

PLANNING COMMISSION MEETING

May 14, 2009

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.

Members in attendance were, Mr. Andrew Eade, Mr. Brian Temming, Mr. David Komjati, and Chairman Thomas Fitzgerald. Absent was Ms. Christine Shoop. Also present were, City Manager Rita McMahon, Assistant City Manager Douglas Lewis, City Planner Russ Schaedlich, Assistant Law Director James Lyons, and Secretary Lynn White.

MINUTES: Motion by Mr. Temming, seconded by Mr. Komjati to approve the Planning Commission Meeting Minutes from April 9, 2009 as submitted. All members present said “aye”. Motion carried.

Chairman Fitzgerald indicated the first item on the Agenda was the Tabled Business dealing with the Proposed Code Amendment. Chairman Fitzgerald asked for a motion to remove this item from the table. Motion by Mr. Komjati, seconded by Mr. Temming to remove the Proposed Code Amendment from the table. On roll call, Mr. Komjati, Mr. Eade, Mr. Temming, and Chairman Fitzgerald answered “yes”. Motion carried.

TABLED BUSINESS: (Public Hearing Items)

PROPOSED CODE AMENDMENT

CHAPTER 1146 Design Review Standards

Amendment to the Historic Preservation District Section 1146.03

Establishment of a Mentor Avenue Historic Preservation District to promote the preservation and protection of the old historic or architecturally worthy structures and quaint neighborhoods which impart a distinct aspect to the City and which serve as visible reminders of the historical and cultural heritage of the City, the state and the nation.

Chairman Fitzgerald asked the Commission if they had questions or comments on the three different maps that were given to them in their packets. Mr. Temming asked for an explanation from the Administration on the differences of the maps.

Mr. Schaedlich explained that Map 1 depicts the original proposal of the Mentor Avenue Historic District Association. This map can be used for comparison purposes with the other maps to identify changes. He further explained that Map 2 depicts the amended proposal of the Mentor Avenue Historic District Association. The Mentor Avenue Historic District Association listened to the comments made at the Public Hearing and were concerned about the opposition. They realized that much of the opposition to their proposal came from the west end of West Washington Street. The Association discussed this opposition and felt that, if there was no interest on the part of these property owners to be included in the district, they would not try to impose it upon them. The decision was then made to include only the properties fronting on both sides of Mentor Avenue, Wood Street and majority of the portion of West Washington Street east of Wood Street. The portion of West Washington Street west of Wood Street, excluding the property fronting Wood Street, was excluded. The Association also honored the written request to be excluded made by First Merit Bank at the northwest corner of West Washington Street and Liberty Street. Mr. Schaedlich then stated that Map 3 is the City Staff district boundary proposal. The City staff further reviewed the amended proposal for the proposed Mentor Avenue Historic District and made some additional changes. The first change was to remove the park at the point where Mentor Avenue and West Washington Street intersect due to the fact this park would not be built upon. The second change was to include the area bounded by Sterling Avenue, Paige Place and West Washington Street to provide a contiguous area and include several older homes. The third, and final, change was to include properties fronting on the south side of West Erie Street. This will include all City-owned property at the City Hall complex and several lots that have double-frontage between Mentor Avenue and West Erie Street. The properties owned by RTM Acquisition Company, LLC, (Arby's) at the southwest corner of West Erie Street and Richmond Street were excluded.

The Commission discussed the area changes and inquired how to handle questions that may arise from members of the audience. Mr. Lyons commented the Commission has the ability to ask for public comment since the Public Hearing for this issue is over. Chairman Fitzgerald asked if the members of the Commission would like to take comments from the public. The members present indicated they had no objection.

Chairman Fitzgerald asked for comments from the public. Mr. Don Obrenski, 298 West Washington Street, asked for clarification of the Historic Preservation District boundaries that were shown on the Maps. Mr. Schaedlich explained the boundaries and verified that Mr. Obrenski's home was not included in the proposed boundary.

