnick's response.

Chairman Fitzgerald asked how many cars fit into the garage. Mr. Blatnick commented there are eight to nine cars in the garage and there is outside storage for vehicles within a fenced area.

Ms. Shoop asked how many employees Mr. Blatnick had for his business. Mr. Blatnick stated that it is just him and occasionally he sublets out to others.

Mr. Komjati asked if there would be any signage placed at the site in regards to the car sales. Mr. Blatnick indicated signage would be located in the car itself only. He would not be changing the signage that is already there. He stated that he could go for a very long time without anything for sale.

Ms. Shoop asked what would happen if Mr. Blatnick had three cars for sale at one time. Would the additional cars be kept out back? Mr. Blatnick stated that if the condition were for one, he would only have one for sale at a time.

Chairman Fitzgerald asked if there were any other comments or questions from the Commission. There being none, he asked if there was anyone present wishing to speak on this request.

Mr. Tony Torre, 158 Sanford Street, stated that he owns property at 93 Burton Street. He indicated that he is in favor of the request since he applied for the same thing. He stated that he wants to remind the Commission of their previous actions. In May 2004, he requested to have the sales of automobiles at his location. Mr. Torre was granted his request with the stipulation of no outdoor parking and storage of vehicles for sale. In January 2007, the Commission heard a request for 430/436 Richmond Street that is on the corner of Lawnview and Chester Street. The applicant was requesting a used car lot and the Commission denied the request. Mr. Torre stated that he just wants the Commission to consider this when acting on this request.

Mr. Blatnick commented that he is not trying to run a used car lot. He is only requesting to sell cars as a personal sale.

Chairman Fitzgerald asked if there were any other comments from members of the audience. There being none, he asked if the City had any information to add to this request.

The secretary indicated that she received a telephone call from Ms. Linda Terry, 164 Chester Street, who stated that she is in favor of this request. She believes that the car sales provide a level of security to the area.

Chairman Fitzgerald asked if Mr. Lyons had any comments. Mr. Lyons stated that the Commission might want to limit the signage for this request as part of the stipulations or conditions. There was discussion regarding the various stipulations for this request.

Ms. Shoop asked if the Administration could explain what the difference is between Mr. Blatnick's request and Mr. Torre's request. Ms. McMahon explained that a portion of the issue is that Burton Street is strictly industrial where as Chester Street has a mix of commercial and industrial. The proximity between of where it is located in relation to the commercial area is a deciding factor. She indicated that she believed that Mr. Torre has a State license to sell vehicles whereas Mr. Blatnick is only selling cars on a personal level. This is a different retail activity and intensity. Ms. McMahon stated that Mr. Torre's building setback is only seven to ten feet and Mr. Blatnick's is set farther back from the street. Any cars in the front of the structure would be located in the front setback.

Chairman Fitzgerald asked if there were any other comments or questions. There being none, he asked for a motion to approve Refusal No. 2180 for a Conditional Use Permit with the suggested stipulations.

Motion by Mr. Temming, seconded by Ms. Shoop to approve the Conditional Use Permit at 158 Chester Street to allow retail sales of used automobiles with the following conditions: 1. The number of vehicles for sale at one time is limited to one (1); 2. This permit is issued for this owner only and is not transferrable; 3. Signage will only be within the vehicle. On roll call, Ms. Shoop, Mr. Komjati, Mr. Temming, and Chairman Fitzgerald answered "yes". Motion carried.

Chairman Fitzgerald asked the secretary to read the Notice for Refusal No. 2181.

**REFUSAL NO. 2181 CONDITIONAL USE PERMIT REQUEST**

**Applicant:** Clear Wireless, LLC  
**Owner:** Robert and Ed Walker (Walker Brothers Company)  
**Location:** 284 Richmond Street (Parcel Number 15-D-011-0-00-019-0)  
**District:** M-2 Heavy Manufacturing District  
**Section:** 1143.06 (b)

The City of Painesville has received an application from Clear Wireless, LLC for a Conditional Use Permit. The applicant is proposing to collocate wireless communication antennae on an existing telecommunications tower at 284 Richmond Street (Permanent Parcel Number 15-D-011-0-00-019-0). The property is located in the M-2 Heavy Manufacturing District. Section 1143.06 (b) requires a conditional use permit for the installation of commercial transmissions of radio, television or communication systems in all districts.

