

**Planning Commission
February 23, 2022
Meeting Minutes**

Meeting called to order:

Chairman Pete McGory called the meeting to order at 5:00pm. The following members were present: David Miller, Mike Zuilhof, Conor Whelan, Jade Castile, and Steve Poggiali. Mr. McGory asked for Mr. Jackson to be excused from the meeting. Alec Ochs and Arin Blair represented the Community Development Department, Brendan Heil represented the Law Department, and clerk Kristen Barone was also present.

Approval of minutes from the January 26, 2022 meeting:

Mr. Miller moved to approve the minutes as submitted and Mr. Poggiali seconded. Mr. McGory stated that it was mentioned in the minutes during the discussion of the RV park, that it was possible that some owner RVs would be used for transient rental but he does not remembering it being discussed. He said that he had asked Mr. Ochs later on in the meeting if boats could be used as transient rentals because he had heard about some people wanting to do that and Mr. Ochs stated that they would not be allowed to do that on boats. He wondered if transient rentals would not be permitted on boats, would they not be allowed in RV's as well. Mr. Zuilhof made a motion to have the clerk review the recording from the meeting to double check this. Mr. McGory seconded the motion. All voting members were in favor of the motion. Mr. Ochs stated that there is a transient rental application that people need to turn in and get approved by staff, so that would normally be addressed at that time, but as far as what was approved at the last meeting is okay.

Appointment of CRA Housing Council member:

Mr. Zuilhof stated that he was the Planning Commission's appointment previously and he does not mind continuing to serve in that role, but if somebody else wants the opportunity he would be happy to let someone else take that on. With no other volunteers speaking up, Mr. McGory made a motion to appoint Mr. Zuilhof as the CRA Housing Council member and Mr. Poggiali seconded. All voting members were in favor of the motion.

Public Hearing:

629 East Adams Street rezoning

Mr. McGory stated that Tavare' Jemel, LLC submitted an application for an amendment to the zoning map at 629 East Adams Street (parcel 56-00584.000). The application is to amend the zoning map to expand the Transient Rental Overlay District to include this address. Mr. Ochs explained that surrounding properties on all sides are zoned Two-Family Residential. This property has several off street parking spaces. According to the City's Bicentennial Comprehensive Plan, this neighborhood had several strong recommendations that could be addressed by this rezoning. The Bicentennial Comprehensive Plan outlines a number of priorities including supporting rehabilitation of housing and zoning changes to encourage hospitality. The property is also adjacent to the existing Transient Overlay District. Staff recommends approval of the proposed amendment to the zoning map with the condition that all applicable permits are obtained through the Building Department, Engineering Department, and any other applicable agency. Mr. Zuilhof moved to approve the application subject to staff's conditions and Mr. Poggiali seconded. Mr. Poggiali asked if the home was currently a single family home. Mr. Ochs stated that it is. Mr. Miller asked staff who owns the corner lot at Meigs and Adams and who owns the vacant lot next to the corner lot. Mr. Ochs stated that he is not sure. Mr. McGory swore in Sharece Clinton of 629 E. Adams Street. She stated that she currently lives at 629 East Adams Street and if this application gets approved, she is planning on living in her RV and traveling. She said Mr. McCarty owns the corner lot on Meigs and Adams and it has been used as a community garden in the past. He is unable to fix up that lot, but she believes the City used to be a partner in that, so if anyone is able to help with that, she would appreciate it. She said the vacant lot on the other side of the community garden is owned by the city. Mr. Poggiali asked if Mr. Ochs could speak with Code Compliance about the community garden. Mr. Ochs said he would do that. All voting members were in favor of the motion.

