

## PLANNING COMMISSION MEETING

*September 12, 2013*

The Planning Commission convened in Courtroom No. 1 at Painesville City Hall for their regularly scheduled meeting. Chairman Fitzgerald called the meeting to order at 7:30 PM. He asked the secretary to call the roll. Members in attendance were, Ms. Carol Fleck, Ms. Christine Shoop, and Chairman Thomas Fitzgerald. Mr. David Komjati and Mr. Mark Wainwright were absent. Also present were, City Manager Anthony Carson Jr., 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 for additions or corrections for the Planning Commission Meeting of August 8, 2013. There being no comments, Chairman Fitzgerald asked for a motion. Motion by Ms. Fleck, seconded by Ms. Shoop to approve the minutes for the Planning Commission Meeting of August 8, 2013 as written. On roll call, Ms. Fleck, Ms. Shoop, and Chairman Fitzgerald, answered "aye". Motion carried.

Chairman Fitzgerald indicated there was no New Business. He moved onto the Administrative Report.

### ADMINISTRATIVE REPORT:

- **Sign Regulation change to the Painesville Design Guidelines** - to allow internally lit signs in the multi-family residential sign section.

Chairman Fitzgerald asked if there was someone present to speak on this request. Mr. Eric Bell, 25101 Chagrin Blvd, Cleveland, Ohio introduced himself as one of the principals at Goldberg Companies. Goldberg is the developer of Cobblestone Court and The Village at Cobblestone Court. He stated that they would like to modify the Painesville Design Guidelines for the Shamrock Project to allow for internally lit signage in the residential portion. The current guidelines allow for only externally lit signage for residential development in the PUD, however, commercial signage is allowed to be internally lit. They are requesting the change because they believe they have an internally lit sign design that has many advantages over the externally lit signs particularly in a predominately commercial district. The disadvantages for external lighting are due to the possibilities of having the lights broken, displaced, and tampered with. Additionally with the opening of Shamrock Boulevard, the traffic will be moving through the area more quickly. The road was to be a divided median boulevard and since that has not been put in place the sign has to be further from the roadway. This will be an issue for individuals looking for the units. Mr. Bell indicated the Commission was given copies of the proposed sign design with the colors and lettering layout. The sign design is similar to the signage at other property locations they have in the surrounding communities. It is attractive and more effective.

Ms. Shoop asked about the condominium project. Once the ownership has been changed as discussed for this project in the past, does this signage change for that project. Mr. Bell replied the sign is more attractive than the externally lit version. It will become less important once they are no longer rental units. When that takes place the homeowners association may want to have something different.

Ms. Fleck asked if the different type of sign would make the difference in determining this area is residential and not commercial. Mr. Bell responded that it is clear by the name on the sign and the way the sign lighting will only illuminate the letters on the sign is different than the standard commercially lit signage. It was discussed that the sign will not flash or cause a distraction. The sign does not give off light.

Ms. Shoop asked if Mr. Bell had reviewed the conditions that were placed in the Staff Report from Mr. Schaedlich. Mr. Bell replied the proposal before the Commission meets those conditions so there is no need to ask for a modification.

Chairman Fitzgerald asked about the maintenance of the sign. Mr. Bell indicated the Management Company, Goldberg, would be responsible for the maintenance of the sign.

Mr. Schaedlich clarified that the Commission needs to approve an amendment to the existing Design Guidelines, which affects all areas in the Shamrock Business Center that are in this zoning category. He reviewed the conditions that he placed in the Staff Report and asked they be included with this request.

Chairman Fitzgerald asked if there were any comments or questions from members of the Commission. There being none, he asked if members of the audience had any comments on this matter.

Mr. Tony Torre, 158 Sanford Street, stated that his only concern is the electric to the sign. It was explained that the sign is safe; the electric to the sign will be underground.