Chairman Fitzgerald asked if anyone was present to speak on behalf of this request. Ms. Marthalie Porter indicated that she is representing Clear Wireless LLC, 5595 Transportation Boulevard, Garfield Heights, Ohio. She stated that she has read the Staff Report and they have no issues with the stipulations. Ms. Porter explained that Clear Wireless is a wireless broadband service providing operating sites throughout the United States. Clear Wireless affiliates have acquired their licenses from the Federal Communications Commission. These licenses include the City of Painesville, Ohio and regional system operated under the name of Clearwire and has formed an integrated nationwide network of coverage. Clearwire offers advanced high-speed internet services to consumers and businesses. The company is building the first nationwide 4G mobile WiMAX network bringing together a compelling combination of speed and mobility. Clearwire's open all-IP network, combined with significant spectrum holdings provided unmatched network capacity to deliver next generation broadband access. The Clearwire network will consist of a number of individual wireless facilities that are each connected with neighboring sites. Ms. Porter stated that the proposal that is before the Commission for 284 Richmond Street is one that has been identified by our radio frequency engineers as an integral part of this network grid. This is necessary to provide coverage for this area. The coverage only reaches about a mile and a half, whereas the typical cellular coverage is at two or three miles and up to four miles. The equipment that is placed on the tower is a lot smaller since they are point-to-point antennas. The antennas will be located underneath the two existing carriers on the pole at 158-feet.

Chairman Fitzgerald asked if Members of the Commission had any questions. Mr. Komjati asked what this would do for the citywide wireless network. He wondered if this would improve the technology for the City. Ms. McMahan stated that this would be another option for businesses. Ms. Porter indicated that you could subscribe to the wireless internet service just as if you subscribe to the local cable or phone company. Clearwire is offering the latest service, which is the 4G network. Ms. Porter explained the various areas that they are locating the equipment with the closest being in Fairport.

Chairman Fitzgerald opened the Public Hearing to the audience and asked if there were any questions. Mr. Tony Torre, 158 Sanford Street, asked if there was any way the City could get some tax dollars from this type of service. It is great to have all this communication, but all of these towers go up and the city cannot get any money from them, the property owner is paid.

Ms. McMahan replied that is regulated by the Federal Communications Commission it is not a local regulatory item. The city can regulate it with the permitting of the structures only.

Chairman Fitzgerald asked if the City had any other comments. Mr. Schaedlich stated that this is consistent with the City's Comprehensive Plan, to provide additional communication options within the City. There was also discussion of the stipulation of the equipment being located within the existing fenced area.

There being no further comments or questions Chairman Fitzgerald asked for a motion to approve Refusal No. 2181 for a Conditional Use Permit. Motion by Mr. Komjati, seconded by Mr. Temming to approve the Conditional Use Permit at 284 Richmond Street for the installation of telecommunications systems on the existing monopole with the following conditions: 1. All equipment for Clear Wireless, LCC shall be installed within the existing fenced area. On roll call, Mr. Komjati, Mr. Temming, Ms. Shoop, and Chairman Fitzgerald answered "yes". Motion carried.

## **ADMINISTRATIVE REPORT:**

Chairman Fitzgerald moved onto the first item under the Administrative Report and asked the secretary to read the notice.

**Temporary Structure and Uses:** Painesville City Local School District has made application for the determination of a temporary structure in accordance with Section 1141.07 (c). Painesville City Schools is proposing to place a construction trailer at the former Harvey High School site (167 West Washington Street) for the demolition contractor.

Chairman Fitzgerald indicated the trailer has already been put in place. The stipulations outlined in the Staff Report are standard. He asked if there were any comments or questions. There being none he asked for a motion. Motion by Mr. Komjati, seconded by Ms. Shoop to approve issuance of a temporary structure permit with the following conditions: 1. That the modular temporary structure be removed from the site by May 1, 2011; 2. The trailer frame shall be properly tied down and secured; 3. That the temporary structure permit is good for this site only and is not transferable. On roll call, Mr. Temming, Ms. Shoop, Mr. Komjati, and Chairman Fitzgerald answered "yes". Motion carried.

Chairman Fitzgerald moved onto the next item on the Agenda. He asked the secretary to read the item.

**Temporary Structure and Uses:** The City of Painesville has made application for the determination of a temporary structure in accordance with Section 1141.07 (c). The City of Painesville is proposing to place a construction trailer at the former Lake East Hospital site (10 East Washington Street) for on-site office space for the demolition contractor.

Chairman Fitzgerald commented on the entrances to the parking areas being barricaded. Ms. McMahon indicated the site is still accessible and someone is at the building every day. Once a demolition contractor is determined, the trailer will be brought on-site. The bid advertisement for the demolition work will run April 22, bids to be opened May 15. The trailer will not be placed until early June.

Chairman Fitzgerald asked about contents of the hospital. He asked what would happen to those items. Ms. McMahon explained that most of the contents have been removed. The demolition contractor will determine whether anything else is salvageable. The generators that are inside the hospital will be moved to the Electric Plant, which the City acquired with the building.

There being no further discussion, Chairman Fitzgerald asked for a motion on this item. Motion by Ms. Shoop, seconded by Mr. Temming to issue a temporary permit with the following conditions: 1. That the modular temporary structures be removed from the site by May 1, 2011; 2. The trailer frame shall be properly tied down and secured. On roll call, Ms. Shoop, Mr. Komjati, Mr. Temming, and Chairman Fitzgerald answered "yes". Motion carried.