Adjudication Hearing:**1420 Sycamore Line**

Mr. McGory stated that George Sortino submitted an application for a conditional use permit at 1420 Sycamore Line (parcel 57-04190.001). The applicant would like to remove the existing non-digital message board and replace it with a digital message board. Mr. Ochs explained that the zoning code currently permits digital signs with a conditional use permit. The address is zoned General Business and surrounding properties on all sides are also zoned General Business. The sizing and placement does meet current zoning standards. In the staff report it states that staff recommends approval of the application with the condition that all applicable permits are obtained through the Building Department, Engineering Department, Planning Department and any other applicable agency. Staff does have some more conditions to add and that includes: 1) The sign criteria follows ODOT requirements recommended in past digital sign applications (minimum display time of 10 seconds), 2) Brightness shall not impose hazard to pedestrian or vehicular traffic, nor a nuisance to surrounding property owners, 3) No animations, videos, or illumination with flashing. Ms. Castile made a motion to approve the application subject to staff's conditions and Mr. Miller seconded. Mr. Zuilhof stated that this has been something that has been on the to do list to add into the ordinance since these signs are routinely passed and hopefully one day staff will get a chance to get that done. All voting members were in favor of the motion.

New Business:**1110 Edgewater Avenue**

Mr. McGory stated that American Colors, Inc. has submitted a site plan application for an addition to an existing building at 1110 Edgewater Avenue. Mr. Ochs explained that this property is zoned as General Manufacturing and they manufacture paint. The proposed addition totals 12,500 sq. ft. and will be used for office space, manufacturing, and storage. The proposal contains 78 parking spaces including four ADA spaces. The existing parking area coverage is 14,307 square feet and the proposed parking lot is 32,650 square feet. The total amount of required spaces needed according to the code is 96, but the applicant feels that the proposed 78 spaces will be sufficient for their needs since they have multiple shift changes daily. Planning staff suggests that the additional required spaces be waived by the Planning Commission. Staff is curious how many employees are expected to be on site at one time with the new addition. The applicant has proposed more than enough landscaping. There is an additional building expansion called out on the drawing totaling 11,000 square feet. The applicant has said that this is to not be considered for this meeting, but a meeting in the future when plans are finalized. Engineering has addressed slight concerns over the capacity of the existing detention pond and if it is sized accordingly for additional runoff/water storage. Building staff had no objections, but stated that additional submittals showing compliance with Ohio Building Code & ADA codes will be required for permits. Staff recommends the approval of the proposed site plan with the condition that all applicable permits are obtained through the Building Department, Engineering Department, and any other applicable agency. Mr. McGory asked if Engineering staff's concerns are something that will be addressed at a later time through their processes. Mr. Ochs said that is correct. Randy Schaefer of 2773 St. Rt. 99 in Monroeville, stated that he is with Janotta and Herner and able to answer questions relating to the project. He stated that he would let the owners answer the question regarding how many employees they are expecting to have in the new space, but they do feel they will have enough parking for all employees with the proposed site plan. Regarding Engineering staff's concerns with the detention pond, they are working on that design right now and that will be submitted to city staff for approval. Mr. Zuilhof stated that Planning Commission has generally waived parking requirements that the applicant feels they do not need in order to reduce storm runoff. Mr. Miller asked if the retention pond has a surround of stone and if the upper right hand corner is where the outfall of that is. Mr. Schaefer said that is correct. Mr. Miller then asked if there is some conveyance to go under the railroad track with that outfall. Mr. Schaefer said that is correct. Mr. Zuilhof stated that even though Engineering regulates the detention pond, typically the design is done by the time the site plan comes to Planning Commission, so that they know what the site looks like. He asked if they are anticipating additional detention or retention. Mr. Schaefer stated that they are using what is existing and that is adequate for what is needed. Mr. Zuilhof stated that he believes there is a case to be made for when detention or retention is designed to avoid dry detention. Mr. Miller stated that he believes that there is a process through the county that that city has signed onto, that regulates detention ponds. Mr. Poggiali stated that he is also curious how many extra jobs the expansion would create. One of the owners from

American Colors stated that they plan to add 3-5 people. Mr. Poggiali moved to approve the application subject to staff's conditions and Mr. Miller seconded. All voting members were in favor of the motion.

