

PLANNING COMMISSION MEETING

September 11, 2014

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, Ms. Leah Huth, Mr. Mark Wainwright, Ms. Carol Fleck, Ms. Christine Shoop and Chairman David Komjati. Also present were, City Manager Anthony Carson, Assistant City Manager/Community Development Director Douglas Lewis, City Planner Russ Schaedlich, Assistant Law Director James Lyons, and Secretary Lynn White.

MINUTES: Chairman Komjati asked for additions or corrections for the Planning Commission Meeting of June 12, 2014. There being none, he asked for a motion. Motion by Ms. Shoop, seconded by Ms. Fleck to accept the Planning Commission Meeting Minutes from June 12, 2014 as written. Chairman Komjati asked the secretary to call the roll. On roll call, Mr. Wainwright, Ms. Fleck, Ms. Shoop, Ms. Huth, and Chairman Komjati said “yes”. Motion carried.

Chairman Komjati explained that one of the items on the Agenda is the review of the Preliminary Plat for Heisley Park subdivision.

OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE PLANNING COMMISSION

- **Heisley Park Residential Subdivision Phase XVI** - Preliminary Plat extension request – consisting of 26 lots and approximately 7.1711 acres of land.

He stated that unfortunately representatives for this development were unable to attend the meeting tonight. Chairman Komjati stated he wanted to make the audience aware of this fact since no action will be taken. He asked for a motion to table this matter for next month’s meeting.

The audience inquired about the Commission taking public comment on the matter. Mr. Carson indicated the Commission does not have to take public comment on this matter since it is not up for discussion. The Assistant Law Director confirmed. Chairman Komjati apologized for the inconvenience; however, the Commission received this information at 6 o’clock this evening from Mortell.

Chairman Komjati explained there will be no action on this matter and he asked for a motion to table the matter until the October meeting. Motion by Ms. Shoop, seconded by Ms. Fleck to table the Preliminary Plat extension for Heisley Park Residential Subdivision Phase XVI until the October 9th Planning Commission Meeting. On roll call, Ms. Fleck, Ms. Shoop, Ms. Huth, Mr. Wainwright, and Chairman Komjati answered “yes”. Motion carried.

Chairman Komjati invited the members of the audience back to the October meeting when the developer or their representative is expected to present the matter before the Commission.

A member of the audience, Mr. Ray Sternot, inquired if there were any other September meetings. Chairman Komjati indicated there were no other meetings for the Commission in September. He asked if the Commission would be open to the EPA, the Ohio Department of Natural Resources and the press attending this meeting since it is a civil matter. Chairman Komjati stated the meetings are public and anyone can attend.

Mr. Lyons stated as he recollects the matter that was on the Agenda was a final plat approval for Heisley Park Subdivision Phase XVI. Under the law, this is not a matter for a public hearing. Instead, it is an Administrative matter reviewed by the Planning Commission to see if the requirements of the City Code have been met in terms of whether or not the final plat should be approved. The final plat is based on the preliminary plat. If there is nothing to be heard on an Administrative basis, there is no opportunity for public comment. This is the case for all Administrative approvals since they are not public hearing matters. The Planning Commission is charged with determining the rules and regulations of the City of Painesville have been met. Mr. Lyons stated that, if the residents of Heisley Park think there is an issue in the subdivision, then City Council is the proper forum in order to give public comment. The Planning Commission is not the same type of body as City Council.

Chairman Komjati moved onto the next item on the Agenda. He asked the secretary to read the item under New Business.

NEW BUSINESS: (Public Hearing Item)

Rezoning Application No. 80-14

Location: 119 – 129 Barnes Avenue

Parcel Numbers: 15-D-013-0-00-003-0; 15-D-013-0-00-004-0; 15-D-013-0-00-005-0

From: M-2 Industrial District to an R-1 Single-Family District

An application has been submitted by the owners of 119, 121, and 129 Barnes Avenue for the rezoning of

Permanent Parcel Numbers 15-D-013-0-00-003-0; 15-D-013-0-00-004-0; 15-D-013-0-00-005-0. The parcels are considered to have a preexisting nonconforming use, which means the current use does not match the current zoning designation. The proposed change is from the current M-2 Industrial District to an R-1 Single-Family District. The rezoning will bring the zoning of the properties into compliance based on their current use.

Chairman Komjati indicated Mr. Russ Schaedlich would give a presentation on this matter.