Chairman Fitzgerald moved onto the next item under the Administrative Report.

**Preliminary Plat Approval** of 49 residential lots known as Heisley Park Residential Subdivision Phases XIV and XV.

Chairman Fitzgerald stated that the City Administration has recommended that this item be tabled. He asked if there was anything additional to add. There were no other comments by the Administration or questions by Members of the Commission.

Mr. Torre asked to make a comment. He mentioned that he knows that Heisley Park has been a topic of discussion at the City Council Meetings. He stated that since there have been problems there it seems only right that these problems are dealt with before building more homes.

There being no further discussion, he asked for a motion. Motion by Ms Shoop, seconded by Mr. Komjati to table the Preliminary Plat for Heisley Park Subdivision, Phases XIV and XV. On roll call, Mr. Komjati, Mr. Temming, Ms. Shoop, and Chairman Fitzgerald answered "yes". Motion carried.

Chairman Fitzgerald moved onto the last item on the agenda.

**Heisley Park Residential Subdivision Phase VII, Sublot 42:** determination of buildable lot vs. open space.

Chairman Fitzgerald indicated that he has read the Staff Report on this item and he does not understand why this lot was sold. Mr. Schaedlich indicated the lot has not been sold yet. The builder has an interested party for this lot. Mr. Schaedlich explained to the Commission the process of the plan review for Phase VII of Heisley Park. The City Engineer had noted that this lot had an existing well and it was not determined what the status of the well was. The recommendation was the lot was to become open space and deeded to the Homeowners Association as such. The plat was filed however; the lot was never turned over to the Association. There were questions regarding the well and its status. The well was determined to be a brine well and the proper documentation regarding the capping of the well was submitted. The developer has an interested party and asked the City to review the open space designation on the subplot requesting that stipulation be removed.

Chairman Fitzgerald asked if there was a minimum amount of green space that has to be met. Mr. Schaedlich responded that the overall development is to have 25%; they are very close if not slightly over that amount at this time. The development is to have a city park, which its location has yet to be determined.

There was discussion regarding the well and how the lot would be designed with an existing well on the property. Ms. McMahon explained that at the time Phase VII was platted the builder did not have a house style that would fit on this lot with the well. Over time, the builder has changed the product. They now do have a unit that can fit on this site. It can be built ten feet from the wellhead and meet all of the ODNR standards. At the time, they did not know what to do with it so that is why it was designated open space.

Chairman Fitzgerald asked if Mr. Lyons had any comments. Mr. Lyons indicated there is no liability on the part of the City. The well has been properly capped according to ODNR standards we are not aware of any further problem with the site; it does not mean something could not happen. As long as all the regulations are followed, it is a buildable lot.

Chairman Fitzgerald asked if Members of the Commission had any comments or questions. Ms. Shoop asked if the home would be further back than the rest of the homes on the street. Mr. Schaedlich indicated it would be back a little farther. He directed the Commission to the submitted site plan. The home is about ten-feet farther back than the homes next to it. Ms. Shoop wondered if a stipulation needed to be added that the Sienna C is the only home that can be built on the lot.

Mr. Roessner of Foresight Engineering indicated that they are the engineers for the submitted plans. He stated that if you look at the house it sits back as far as the house to the left of it. This well was one of the first wells that had a lot when this Phase was platted. This is the reason for the situation of it being marked for open space. There have been other lots within the subdivision that have wells. They have gone through the same process with the radial easement around the well so the house does not sit on top of the well. There is still access to the well if needed. This has already been done with three or four lots in the subdivision.

Ms. Shoop stated that she understands that, but she is concerned about stipulating the house style for the site since that is the only one that will fit onto the lot. Mr. Roessner indicated what has been submitted is the proposed site plan. If the Commission approves this proposal, they will be at the building department tomorrow to start the process. The buyers are trying to get the first time buyers discount from the government.

The individual who is building on the lot was present. They indicated that they are definitely building the Sienna style home. Ms. McMahon stated that the Commission has to determine whether they can build on the lot. No matter what is built there, the builder will have to respect the ten-foot easement for the well. A stipulation on the house style is not necessary.

There being no further discussion, Chairman Fitzgerald asked for a motion on this item. Motion by Mr. Temming, seconded by Ms. Shoop to designate Sublot 42 of Heisley Park Residential Subdivision Phase VII as a buildable lot with the following conditions: 1. The legal description shall include a deed restriction identifying the location of the capped wellhead and deed restricting structures in the area; 2. Site plans for building permits identify the location of the wellhead. On roll call Mr. Temming, Ms. Shoop, Mr. Komjati, and Chairman Fitzgerald answered "yes". Motion carried.

**OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE PLANNING COMMISSION**

**ADJOURNMENT**

There being no other items to come before the Planning Commission the meeting was adjourned.

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Lynn M. White, Secretary

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Thomas Fitzgerald, Chairman