

PLANNING COMMISSION MEETING

April 14, 2016

The Planning Commission convened in Courtroom No. 1 at City Hall for their regular meeting. Chairman Komjati called the meeting to order at 7:30 PM. He asked the secretary to call the roll. Members in attendance were Mr. Wainwright, Ms. Kuhlmann, Ms. Fleck and Chairman Komjati. Ms. Hada was absent. Also present were City Manager Anthony Carson, the Assistant City Manager/Community Development Director Douglas Lewis, City Planner Lynn White, Assistant Law Director James Lyons, and Secretary Tina B. Pomfrey.

MINUTES: Chairperson Komjati asked for additions or corrections for the Planning Commission Meeting of March 10, 2016. There being none, he asked for a motion. Motion by Ms. Kuhlmann seconded by Ms. Fleck to accept the Planning Commission Meeting Minutes from March 10, 2016 as written. Chairperson Komjati asked the Secretary to call the roll. On Roll Call, Ms. Kuhlmann, Ms. Fleck, Mr. Wainwright and Chairperson Komjati answered "yes". Motion carried, 4-0.

NEW BUSINESS: None

ADMINISTRATIVE REPORT:

- **Heisley Park Residential Subdivision Phase XVIII** - Preliminary Plat request – consisting of 44 lots and 10.2971 acres of land.

Chairman Komjati asked if there was anyone present to speak on subject. There being no one, he asked for further comments from the City. Ms. White stated that she would like to add that regarding the memorandum that was supplied to the Commission, some items were not done correctly and revisions were done to the plat according to the stipulations set forth by the Planning Commission. On April 11, GDP Group submitted revisions to the plat. They made the changes that were listed at the memorandum's conclusions and recommendations regarding the water taps and the water line connections. They addressed the open space on the plat that they labeled and the contours of the plat were placed, per the City Engineer's recommendation. The railroad right-of way buffer, #4 of the stipulations, was asked to be continued along the entire length of the property boundary. GDP responded, indicating that the proposed buffer has an issue as there is a stream at the western end of the property that poses problems for the extension of a fence or mounding in that area. The administration received comment from the Homeowners Association of Heisley Park who expressed a preference that the required noise buffering between the railroad tracks and homes in Phase 18 consist of four foot earthen mounds topped by four foot pine trees rather than a wooden fence. HOA Board President Nick Catania and Vice President Dave Krizan feel that mounding and trees will be more aesthetically pleasing and a more effective noise buffer. Additionally, there are maintenance issues with fencing.

Chairman Komjati asked if the buffer would interfere with the stream that flows through that area. Ms. White stated the developer, Mortell Associates, said that there might be a problem. The secretary read the e-mail response from Mr. Mike Mortell. He said that the stream along the property line was re-located several years ago to comply with the Army Corp of Engineers. As a result, care must be taken to stay out of the stream area. He said he is not sure if there is enough room behind the lot line and the stream area to install mounding.

Chairman Komjati asked what the requisite step should be since that item has not been addressed. Ms. White responded that the City Code specifically states that the buffer should be addressed at the preliminary plat phase, however, when the final plat is recorded, if the buffer is not in place, the City will require bonding to make sure that it is completed.

Ms. Fleck asked if there is time to consult with the Army Corp. of Engineers to see if this is appropriate. Mr. Carson replied the City would work with the Army Corp. to ensure compliance.

Chairman Komjati asked if the Planning Commission is able to recommend approval even though this phase has not yet been finalized. He asked if it just has to be complete by final plat approval. Ms. White replied yes and added that this is the final phase of Heisley Park.

Chairman Komjati said that, in the past, hydraulic studies have been a problem and asked if the study for this phase is satisfactory. Ms. White replied that the developer is working on providing the necessary studies so the Commission can feel comfortable moving forward with the approvals for Phase 18.

Mr. Lyons asked if the approved buffer is the fence or the mounding. Ms. White replied the City is requesting mounding with the trees. Mr. Lyons asked if a higher fence could be installed if the mounding is an issue because of the stream. Mr. Lewis replied no; the railroad sits almost 12 feet higher than the land around it and a fence would not serve as a practical buffer. The pine trees will grow and eventually be an effective buffer.