Mr. Schaedlich stated the three parcels in question are outlined in red on the presentation. Barnes Avenue was laid out in the early nineteen hundreds. The street dedication process permitted legally dedicated rights-of-way to be created prior to a roadway's construction. In most instances, the roadway and improvements were eventually constructed and no issues arose. Occasionally, such as in the case of Barnes Avenue, the road right-of-way was legally dedicated but, for whatever reason, construction never occurred. This resulted in a situation whereby the roadway, although legally dedicated, exists only on paper. Hence the term "paper street". In addition, the lots adjoining the Barnes Avenue dedicated right-of-way also became legal lots of record. Today, there are three existing houses on the north side of Barnes Avenue. Although they front the right-of-way of the "paper street", their access is through a common private drive that is to the rear of the dwellings. The common private drive comes off Chardon Street. Today, either all improvements (roads, utilities) must be completely installed by the developer, or a financial guarantee (such as a construction bond) shall be posted by the developer to the City that ensures completion of the improvements prior to final plat approval and acceptance for dedication. This prevents the creation of "paper streets"

Mr. Schaedlich explained the current zoning of the parcels. When zoning was instituted by the City in 1927, the properties on both sides of Barnes Avenue were zoned U-4, Industrial. In 1950, all the properties were designated as Industrial District. When zoning was further updated in 1960, the Area around Barnes Avenue had its zoning changed to B-4, General Business. In the 1984 rework of the Zoning Code and Map the area was returned to an industrial zoning known now as M-2, Heavy Industrial. The M-2, Heavy Industrial zoning has remained in place to the present.

Today, the three single family dwellings on Barnes Avenue are legal, pre-existing, nonconforming uses. As such, should any of the properties suffer damage or destruction greater than fifty percent (50%) of its replacement cost, the property would then have to be used in conformance with the M-2, Zoning District requirements. As discussed, these properties would be difficult to use industrially. It makes sense to rezone the properties to R-1 Single Family. Mr. Schaedlich asked if there were any questions.

Chairman Komjati asked if there are other properties the City is aware of that are on these paper streets. Mr. Schaedlich responded he believes there is a paper street behind Skinner Avenue near Transit and North Avenue. There is no frontage on that street so it would be difficult to develop the lots located there. There was discussion if this would have a similar situation that the three lots on Barnes Avenue are having. It was determined they would not since there are no structures located in that area.

Ms. Fleck commented that the Comprehensive Plan encourages single-family residential and this request does not go against that plan. Chairman Komjati agreed that this request makes sense. He asked if there were any other comments or questions from members of the Commission. There being none, he stated this is a Public Hearing item and asked if members of the audience had any comments or questions.

Ms. Frances Kyser, 503 Chardon Street, stated that she lived in the middle house when she was a child. There was a street in front of the homes at that time. The street is no longer there, the only access is from Chardon Street to the rear of the houses. Mr. Schaedlich explained the area has become overgrown with trees and grass. This area still is the legal frontage for the homes that are there. There was discussion regarding the situation of the access to the three dwellings. It works well as long as everyone gets along. Ms. Kyser asked if this is spot zoning. There was a situation some years ago where that was an issue. Mr. Schaedlich replied that three properties are proposed to be rezoned to R-1. There is R-1 Zoning directly across the street. This would not be spot zoning. Ms. Kyser inquired about the size of the lots and the ability to build on them. She asked how they would be allowed to rebuild. Mr. Schaedlich explained that while the size of the lot is small, there are house plans specifically made for such a narrow, small lot. It is possible and it would conform to current City regulations. Ms. Kyser inquired about fencing and blocking access to one or more of the homes. Mr. Schaedlich explained that could be a problem however, an easement or some type of agreement would have to come into play if that were to happen. Ms. Fleck stated that this situation has been here for over 60-years and there has not been a problem yet.

Chairman Komjati asked if there were any other comments from the audience. There being none, he asked if there were any other comments from the Commission or Administration. There were no other comments made. Chairman Komjati asked for a motion on Rezoning Application Number 80-14. A motion was made by Ms. Huth, seconded by Ms. Fleck to favorably recommend approval of Rezoning Application No. 80-14 for the rezoning of three parcels on Barnes Avenue from M-2 Industrial District to R-1 Single Family Residential District. On roll call, Ms. Fleck, Ms. Huth, Mr. Wainwright, and Chairman Komjati answered "yes"; Motion carried.

This matter will be forwarded to City Council and a Public Hearing will be held after three readings.

OTHER MATTERS THAT MAY PROPERLY COME BEFORE THE PLANNING COMMISSION

There being no other business to come before the Commission a motion to adjourn was made by Ms. Fleck, seconded by Ms. Shoop. On roll call, Ms. Huth, Mr. Wainwright, Ms. Fleck, Ms. Shoop, and Chairman Komjati answered "yes". Motion carried.

Lynn M. White, Secretary

David Komjati, Chairman