

PLANNING COMMISSION MEETING

July 11, 2013

The Planning Commission convened in Courtroom No. 1 at Painesville City Hall for their regularly scheduled meeting. Vice Chairman Shoop called the meeting to order at 7:30 PM. She asked the secretary to call the roll. Members in attendance were, Mr. Mark Wainwright, Ms. Carol Fleck, Mr. David Komjati, and Vice Chairman Christine Shoop. Chairman Thomas Fitzgerald was absent. Also present were, City Manager Anthony Carson Jr., City Planner Russ Schaedlich, Assistant Law Director James Lyons, and Secretary Lynn White.

MINUTES:

Vice Chairman Shoop asked for additions or corrections for the Planning Commission Meeting of June 13, 2013. There being no comments, Vice Chairman Shoop asked for a motion. Motion by Ms. Fleck, seconded by Mr. Komjati to approve the minutes for the Planning Commission Meeting of June 13, 2013 as written. On roll call, Ms. Fleck, Mr. Komjati, Mr. Wainwright, and Vice Chairman Shoop, answered "aye". Motion carried.

Vice Chairman Shoop indicated there was no New Business. She moved onto the Administrative Report.

ADMINISTRATIVE REPORT:

- **Zoning Code Amendment** – Proposed Text change – M-2 Industrial District: Places of Public Assembly/Party Center.

Vice Chairman Shoop inquired as to whether the applicant proposing the amendment would like to speak on this issue.

Mr. Paul Malchesky indicated that he would like to speak on behalf of his client, Mr. Christopher Weiss. Mr. Malchesky stated his company is Cannon, Aveni & Malchesky located at 41 East Erie Street, Painesville. He stated that his client is seeking this change due to the down economy. Mr. Weiss has warehouse space that he would like to use for parties and assemblies. Mr. Malchesky stated they are sensitive to the needs of the City that they would rather have a better income producing entity in the facility. He stated that Mr. Weiss would also like this; however, he has an opportunity for make some money by having a few parties on Saturdays. They believe this will not disturb the existing businesses since the area is vacant on Saturdays. Mr. Malchesky stated that Mr. Weiss would like to get a tenant in the building that would benefit the City and will terminate the Saturday rental if that were to happen. This is a limited scope, concerns of alcohol use and parking areas. Based on the concerns the City has they would be willing to work on any issues and address those areas if this is approved with conditions that those issues be addressed. He stated that based on his estimate there is enough parking on the cement pad area for approximately 23 spaces. He stated there is a grass area where additional overflow parking could be allowed for 20 spaces. There will be conditions on the parking with the individuals that would rent the area. Mr. Weiss pays \$8,000 in property tax on the property. This unique use and this unique situation allows him to get back some of that cost. Mr. Malchesky asked if there were any questions from members of the Commission.

Vice Chairman Shoop inquired about the property taxes. She stated that does not all come to the City. Mr. Malchesky stated that he does not know what the percentage is that comes back to the City. He stated that he brought that up so the Commission is aware of the amount that he pays that he is not getting income on the property. He is only looking for potential income and this is a unique way to use the property. Mr. Malchesky commented that the City has an opportunity to add this use and to create the stipulations necessary to make it work. Mr. Weiss, 5194 Lane Road, Perry, added that Grand Rock rents 4,500 feet of the building for storage. There are no employees over there just from the main building. Mr. Weiss stated that he received signed letters from the neighbors in the area who all have no objections to the use since the activity happens on the weekend. He stated they would take care of the trash and the debris.

Mr. Komjati stated that his biggest concern is that we will set a precedent and the others in the area may want to start having party rentals on the weekend. That area is not intended for party centers. Once it is open up for one, it will have to be done for everyone.

Mr. Weiss stated that this area is a clear, clean area of 3,000 square feet. A machine shop operation would have to clear out their equipment in order to have a party center. Mr. Komjati replied that someone could close up shop and think they would have a better income by providing this type of service. He asked Mr. Weiss if he has been working with Cathy Bieterman in trying to find an appropriate tenant. Mr. Weiss indicated that he has worked with her from the beginning. He had Global Real Estate Advisors in there for a year and a half. They are only interested in selling a building and getting a big commission.

Ms. Fleck stated that she has been to the property and looked at the area in question. She stated the issue is this is the Planning Commission. We are charged with having an overall plan for the City. This area was platted as heavy industrial. The City would not have put heavy industrial zoning near Lake Erie College. If the applicant wants to delve into the party center business, there are B-2 zoned properties available throughout the City that would be more acceptable for that type of use.

Mr. Weiss commented that he is property poor currently. He pays over \$30,000 a half in property tax.