There being no other comments, Chairman Fitzgerald asked for a motion. Motion by Ms. Shoop, seconded by Ms. Fleck to accept the Shamrock Business Center design guideline amendment allowing internally-lit signs for residential-apartments (community) identification signs with the following stipulations; 1. Sign faces shall be aluminum-clad with back-lit routed out logos and copy only; 2. Back-lit routed out logos and copy shall be limited to a maximum of thirty-five percent 35% of the sign face. The total area and the percentage of the sign face incorporated into the routed out logos and copy shall be listed on the sign rendering; 3. Sign colors shall be complementary to the exterior building colors of the multi-family residential development identified by the sign. There being no further discussion, the secretary was asked to call the roll. On roll call Ms. Shoop, Ms. Fleck, and Chairman Fitzgerald answered "yes". Motion carried.

Chairman Fitzgerald moved onto the next item on the Agenda.

- **Request to remove the language** - regarding Section 8 Housing from Retreat at River's Edge Deed Restrictions.

Mr. Mark Moore, R L Moore Builders, 1360 Madison Avenue, Painesville, Ohio, was present. He explained that he is the developer of Retreat at River's Edge. Mr. Moore gave the Commission an overview of the Retreat at River's Edge. He explained the development agreement that was part of his annexation. One of the development stipulations was there was to be no Section 8 Housing. The base price of the units would have negated the need for this stipulation and he agreed to keep the stipulation. He explained that with the downturn of the economy and the changes in condominium regulations have made it difficult to find buyers. In order to get a loan for a condominium a buyer needs to have 30% down payment. He indicated that to alleviate the issue he applied for FHA approval for the project. They were approved approximately three years ago. When it came time for the renewal, the FHA kicked back the application due to the Section 8 deed restriction. He indicated that this must have been missed on the original application when they approved it. Mr. Moore commented they would like to get the project finished. In order to get the cash needed by buyers to purchase units, he believes that having the FHA financing available would provide them a good chance of finishing the project.

Mr. Moore indicated that he would be willing to put the deed restrictions back after the project is completed. He commented that he is willing to do anything in order to move forward. There was a question regarding other developments and if there were deed restrictions on them like he has on his development. Mr. Schaedlich replied that Asper Commons has deed restrictions placed on the development. Asper Commons is located off East Prospect Street. Mr. Moore indicated that the product he offers does not lend itself to Section 8 Housing.

Ms. Shoop asked how many units are left for the project to be completed. Mr. Moore replied that there are approximately twenty-units left. Chairman Fitzgerald questioned if the units are stand-alone units. Mr. Moore stated that they just started a stand-alone and just sold a stand-alone unit. He indicated that these would be market based, if that is the product the buyer wants, that will be what they will build. The stand-alone is easier to get financing as opposed to the attached units.

Ms. Shoop asked if the FHA would help fix that situation. Mr. Moore stated that with FHA you could go as low as 5% down, typically the trend is 20% down. The FHA financing would help with the interest in the project. The development is attractive for empty nesters. Those buyers are more apt to have the money to purchase.

Ms. Fleck questioned once the units are all built and sold; what is the intention for the homeowner association. Mr. Moore stated that he is currently the president of the board. There is a board meeting scheduled for next week where a fourth board member will be elected. Once the project is at 100% sold, he will most likely step down from the Association. Currently his company manages the association due to the percentage of ownership within the development. He stated his company signed a long-term management agreement to assure the consistency of the project maintenance and its overall upkeep.

Ms. Shoop commented that once all the units are sold, what is to keep the Homeowner Association from not reinstating the Section 8 deed restrictions. Mr. Moore replied that he is unsure of how that

would work. He asked if Mr. Lyons had a suggestion that maybe this could be an automatic reinstatement. Mr. Lyons responded that he has never seen anything like that. This type of situation would have to be disclosed to FHA in terms of the restrictions.

There was discussion on the current homeowners and the makeup of the Association. It was unsure as to whether or not they would be willing to have the deed restrictions put in place. Mr. Moore stated that for what they spent on the units he does not see them wanting subsidized housing.

Ms. Fleck asked if a buyer is FHA approved and only has 5% down, will they be able to maintain the level of commitment for this housing? Mr. Moore replied that he recently finished shell units and sold one to a woman with 5% down; she could have put 20% down.

