

Planning Commission
August 2nd, 2018
Meeting Minutes

The Chairman the meeting at 4:30 PM. The following members were present: Mr. David Miller, Mr. Jim Jackson, Mr. McGory, Mr. Zuilhof, Mr. Galea, Mr. Waddington, and Mr. Whelan. Ms. Angie Byington and Mr. Greg Voltz represented the Planning Department; Mr. Trevor Hayberger represented the Law Department and Ms. Casey Sparks, Clerk from Community Development.

Mr. Miller moved to approve the minutes from the June 27th, 2018 meeting; Mr. Waddington seconded the motion.

Mr. Hayberger swore in those giving testimony.

Public Hearing

Mr. Voltz presented that the applicants, Larry and Angel Cunningham, have applied for a zoning amendment to parcel 58-00236.000. The existing zoning is R1-40 Single Family Residential. The applicant is requesting to rezone the property to RB Roadside Business. The applicant would like to operate some sort of automotive repair and grow fruit trees. Growing fruit trees is an allowable accessory use on a residential lot with an allowable primary use or structure.

The Sandusky 2018 Bicentennial Vision Master Plan calls for residential stabilization and infill for this section of the Southside Neighborhood. The rezoning of the parcel would allow for all uses within the RB Roadside Business District, Mr. Voltz reviewed the permitted uses within the RB Roadside Business District. Staff recommends denial of the proposed zoning amendment due to the fact that site is surrounded by other residentially zoned parcels and the rezoning to RB Roadside Business would not align with the spirit or intent of the Master Plan. Mr. Voltz also stated that if a permitted primary use was constructed on the property the applicant would be permitted to grow fruit trees.

Mr. Zuilhof asked if the applicant owns any of the other properties within the area.

Mr. Voltz stated that the applicant only owns the parcel in question.

Mr. Galea asked if anything within the surrounding area was zoned anything but residential.

Mr. Voltz stated that all of the surrounding area is zoned as some sort of residential.

Mr. Miller stated that that having the trees are permitted, however the sale of the product would not be.

Mr. Zuilhof stated that the automotive use would be an issue with the current zoning.

Angel Cunningham, 811 Force Street, stated that the site currently has 100 fruit trees, they are currently using the fruit for personal use however eventually they would like to sell the product and utilize it for residents in need within the area. They would like to construct a building on the site for automotive purposes and sell the fruit from the trees. Mrs. Cunningham stated when they brought the property they were told that it would not be difficult to rezone the property to commercial.

Mr. Galea asked who told them that it would not be difficult to rezone the property to commercial.

Ms. Cunningham stated that their relator had indicated this.

Mr. Voltz confirmed with the Commission that growing trees for harvest is an accessory use per the zoning code.

Mr. Zuilhof stated that the question this evening is not regarding the fruit trees it is if the property can be rezoned as commercial.

Kathleen Ryder, 1704 Mills Street, stated that she bought her home never expecting to have an automotive business in the backyard. Mrs. Ryder has concerns regarding the lighting, garbage, noise, etc. She bought the property because there was no business in the area, just the golf course.

Debra Haire, 1750 Mills Street, stated that her mother was the original owner of the property, the property previously had a body shop on the site. In 1997 her mother received a letter indicating that the city will rezone the property as residential. Ms. Haire questioned why the city would rezone the property back to commercial. Understanding that mother owns the adjacent property, would she have the opportunity to rezone to commercial as well.

Jeff Griffith, 1708 Mills Street stated the fruit trees would be fine, however he has an issue with an automotive business. Mr. Griffith stated that he is concerned about the proposed fence, he had looked into purchasing a portion of the property in the past. Mr. Griffith stated that he does not want a roadside stand, nor does he want to hear the noises associated with an automotive business.

Ms. Ryder stated that Mills school is right at the corner, adding a business may be an issue at this location.

Mr. McGory stated that if the zoning were to change it could allow for an automotive shop as well as all the other business permitted within the Roadside Business zoning district.