2330 River Avenue

Mr. McGory stated that the last application on the agenda is a site plan application for new construction at 2330 River Avenue and was submitted by Pat Murray. Mr. Ochs stated that this address is zoned Commercial Recreation. Properties to the north, east, and west are also zoned Commercial Recreation. However, the properties to the east and west are currently residential uses. This property is currently vacant. There used to be a house on site, but it has been torn down. The proposed use is a restaurant and bar. The applicant plans on having some dock space for small boats and jet skis and an unenclosed patio. The applicant also is anticipating adding a rooftop deck in the future. The code calls for 22 spaces and the proposal contains 26 parking space. Engineering staff's concerns include: water, sewer, and storm plans, which will be addressed at a later process. They are concerned about water runoff onto neighboring properties. They would also like to see a signage plan and a storm water pollution prevention plan. Building staff had no objections but stated that additional submittals showing compliance with Ohio Building Code and ADA codes will be required at a later time. Police Chief Jared Oliver advised that on-street parking in this area gets congested on weekends and additional public parking could be needed in the area if the proposed project catalyzes any other commercial investment along this street. Mr. Ochs stated in the proposal the parking requirements are met, setbacks are met, the height is met, but the landscaping is missing one tree that staff would like to see. Staff recommends approval of the proposed phase 1 of the site plan with the following conditions: 1) All applicable permits are obtained through the Building Department, Engineering Department, Planning Departments, and any other applicable agency, 2) The fence on the western property line is fixed to ensure proper buffer to neighboring residential property and does not exceed six feet in height. The landscaping buffer on the east and west side of the property is constructed as presented on the plans, 3) The civil plans effectively address the City Engineer's flooding concerns, and 4) A parking share agreement letter between the adjacent business is in place before additional phases are constructed, and 5) An additional tree is to be added to the landscape island in front of the restaurant. Mr. Zuilhof stated that he is skeptical of making conditions on future actions such as condition number four. For example if 10 years from now this condition is not met, Planning Commission cannot rescind this approval, so that is something to think about. He said that because of the development that is happening, he thinks it is time to start thinking about improvements on that street, encroachments on the street, parking in the area. Mr. McGory asked Mr. Ochs if additional phases were to take place would the applicant need to come to Planning Commission for approval again. Mr. Ochs responded that yes the applicant would need to come to Planning Commission to get approval for additional phases, so the parking share agreement could be addressed at that time if the Planning Commission would rather do it that way. Mr. Zuilhof stated that this is a challenging area because of the property being zoned Commercial Recreation and there being residential uses next door, but the owner has a right to use the property this way and he thinks there will be a good outcome. Mr. Miller stated that two properties to the east, there is a public access area, and he was not sure if the city owns that or ODNR. Mr. Zuilhof asked if he was talking about the Big Island canoe launch parking area and Mr. Miller said that was correct. Mr. Miller said that area seems like it would only have a demand for parking during the day and since the Chief of Police is concerned about parking during the evening, that maybe that area could help with that. He said that he also thinks that there may be more room to add more parking in that area, if that were to ever be an area that they plan on improving in the future. However, with the flooding that takes place in that area, sometimes that parking area is not reachable. He asked that in future plans, what does city staff do to address the fact that the water comes in there from the bay. Mr. Ochs stated that would be more so a question for the Engineering staff. Applicant Pat Murray of 9610 Darrow Road in Vermilion, and Gary Fischer with Fischer and Associates Architects of 554 West 9th Street in Lorain approached to answer questions of the Planning Commission. Mr. Fischer stated that they have the same concerns that staff do and by code, they have to keep all drainage on site, so that will be a challenge, but it is in the works and they plan on incorporating that in with the landscaping so that it looks nice. He also said that they are fine with all of staff's conditions. Mr. Murray stated that he has been talking with Barnes Nursery about landscaping and putting in river rock to help control the water level on the property line. Mr. Murray stated that he has been in talks with the property owner of Louie's and he was happy to offer their parking lot for overflow parking and they are going to do the same for them since they will be operating at different hours. Randy Hensinger of 312 Kinney Street Bellevue Ohio, stated that he came to talk on behalf of his friend Robert Herbst, who