Discussion ensued. Mr. Lyons commented that even if the developer puts up a bond, if a mound cannot be built, then a buffer still would not be installed. Mr. Carson replied that there are other alternatives and no buffering is not an option.

Chairman Komjati asked what the options are. Ms. White replied that a variance could be granted for a taller fence. Mr. Lewis considered a tighter mound configuration with trees. Mr. Lyons stated that it is something that the developer is going to have to figure out.

There being no further comments, Chairman Komjati asked for a motion. Motion by Ms. Fleck, seconded by Ms. Kuhlmann, to approve the preliminary plat for Heisley Park Residential Subdivision Phase XVIII with the following stipulations:

1. Sheet 2 shall be revised to comply with Chapter 1109 regarding labeling of the contour lines in the subplot areas; labeling the dimensions of the road frontage on sublots 430-433; and the location of the water connections on sublots 468-511;
2. The developer shall provide the necessary hydrogeologic study for Phase XVIII;
3. The developer shall submit \$1,570 for the small tree fee;
4. The railroad right-of-way buffer shall be installed similar to the approved buffer required for the common space (park area) along the railroad and shall be continued along the entire length of the property boundary and end at S/L 423 as part of the buffer requirement.

On Roll Call, Ms. Kuhlmann, Ms. Fleck, Mr. Wainwright, and Chairman Komjati answered "yes". Motion carried, 4-0.

- **Temporary Structure and Uses:** Lake Erie College was granted the placement of a temporary modular unit at Recreation Park on June 12, 2008 with extensions granted in December 2008; November 2009; November 2010; November 2011; December 2012; April 2014. Lake Erie College was granted an additional one-year extension of their permit for the modular unit for the 2015-2016 seasons with conditions, to be presented to the Planning Commission at the April 2016 meeting.

Mr. Peter Gerhardt, Interim President of Lake Erie College, along with Brian Dirk, Vice President of Finance and Operations, were present for the meeting. Mr. Gerhardt said he appreciates the opportunity to appear before the Planning Commission. He said he has worked very closely with Mr. John Shepard and Mr. Anthony Carson. Together they have created a master plan on how the Lake Erie College, the Painesville City School District and the City work and build together. It is multi-faceted and comprehensive. Mr. Gerhardt said that it seems to him that the problem is that the structure that has been called temporary is in fact, not temporary at all. Mr. Gerhardt related that Mr. David Zofko, the Building Official for the City, visited the site and determined that the structure is permanent under the Building Code. Mr. Gerhardt said he is hoping to have it declared a permanent structure so that the college does not have to keep requesting renewal from the Planning Commission. At one time, there was a plan to build a larger locker room for the athletics, so in that sense, the structure was temporary in that one day it might be replaced. However, after consideration, it is no longer the case. The college has many needs and education is the primary need. All the funds the college gets will likely go toward education rather than a new structure.

Chairman Komjati replied that he appreciates his candor because the Planning Commission was under the impression that the building was temporary and the intent was someday to build something larger. Mr. Gerhardt said in the past, that was probably the intention, but it is not a priority at this time.

Ms. Fleck asked if the structure is shared with Harvey High School. Mr. Gerhardt said no, but the college leases it from the school system and in the year 2020, unless the lease is renewed, the structure will be given back to the school district.

Mr. Carson requested that Ms. White review the process that she and the Chief Building Official, David Zofko, went through today. Ms. White stated that she and Mr. Zofko visited the site. Mr. Zofko, in an e-mail, confirmed that the structure was installed on solid masonry blocking and tied down to the ground with auger hold-down bolts and steel cabling, rendering the building a permanent structure. Relocation of the building could occur sometime in the future if required, however the college does not intend to move it. Today it was determined to be safe and permanent in nature.

Chairman Komjati asked if the Planning Commission has any responsibility in allowing the permanence of the structure. Mr. Lyons replied no; the college has to make application for permits with the City Building Department, but the structure continues as the temporary structure through the end of this year until application for permanent use is made with the City and they do what is required to make it compliant.

Ms. Fleck asked if the school system or the college makes application for permits. Mr. Gerhardt said applications would be filed jointly.