Vice Chairman Shoop commented that the use of alcohol was brought up and the security plan. She asked if the Owner would be responsible for this if the use were approved. Mr. Malchesky stated yes; it is the Owner's responsibility. He stated that this would only be on Saturdays. He does not feel that this will be a big draw. There may be business owners who might have their office parties at their place of business if they see this as being allowed. Mr. Weiss has no desire to be in the party center business. This was an opportunity that presented itself and he wanted to see what type of revenue he could get out of this building in order to cover his tax expenses. Mr. Malchesky indicated the current condition of the property would be brought up to compliance if this use were to be allowed so there would not be any issues with code violations.

Vice Chairman Shoop commented that it was said that this use would be temporary in nature since if there was an industrial end user interested in the property Mr. Weiss would cease the party center. Mr. Malchesky responded that is correct. Vice Chairman Shoop stated that the Commission would change the text for a temporary use that may go away in the future for no reason other than making some money in the interim.

Mr. Malchesky commented that his understanding from Mr. Gurley and Mr. Lyons is temporary variances are not allowed. That is how he would like to handle the request. Unfortunately, in Planning they are not allowed, however, they are allowed in Legal areas. He stated that it would not be for naught, you might find that the area would embrace this use.

Vice Chairman Shoop stated that there is nothing there except an open space. Mr. Malchesky stated that someone renting the facility would need to bring in his or her own equipment and supplies. The building does have bathroom facilities and the structure would have to be brought up to code in regards to building safety and with the Health Department. This is just an empty warehouse.

Ms. Fleck asked if there were any sinks available other than in the bathroom. Mr. Weiss stated there is one washtub for the warehouse usage.

Vice Chairman Shoop asked if there was a way to have a variance for temporary usage, not changing the text but allowing temporary business. The text change places this use in as a conditional use and the Commission would still have to see the application as a conditional use. Is there a way to not change the text and just have them try it out? Mr. Schaedlich indicated the City has not issued use variances in the past.

Vice Chairman Shoop asked if there was anyone in the audience that would like to speak on this matter. There being no comments, she asked if the Commission members had any further questions or comments.

Mr. Wainwright asked how difficult it is to undo a text change once it is voted on and becomes part of the code. Mr. Schaedlich indicated it could be difficult. If someone makes the changes and has this as a use in their facility to make them stop would be hard to do. Mr. Wainwright stated that if Mr. Weiss received a better offer from an industrial user how hard is that to undo if the Commission allowed it today. Mr. Lyons stated it would be very difficult. There was lengthy discussion on how once a use is allowed it becomes grandfathered under a zoning code.

Vice Chairman Shoop stated that as she reads Cathy Bieterman's letter, she asked if he has been contact by Ms. Bieterman with potential tenants wanting available industrial space. Mr. Weiss stated that he has

talked with Ms. Bieterman. The previous tenant had three-phase power at the building however, it was removed when they left. There was discussion about having three-phase power put into the building and making it more marketable. Vice Chairman Shoop indicated that she just wanted confirmation that Mr. Weiss and Ms. Bieterman had been working together. Mr. Malchesky stated that he would make contact with Cathy Bieterman to review the situation.

Vice Chairman Shoop asked if there were any additional comments to be made by the Administration. Mr. Lyons indicated that he does not have anything to add to Mr. Schaedlich's report. Mr. Schaedlich added that he had looked at several surrounding communities and their zoning text to see if there was something similar to this request. He indicated that this is not something common within zoning codes.

Vice Chairman Shoop asked for a motion approving the proposed text amendment. Mr. Komjati motioned to approve the Zoning Code Amendment for the proposed text change in the M-2 Industrial District to add Places of Assembly/Private Party Centers to the list of permitted conditional uses within the M-2, Heavy Manufacturing District. Ms. Fleck seconded the motion. On roll call Mr. Komjati, Mr. Wainwright, Ms. Fleck, and Vice Chairperson Shoop answered "no". Motion failed.

Mr. Lyons indicated the applicant still has the right to have this matter considered by City Council. He suggested if the applicant is interested in doing that, he should speak with Mr. Schaedlich regarding the timeframe.

Vice Chairman Shoop moved onto the next item on the Agenda.

- **Review of By-Laws**

Vice Chairman Shoop asked what needed to be done with this item. The Commission should review the text and suggested any changes or amendments they feel are necessary. If there are no changes a motion to adopt the By-Laws as presented is needed.

Vice Chairman Shoop asked for a motion. Motion by Ms. Fleck, seconded by Mr. Komjati to approve the Planning Commission By-Laws as presented. On roll call Mr. Wainwright, Ms. Fleck, Mr. Komjati, and Chairperson Shoop answered "yes". Motion carried.

Mr. Lyons stated that he would like to note the historic nature of the voting on the By-Laws. The last time the By-Laws were changed was in March 9, 1976.

OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE PLANNING COMMISSION:

ADJOURNMENT:

There being no further business, Vice Chairman Shoop adjourned the meeting.

Lynn M. White, Secretary

Christine Shoop, Vice Chairman