Chairman Fitzgerald asked if there were any other comments from members of the audience. There being none, he asked if there were any other comments regarding this proposed code amendment. Mr. Schaedlich indicated that the Mentor Avenue Historic District Association has been in contact with the property owner of 240, 228, and 220 West Washington who have requested to be part of the district. In addition, the boundary could also include 214 and 208 West Washington Street of which both owners have indicated they would like to be a part of the district also. There was continued discussion regarding which side of the bike path these properties were located and whether or not certain properties were included.

There being no further discussion, Chairman Fitzgerald asked for a motion on the proposed code amendment with the suggested changes to Map #3. Motion by Mr. Komjati, seconded by Mr. Temming to recommend approval of the Proposed Code Amendment to Chapter 1146 establishing a Mentor Avenue Historic Preservation District to City Council amending Map #3 to include five additional properties (208, 214, 220, 228, and 240 West Washington Street). Chairman Fitzgerald asked the secretary to call the roll. On roll call, Mr. Eade, Mr. Temming and Mr. Komjati answered "yes"; Chairman Fitzgerald abstained. Motion carried.

Mr. Komjati thanked the City for working with the residents of the Mentor Avenue Historic District Association and by amending the district to make the area residents happy with the changes.

Mr. Schaedlich indicated the Downtown Design Review District boundary needs to be amended to prevent overlapping of districts and guidelines. The Zoning Map showing the Downtown Design Review District Boundary will be amended so there is no overlay in the two districts. He explained a separate motion is required by the Commission to take care of this item. Motion by Mr. Temming, seconded by Mr. Komjati to amend the Downtown Design Review District boundary to prevent overlapping of districts and guidelines. On roll call, Mr. Temming, Mr. Komjati, Mr. Eade, and Chairman Fitzgerald answered "yes". Motion carried.

ADMINISTRATIVE REPORT:

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

Heisley Park Villas PUD Revocation

Mr. Schaedlich explained for the Commission some history on this project. Mortell Associates had proposed a Planned Unit Development (PUD) under Section 1134 of the Planning and Zoning Code for a portion of the Heisley Park Development. The proposal encompassed 39.5 acres and included 234 for-sale units that would be attached product on fee simple lots. The Planning Commission held a Public Hearing, reviewed, and recommended approval of the proposed Heisley Park PUD on April 13, 2006. The proposal and recommendation were then forwarded to City Council. The proposed PUD went through three readings and a Public Hearing (held on May 15, 2006). City Council accepted the recommendation of the Planning Commission and approved the PUD. The developer submitted a Preliminary Plat for Phase 1 of the PUD that included the first 65 units of the development. The Planning Commission recommended approval and forwarded the proposal to City Council, which ultimately accepted the Planning Commission's recommendation and approved the Preliminary Plat for Phase 1 by adopting Resolution 45-06 on July 17, 2006. Mr. Schaedlich stated that since that time, there has been no activity on the PUD. The approval is good for 12 months and since there have been no further submissions and no construction the PUD has lapsed. Mr. Schaedlich stated that he has spoken to the development and he has been made aware of the situation. He realizes that if he wishes to establish a PUD sometime in the future he will have to reapply and go through the approval process again.

Mr. Schaedlich indicated the Staff recommends that the Heisley Park Villas Planned Unit Development approval be extinguished and the land rezoned to the R-2 Multi-family Residential District, which was the zoning of the area prior to the PUD's approval. In addition, Staff further recommends that the Overall Development Agreement for Heisley Park be kept in effect.

Chairman Fitzgerald asked how this all works with keeping the agreement in place. Mr. Schaedlich explained that the Overall Development Agreement has been in place for the entire Heisley Park Project. Ms. McMahon stated the Development Agreement was a result of the annexation of the property that was done in 1996. This agreement had density controls and general guideline on how the property would be developed as part of that agreement. She indicated that the City wanted to reinforce this fact to the developer however; they have been using these guidelines from the very first phase to the phase that is on the Agenda this evening.