Mr. Wainwright said he is not happy about the plan, but it appears to be a done-deal.

- **Temporary Structure and Uses:** J. Federico/Fast Auto & Truck has made application for the determination of one (1) trailer in accordance with Section 1137.12 (a)(1). Mr. Federico is proposing to place the trailer at 61 South State Street as a temporary office for Fast Auto Sales and Leasing.

Mr. Jim Federico, 71 South State Street, was present for the meeting. He explained that on the site, a building was demolished (to allow space for an addition to his business). According to the State of Ohio, the business must have an office that is separate from the actual tire store. Mr. Federico said he would like to use a temporary building until the office addition is constructed.

Chairman Komjati asked for the timeframe to have the addition built. Mr. Federico said it is already in process; Ray DelaMotte is drawing up the building plans. As soon as the plans are complete, Mr. Federico will contract with a builder and obtain permits.

Chairman Komjati asked if Mr. Federico must appear before the Planning Commission as a Design Review Board. Ms. White replied that a Design Review would be conducted administratively. Mr. Federico would only need to appear before the Planning Commission for an appeal if he disagrees with the decision of the Administration.

Mr. Federico said he submitted a drawing of the temporary building to the Commission. He explained it is 12 ft. x 16 ft. structure, large enough for a desk, filing cabinet, three chairs and phone. Additionally, the building is required to have heat, so a furnace must be installed in the structure, even though it is almost summer.

Ms. White presented a photo of the site for the Commission. She pointed out the location of the temporary building. Mr. Federico said the building was not supposed to be delivered until next week, but it arrived prematurely, so the building is already on site.

Chairman Komjati asked if there are stipulations regarding required parking for the structure. Ms. White said there is plenty of room for parking on that lot; the two lots were consolidated when the building on the site was demolished as requested by the Planning Commission. Ms. White consulted with the Building Official for the City, and it was determined that it is under 200 square feet and does not fall under regulations under the Ohio Building Code. It is essentially an accessory structure. She said power to the structure will be installed to operate a small heater and the plan is to leave the structure there until the addition to the current structure is complete. She said her recommendation is to give him a six-month period to use the structure and if he needs an extension, the Planning Commission can revisit this.

Mr. Carson asked Ms. White if she had a chance to look at the structure from a design standpoint. Ms. White said it was noticed only today, so she has not had a chance to review it, although she thought it would be placed more toward the back of the property.

Mr. Federico stated if he had placed the structure further back, it would interfere with the construction of the addition.

Ms. Fleck asked how the structure is anchored (to the ground). Ms. White replied that it is a temporary structure, so it is not anchored at all.

Mr. Carson asked Ms. White to review the administrative process if the Planning Commission gives their approval. Ms. White replied that a review would be done for design to make sure that it aesthetically fits the district. She explained that she gave Mr. Federico a list of items required for the submittal of the building plans and design review. This temporary structure requires a zoning permit. She reiterated that she did not anticipate the building would be so visible and close to the road.

Chairman Komjati suggested landscaping; Ms. Fleck asked if the building it could be turned to face sideways. Mr. Federico thought it was more pleasing facing the front of the road.

Mr. Carson asked if a Certificate of Occupancy is required for this building. Ms. White stated that the Building Official, Mr. Zofko, said because it is under 200 square feet and not habitable space, no Certificate of Occupancy is required.

Ms. Fleck asked about signage on the temporary structure. Mr. Federico said that he would use the sign that was on the previous structure. Ms. White replied that the signage would still have to be reviewed for size.

Discussion ensued regarding where signage could be located. Mr. Carson emphasized that no signs should be installed without first completing the Design Review process. Mr. Federico said if the building is not there by next week, he would have a problem with the State. Mr. Carson countered that the lot has been vacant for some time. Mr. Federico replied that is true, however, there were issues with the site and he is trying to accommodate both City and State regulations.

Ms. White indicated Mr. Federico needs to get the sign information submitted for review and a permit for the sign. Additionally, she said she would like to see the structure turned so that the smaller side is facing the street. She wondered if it could be dressed up with some landscaping.