Mr. Miller asked if there was any history behind that fact that there used to be a business on this property.

Ms. Byington stated that the adjacent property owner stated that there was a business within this location, the zoning of the property may never have been commercial but instead it could have been a nonconforming use on a property.

Debra Haire stated that she has a letter from March 2nd, 1997 stating that the property was commercial at that time.

Ms. Byington read the letter and stated that it speaks to a study that was done for the area, it does not speak to a specific zoning process.

Mr. McGory stated that the business use may have predated the residential zoning.

Mr. Hayberger stated that the parcel was purchased as over two years ago and was zoned as residential.

Mr. Whelan moved to deny the zoning amendment for parcel 58-00236.000; Mr. Waddington seconded the motion.

Mr. McGory stated that he often believes that people should be able to do what they desire with their property, however he does not feel comfortable with the proposed zoning amendment. This is a difficult decision but has some concerns.

Mr. Zuilhof stated that he would be fine if the applicant placed a home on the property and harvested the fruit trees, he would also be fine with a garage on the site to occasionally fix cars. If the zoning amendment is denied the commission would not be denying the use of the property.

With no further discussion, the motion passed with a 6/0 vote.

Mr. Danny Lewis stated that the applicant, Brian Bonner with Lyman Harbor has requested sound waiver for 1615 First Street for the remainder of the summer. Officer Lewis has ran a publication within the newspaper ten days in advance and sent the petition letters to surrounding property owners. The Police Department has recommended denial of the waiver. This is the second request of the applicant. The police department has been there several times since the last request, most of the complaints made were for excessive noise. One of the officers has reported being 1300 feet from the facility and still being able to hear the music.

Mr. Zuilhof asked what the difference in the application was.

Mr. Lewis stated that they cut back the hours to midnight.

Mr. Whelan stated that it could be difficult to control the noise due to their location and proximity to the water, when are they required to cut the music.

Mr. Lewis stated that if they are obeying the noise ordinance they would need to stop at 11pm. The police department is processing these complaints under the criminal code so the police are required to report at any time of night to see if disorderly conduct is occurring.

Mr. Whelan asked if the applicant could still be charged with a disorderly conduct if the noise waiver is passed.

Mr. McGory stated that if they had a waiver this would not grant them immunity.

Mr. Lewis stated that the officer would still need to respond to the site and investigate the situation.

Mr. Whelan asked when the majority of the noise would be occurring.

Brian Bonner, 1615 First Street, stated he has been receiving disorderly conduct charges, in result of the complaints that were being made. Each time they do not ask them to turn down the music, and do not mention breaking the noise ordinance but instead mention disorderly conduct. The property is zoned commercial and the use is permitted. Mr. Bonner stated that they would like to have outdoor concerts on Saturday evenings from 7pm -12am.

Mr. Zuilhof stated that ask the applicant if they were looking to extend the hours to 11pm or midnight.

Mr. Bonner stated that they are requesting to midnight. They have received a petition to pass the noise ordinance from the dock owners at the adjacent Sunrise Marina. Mr. Bonner stated that everything they are looking to do is for the concert series they are having for the summer.

Mr. McGory ask if the Sandusky Police have issued any citation for the noise ordinance or has it all been under the criminal code via issuing a disorderly conduct charge. If they issued the waiver and extend it by one hour the applicant still could receive a disorderly conduct charge.

Mr. Zuilhof ask how extending the hours on Saturday from 7pm- 12am will assist with the situation of the noise violation, if it has never been measured.

Mr. Bonner stated that he is trying to avoid these issues, currently they do not operate the system at the noise percentage that they are permitted to, they are aware that there are buildings and water all around them.

Mr. Zuilhof asked what holds them back from turning it down.

Mr. Bonner stated that they have turned it down, depending on the direction of the wind the noise will carry.