Chairman Fitzgerald asked if construction has stopped at Heisley Park. Ms. McMahon responded that the Villas only have been stopped. This decision was made based on the market. The product that was designed for this area was condominium based. This type of product is having a very difficult time receiving funding and the builder and developer have indicated they will not go forward with this product. Chairman Fitzgerald asked if the single-family homes are still being built. Ms. McMahon indicated there were about thirteen building permits issued for that subdivision last month.

Ms. McMahon stated per the ordinance, the Planning Commission needs to make a recommendation to City Council to revoke the Planned Unit Development since the zoning has lapsed. Mr. Schaedlich added that there was a typo in the memorandum sent to the Commission. The last paragraph cites the section, which is incorrect; the correct section is 1134.13(e) (4).

Chairman Fitzgerald asked if there were any further comments or questions on this matter. There being none he asked for a motion on this item. Motion by Mr. Komjati, seconded by Mr. Eade to recommend the revocation of the Heisley Park Villas Planned Unit Development in accordance with section 1134.13(e) (4) of the Codified Ordinances allowing the underlying Development Agreement to be intact. On roll call Mr. Temming, Mr. Komjati, Mr. Eade and Chairman Fitzgerald answered "yes". Motion carried.

Chairman Fitzgerald moved on to the second item under the Administrative Report.

Preliminary Plat Resubmission for Phase XII for Heisley Park Residential Subdivision.

Mr. Schaedlich explained to the Commission that the original proposal for Heisley Park Phase XII did not include lots on the south side of the street. The developer has added twelve additional lots to this phase. In addition, there have been two stub streets shown on the south side of Greenfield Lane for future phases that were not indicated on the original submission. Mr. Schaedlich indicated the Administration recommends approval of the Preliminary Plat with the stated stipulations outlined in the memorandum from the City Engineer and City Planner dated April 29, 2009.

Chairman Fitzgerald asked if there were any comments from members of the Commission. There being none, he asked for a motion. Motion by Mr. Temming, seconded by Mr. Komjati to approve the resubmitted Preliminary Plat for Heisley Park – Phase XII with the stipulations outlined in the memorandum dated April 29, 2009 from the City Engineer and City Planner. On roll call Mr. Eade, Mr. Temming, Mr. Komjati, and Chairman Fitzgerald answered "yes". Motion carried.

OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE PLANNING COMMISSION

Mr. Schaedlich updated the Commission on a few items. He indicated that he had contact Ms. Stephanie Beres regarding the Bed and Breakfast on Bank Street. They are still moving forward on their project. A final inspection was completed about a week ago with a few minor issues. They anticipate the occupancy permit will be issued by the deadline of June 14, 2009.

Mr. Schaedlich stated the other item pertains to a Conditional Use Permit for Retail Auto Sales at 33 Stage Avenue to J. Natividad Soto Rodriguez. The conditional use permit expires at the end of this month. The condition was in order to continue the use a new application would need to be submitted. He indicated the Staff has contacted him directly on two occasions prior to the deadline for submittal for the May meeting. Mr. Rodriguez has not submitted anything to date.

Chairman Fitzgerald asked if he was still open for business. Mr. Schaedlich responded they had never received occupancy on the building. There was some remodeling done on the inside of the structure.

Mr. Anthony Torre asked to comment on this issue. Chairman Fitzgerald indicated Mr. Torre could comment. Mr. Torre stated that he complained about this particular person two years ago and again a year later. He believes he is showing his colors right now and feels the City does not need this kind of business owner.

The secretary asked members of the Commission if they were interested in attending the Northeast Ohio Planning and Zoning Workshop on June 5 to let her know and she will register them.

There were no other items to come before the Planning Commission.

ADJOURNMENT

There being no further business, the meeting was adjourned.

Lynn M. White, Secretary

Thomas Fitzgerald, Chairman