Mr. Lyons asked if it is possible to move the structure to the back of the lot until the construction of the addition commences. Mr. Federico stated that he would then need to move the power line to the building as well.

Ms. Fleck asked if the City would work with Mr. Federico to move quickly on this. Mr. Carson said once the requested information is submitted, the City will act very quickly. Ms. White said that a sign permit application showing the sign on the building should be submitted immediately. She also asked Mr. Federico to move the structure to the back of the property until construction of the addition begins. At that time, a plan for screening the temporary structure will be considered through the design process.

Discussion ensued regarding permanent power to the building and state guidelines. Mr. Federico asserted that the State is very specific and he said he does not really understand everything involved. He said that the State Inspector is upset because a complaint was filed by State Representative John Rodgers on his behalf (which is not what he intended). It made the situation more complicated. Mr. Federico said he is simply trying to make a living.

Chairman Komjati asked if the building could be turned sideways and perhaps landscaped in the front. Mr. Lyons said there is not much more that the Planning Commission can do beyond the granting of the temporary structure. The rest will be the job of the administrative through the review of the design. Ms. Fleck stated it is important that a completed sign permit application be submitted as soon as possible. Chairman Komjati stressed that the Commission wants businesses in the City to succeed.

There being no further discussion, Chairman Komjati asked for a motion. Ms. Kuhlmann moved, seconded by Ms. Fleck, to favorably recommend the approval of the temporary structure for a time period of not more than six (6) months, with the stipulation that the structure may not remain permanently on the parcel. On Roll Call, Ms. Fleck, Mr. Wainwright, Ms. Kuhlmann and Chairman Komjati answered yes. Motion carried, 4-0.

- **Temporary Structure and Uses:** Tyler Kelly/ET CETERA has made application for the use of 450 Storrs Street as an event center to host community and personal events.

Ms. Stephanie Kelly, 994 Marion Drive, was present for the meeting with her daughter, Tyler Kelly, who is requesting Temporary Structure and Use Permit. Mrs. Kelly presented the Commission with an Executive Summary/Business Plan for Et Cetera. Ms. Stephanie Kelly stated the proposed business is an event center. Mrs. Stephanie Kelly explained that Tyler is a 2011 Harvey High School graduate. She has a degree in Hospitality and has an Event Planning Certification from Cuyahoga Community College. Her Mission Statement is to provide “a venue that will offer opportunities for the residents of Painesville and surrounding communities to enjoy a positive atmosphere for many occasions by hosting and/or planning special events”. As this is a service type industry, start-up expenses are minimal. Ms. Stephanie Kelly stated that in order to be competitive with other events centers, the pricing is slightly under the other venues. Additionally, Tyler is experienced in planning events, so for an additional fee, Tyler is able to perform this service.

Chairman Komjati asked if the event center could provide equipment for the customer. Ms. Tyler Kelly replied that it depends; she could provide up to 20 people, however, she has a working relationship with Sun Rentals on Mentor Avenue who could provide the extra equipment.

Ms. Stephanie Kelly stated that Tyler wants to make sure she is hosting enough events in order to pay the \$600 a-month rent. She currently has requests for children’s birthday parties, baby showers, make-up classes, and mommy and me classes for parents and their children. Through her marketing campaign over social media, proposed events are graduations parties, Baptisms, family reunions, pop-up stores, paint and sip classes, exercise classes, as well as not-for-profit events including prayer services, teen motherhood meetings and young men meetings. Tyler’s passion is helping children and she would like to provide a positive atmosphere for the community.

Ms. Stephanie Kelly referred to Appendix A & B in the Executive Summary that contains the rental agreement and a worksheet where the customer provides basic information on the event. Noted on the form, the customer must contact the Painesville Police Department if alcohol is being served at the event and then arrange security. If Tyler were planning the event, she would assume this duty. If the customer is simply renting the space, it is the customer’s responsibility. The last page of the Executive Summary is the contract page.

Ms. Fleck asked for a description of the space. Ms. Tyler Kelly explained that it is about 1,000 square feet. There are two lounge couches against the window with a stereo system in the corner of the room. In the back of the room, there are restrooms and open space. She said she cleaned the space thoroughly and is in the process of fixing tiles and laying carpet. Ms. Fleck asked if there is food preparation area in the space. She replied no; only light refreshments and prepared food is permitted.