Ms. Shoop asked what the number of completed units was currently. Mr. Moore replied there are 55 are completed. Mr. Shoop stated that of the 55 that have been sold, how many were turned down because they did not have FHA approval. Mr. Moore stated that in a two-year period there were five units sold. Two of which were FHA; the other three were cash sales. Ms. Shoop indicated that prior to the down turn this was not an issue. Mr. Moore replied that is correct; condominiums could get financing with only 10% down. Ms. Shoop asked about the City's thought of this deed restriction being lifted from this project. There was no recommendation given by the Community Development Staff.

Mr. Schaedlich commented that he was not employed with the City when this project was planned. He stated that in researching the information for this application, he found that during the process of annexing this property from the Township, the City was working on updating its Comprehensive Plan, which stated an expressed goal of increasing homeownership. This was one of the forces of having a multifamily-zoned property annexed into the city. The surrounding area was uncomfortable with the possibility of apartments and Section 8 Housing. Mr. Moore stated that at first it was very mob-type attitude. The feeling was the project would decrease the value of the surrounding neighborhood. The base price of units started at \$139,900. The average unit price ended up being slightly over \$180,000.

Chairman Fitzgerald inquired about a restriction of no-rentals being put on the project. Mr. Moore explained there were discussions initially regarding that type of restriction. That was not done to allow the residents the flexibility to leave the area for six months at a time for vacationing purposes. Mr. Moore explained a couple of rental situations that currently exist within the development due to the owners passing away.

Ms. Shoop stated that when thinking of Section 8 housing, the rent at this location would be \$1200 to \$1300 per month. If the unit is Section 8, does that mean the units can be made cheaper? Mr. Moore responded these are privately owned units. If the owner wishes to receive Section 8 assistance for less money. Mr. Moore stated that is not the intent of building this project.

Ms. Shoop asked Mr. Lewis to comment on this matter. Mr. Lewis stated that it would be difficult for anyone to move into this project with Section 8 vouchers if the prices are kept high. The whole idea is to encourage homeownership. He stated that he understands the situation since the condominium financing has changed. If the project is allowed to have FHA financing will this help the development so it is completed quicker as opposed to not having the FHA financing.

Mr. Carson added, once the restriction is lifted, what would keep someone from coming in a building a lesser price unit and have that as their model to get the Section 8. Mr. Moore stated that the Bylaws and Declaration the units are part of the documentation. The base plan is part of the Bylaws. Mr. Carson asked who approved the base plan. Can the plan be changed by the Association? Mr. Moore replied yes, however it would need a majority vote. Mr. Carson commented that might not be your intention today, but a couple years from now if the development is not going as planned you may not build the \$200,000 unit, it may be a \$100,000 unit instead, and it may end up being rental. Mr. Moore explained that he understands. He stated that the people who live there do not want to see that happen. He commented that as the President of the Board he only has a small percentage of the overall vote. Mr. Carson replied that by changing the restrictions even knowing what the intent is, it still might happen. Mr. Moore commented that the square footage of the units is part of the deed restrictions. The construction cost on a 1,200 square foot unit would not allow for the sale of the units at a lower cost. He commented that if he is not involved with the project in the future it is not guaranteed that this would not happen. He stated that the removal of this stipulation does benefit him as the Builder. He stated that he believes it benefits the City also. They have not built a new unit for six-years. The sooner it is completed the better overall. There has been activity, the housing market is coming back, and he wants to make the product available to more buyers.

Ms. Fleck what prevents someone from renting the unit just to keep it from sitting making no money? Mr. Moore stated that does not benefit him. If he wanted he could build the units and rent them for less money, there is nothing that would prevent that from happening.

Ms. Shoop stated that the original intent was to keep the area from being upset about this project being built, has this proposed change been brought up to the surrounding area or the people that live in the development. Mr. Moore stated that he could change the Deed Restrictions with the approval by the City by getting the Homeowner Association approval. He indicated that has not yet been brought forth and voted on. Ms. Shoop asked if this is the first step. Mr. Moore indicated that he has had preliminary discussions with the people in the development regarding the removal of the Deed Restriction.

Mr. Lewis asked for clarification from Mr. Moore on the makeup of the Homeowners Association Board. Mr. Moore replied that he has two board members that he appointed. They are both homeowners and professional working people. The third board member was elected by the others from the board. Mr. Moore stated that he makes up the fourth member.