Robert Runner, 520 Nantucket, stated that he was the Police Chief when this ordinance went into effect. Section 519.06 states 60 decibels from 8am-9pm. Some of the issue that they had when creating the ordinance is how to measure sound and excessive sounds. The ordinance speaks to enjoying a residential property. Currently, he is unable to enjoy his residential property, on the weekend they hear a party and crowds.

Mr. Gold, 740 Nantucket, stated that many families within the Nantucket area could not attend. Within this area there are a mix of homeowners that stay there over the weekend and others that stay permanently throughout the year. All the residents look forward to the quiet noise of the lake instead they have to hear Lyman Harbor. Mr. Gold requested that the Planning Commission deny the request.

Mr. Bonner stated that the zoning of Nantucket is commercial recreation.

Mr. McGory asked if the sound waiver applies to all zoning district, residential and commercial.

Mr. Zuilhof stated granting the waiver may not do any good for anyone, he stated he is not comfortable solving the wrong problem.

Robert Runner stated that Nantucket was there before Lyman Harbor was constructed they need to respect that this is a residential area.

Richard Reeder, 564 Nantucket, stated that he wants the business to succeed, however quality of life is an issue. His family comes from Norwalk and stays at Nantucket for the weekends. During the fourth of July it was so loud that it was difficult to have a conversation on the beach.

Mr. Waddington motioned to deny the sound waiver from 7pm- 12pm on Saturdays. Mr. McGory seconded the motion.

Mr. Galea stated that he is sympathetic to the business and homeowners however he does not believe that granting the waiver is a good way of addressing the situation.

Mr. Zuilhof stated that this facility is one of the largest party and banquet facilities, it also has an indoor bar and restaurant. Planning Commission is not denying the owners the use of their property, granting the waiver is not solving the problem.

With no further discussion, the motion passed with a 6/0 vote.

Mr. Voltz stated that Cedar Point LLC has applied for a Conditional Use permit for several parcels on Cedar Point Drive. The applicant is requesting a conditional use permit to construct a monopine tower. The existing zoning is "P" Auto Parking. The property is currently adjacent to property zoned as R1-75 Single Family Residential. Chapter 921 of the Codified Ordinances of Sandusky requires a Conditional Use permit for the construction of this type of structure. In December 2016 the property owners were granted a temporary structure permit for 180 days. On February 1st, 2017, Planning Commission granted a Conditional Use Permit for a small node installations throughout the park. The proposed tower is to be 72' tall and replace the current trailer and temporary tower on site. Mr. Voltz reviewed the general requirements for a Conditional Use permit as stated in Section 921.04. Specifically, Section 921.09 (C) states that telecommunication towers shall be located a minimum of 200% of the height of the tower, including antennas protruding above the tower from any residential district. The proposed location of the tower is 370' from the nearest residentially zoned property.

Mr. Voltz stated that staff recommends approval of the proposed Conditional Use permit, as the applicant has made an effort to meet the requirements set forth in Section 921.04.

Amy Davis, Verizon Wireless, stated that the new application is proposed to 370' away, the applicant did provide a photo of the proposed tower and a more accurate rendering as well as a spec sheet of the tower.

Mr. McGory asked the applicant if the tower could be placed at any other location, possibly on top of a ride.

Mr. Zuilhof stated that per the ordinance it is the responsibility of the applicant to assure that collocation is not possible before construction of a new tower.

Amy Davis, Verizon Wireless, if the tower is placed within the park, it would not provide reception to the parking lot. The small cell nodes that were previously approved addressed the issues within the park. The proposed tower will service the need of the parking lot.

Mr. Zuilhof stated that he was disappointed that it could not be further from a residential use.

Amy stated that space is needed to cover the not only the tower but the ground equipment. Their intent is to conceal multiple pieces of equipment.

Mr. McGory motioned to approve the Conditional Use permit; Mr. Waddington seconded the motion.

With no further business, the Chairman adjourned the meeting at 6:10 PM.

APPROVED:



Casey Sparks, Clerk



Michael Zuilhof, Chairman