Chairman Komjati asked the hours of operation, specifically the latest hours permitted to hold events. Ms. Stephanie Kelly replied adult events should end no later than 12:30 am, but events geared for children would end earlier, around 10 pm, with complete departure from the facility by 11 pm. She added that since Tyler also works full-time in Mentor, this is a family venture and the family would be contributing time to the operation.

Chairman Komjati asked the maximum occupancy of the space. Ms. Stephanie Kelly replied that she did not know. Ms. White replied that the occupancy load is determined by the Fire Department. The Kellys filled out a Business Occupancy Permit for use of the space, but since the Planning Commission first has to determine if their use is appropriate, the occupancy inspection has not been completed and the occupancy load has not yet been determined. Ms. White explained that she reviewed the event center under the temporary use section of the Zoning Code. The use will be good for one year with Planning Commission approval. The applicant can then return to the Planning Commission after the year is up to request a Conditional Use Permit if the venture is successful.

Ms. Fleck asked what the financial plan is for sustaining over time. Ms. Tyler Kelly said she works full time and has been saving for this as this career is what she went to school for.

Discussion ensued regarding the location. It was determined that the proposed location is in the same building as The Washhouse Laundromat. Mr. Wainwright asked if parking would be an issue. Ms. White replied no; the space was developed for retail use and has a substantial parking lot. Ms. Tyler Kelly also added that the owner of the building has been very accommodating and said that he might close the laundromat early on the evenings that a big event is planned. Chairman Komjati asked the name of the property owner. Ms. White replied it is Mark Denman.

Ms. Fleck asked Ms. Kelly who would be supervising the events when she is working. Ms. Tyler Kelly replied that her family is helping, however, her employer has been accommodating and said she would be permitted to take time off when needed.

Mr. Lyons questioned how the police presence is obtained for events when alcohol is served. He said he was under the impression that the property owner would make a police presence a requirement as part of the lease agreement. If the Planning Commission approves this, they should have a contract that is also approved by the Administration with respect to serving alcohol, to know that there is a procedure in place. The Commission could require that if alcohol is served, an agreement must be made with the police, or not served at all.

Chairman Komjati said, based on the information given, it does not appear that the events will be serving alcohol. Ms. Stephanie Kelly said that it is probably best that alcohol is not served and lack of it would not be detrimental to the business. Ms. Fleck stated that she is in favor of no alcohol at events, at least to start out. Ms. White said that after a year, once the temporary use is expired, if the applicant determines they want to remain in the space, they could go through a Public Hearing for a Conditional Use Permit, when the Planning Commission could reexamine the stipulations initially placed on the business.

Chairman Komjati asked if there was correspondence from the neighborhood. Ms. White replied no.

Mr. Lewis stated that the Administration wants the applicant to be successful, so at any time, if the restriction proves to be detrimental to their business, they could return to the Planning Commission and request that the no alcohol provision be reconsidered.

Mr. Carson asked Ms. Kelly if she created the business plan. Ms. Tyler Kelly said yes, with the help of her mother. Mr. Carson complimented both of them on a job well done.

Ms. Kuhlmann moved, seconded by Ms. Fleck, to favorably recommend the approval of the temporary use with the condition that no alcohol be permitted on the premises. On Roll Call, Mr. Wainwright, Ms. Kuhlmann, Ms. Fleck and Chairman Komjati answered yes. Motion carried, 4-0

OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE PLANNING COMMISSION

Ms. White mentioned that the Cedarbrook Detention Basin is being constructed at this time. Although excessive soil removal normally requires the approval of a Conditional Use Permit by the Planning Commission, because this is a public project being done by the City, it is being brought to the Planning Commission's attention.

Additionally, Ms. White explained that because of the emergency closing of the City Parking Garage, the old hospital site will be used as a temporary parking area. The parking garage is permanently closed and the City is seeking bids for demolition of the parking garage.

There being no further business, the meeting was adjourned at 8:54 pm.

Tina B. Pomfrey, Secretary

David Komjati, Chairperson