Chairman Fitzgerald asked what the Association fees pay for and how much they are. Mr. Moore stated the fee is \$130 and they provide snow removal from the roads and driveways, lawn and landscaping maintenance, spring and fall cleanup with edging and mulching in the spring. In addition, the fee includes maintenance on the exterior of the units. Mr. Carson asked if the fee is paid on undeveloped lots. Mr. Moore explained how condominium developments are different in Painesville. The units once platted are then required to pay the fee.

Mr. Lyons clarified Mr. Moore's statement regarding Painesville. Painesville is not different; they just require approval for each additional phase. It is required to go through the preliminary/final plat process. The process of condominium phasing was discussed in length. There are 55 lots that are paying condominium fees and 55 lots that have a right to vote to amend the stipulations. Of those 55 people, a percentage is needed to amend the Declarations. He stated that if Mr. Moore decided he did not want to build this project on the acreage that property would not be subject to the deed restrictions. Mr. Lyons stated that he believes that an annexation agreement with the City had the same language within it. Mr. Moore responded that the City-owned the property and that he did not remember the actual process. Mr. Lyons stated that was due to the annexation laws at the time this was done in order to circumvent any issues with the County. Mr. Moore stated there was a joint development agreement with him and the City. Mr. Lyons replied that FHA has regulations and they believe the Deed Restrictions are in violation for financing with conventional loans. This affects current owners and new construction sales because it restricts the pool of buyers in terms of loan availability. If the restriction is lifted, then a homeowner could provide Section 8 housing to a tenant if so approved. Mr. Lyons indicated that he and Mr. Schaedlich had the impression that that Mr. Moore had the vote to change this Restriction and it was not necessary to go back for that. Mr. Moore replied that he has spoken to them regarding this change. He stated he would need to get their approval. He stated that if he cannot get the blessing of the City he did not want to take this to them. Mr. Lyons stated that it works both ways. If the homeowners do not want this to happen then why remove the Restriction. Condominiums are allowed to have rental restrictions; they exist all across the country. Mr. Moore stated the Deed Restrictions were put in place initially to get the rezoning and annexation through the process. The agreement was with the City and the Developer.

Ms. Fleck indicated that she believes the people initially concerned in the surrounding property need to be made aware so they do not think it was a bait and switch tactic. Mr. Moore stated he is very proud of this project. The units are selling more than the surrounding area single-family homes.

Mr. Lyons stated the other issue is the City has a project that is unfinished. It would benefit the City to have the entire project done so it looks the same. He stated the Commission could ask that the Homeowners Association make their decision prior to the Commission's decision. Mr. Schaedlich inquired if Mr. Moore would be willing to delay the vote in order to get the Homeowner's Association vote. This could be tabled and revisited at the October Meeting. Mr. Moore indicated that he did not have a problem with doing that.

Chairman Fitzgerald asked when this goes to City Council. Mr. Lewis indicated that it would be at the next meeting of Council. There was discussion on the deadline Mr. Moore has with FHA. Ms. Shoop stated she is uncomfortable with opening this entire development up to Section 8 Housing with removing the deed restriction.

Mr. Moore stated that he would take the issue back to the homeowners and come back to the City once they make their decision. Chairman Fitzgerald asked Mr. Moore what he would like the Commission to do. Mr. Moore indicated that he would like the Commission to table the request. Ms. Fleck inquired if the surrounding area would be notified. Mr. Lyons responded that there is not a requirement for notification since it is not a rezoning change.

Chairman Fitzgerald asked for a motion. Motion by Ms. Shoop, seconded by Ms. Fleck to table the discussion regarding the removal of the Section 8 Housing language from the Deed Restrictions of Retreat at River's Edge. There being no further discussion, the Secretary was asked to call the roll. On roll call, Ms. Fleck, Ms. Shoop, and Chairman Fitzgerald answered "yes". Motion carried.

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

There were no other matters before the Commission.

**ADJOURNMENT:**

There being no further business, Chairman Fitzgerald adjourned the meeting.

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Lynn M. White, Secretary

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Thomas Fitzgerald, Chairman