lives at 2328 River Avenue, right next door to where the applicant is proposing the restaurant. Mr. Herbst wants to know where the water runoff is going to drain to. He said the street already has a water holding problem and there is no drainage whatsoever. Mr. Herbst said that the parking is also already a problem and asked where the overflow parking is going to go. Another concern of Mr. Herbst is the privacy of the neighbors. According to him, if they are following the code, the restaurant will need to be built four feet above the neighboring properties not allowing for any privacy for them. A privacy fence was mentioned, but what will the height of the fence be and who will be maintaining that fence? Mr. Herbst also wanted to mention the heavy equipment being brought into the area, such as the dozer, vibratory rollers, and compaction for the filling material. That equipment will affect the homes and foundations of the homes in that area for up to 26 linear feet from where the work is being done, and could possibly crack the foundations. He knows because he owns Herbst Excavating Company. Mr. Fischer stated that they do have to follow the code for drainage and so property owners on either side will be affected. He said that they cannot control the flooding in the area, but they are required to bring the building up and out of the floodplain. He said that the building will be placed farther out compared to the houses on both sides and there will be no windows looking at the houses at that level. He said that the restaurant is 12 feet off of the property line to the east and probably 30 feet from the house. On the west side, the restaurant is probably 80 feet from that house or building. Mr. Hensinger stated that even though the building pad will be about 80 feet from Mr. Herbst' property, they will still be putting a parking area in somewhere, and when you put ground on top of ground, there is going to be some compaction. Nick Famulare of 2340 River Avenue stated that even if the restaurant will be placed farther out compared to the houses, they will still probably have the parking lot up by the houses and people driving by frequently and shining their headlights in their windows. Mr. Famulare then said that as far as Mr. Murray using Louie's parking lot and vice versa, he said he heard that Louie's insurance company said that they will not be able to do that. Kathleen Arthur of 2338 River Avenue said that she has to block the end of her driveway off so that people do not park there. Mr. Zuilhof stated that it is not within the Planning Commission's power to stop a use from taking place in an area where it is zoned for that use, as long as they are meeting all of the other requirements. If the Planning Commission did not approve it the applicant could sue them and they would lose. So the Planning Commission is not determining today whether or not the applicant is able to use the property for what they are proposing, but determining whether or not they are meeting the other requirements staff was talking about during the staff report. Brandon Bess stated he owns 2312 River Avenue. He owns a commercial marina closest to the proposed restaurant, Pike Creek Marina. He said they had to spend over \$12,000 to put a fence up along their property to keep cars off of their property. He said that he has called the police department and he was told that they cannot do anything unless a car has been left there for three days. As far as the drainage goes, he said that there is nothing anyone can do to solve that problem. Putting in some river rock is not going to solve the issue. He said that there has been several feet of standing water on their road at a time, on their property and intruding into their home. They have spent thousands of dollars on commercial pumps. A four inch drain line along the property line is not going to solve anything either. When there are heavy downpours, water sits on that property now and if they build up on that property, more water is just going to go down to the neighboring properties. Mr. Bess said that along with the parking issues, they have recently had some break-ins of vehicles and there was recently a break-in of a building in that area also. Mr. McGory stated that he is familiar with that area and he lives over at Cedar Point, so he is aware of the lake levels and the issues that the torrential downpours can cause, but he is not sure how to solve the issue. Mr. Bess said that he is not against what the applicant wants to do there but he thinks there are things that need to be done before that happens. Mr. Bess stated that the owner of Louie's has reached out to the police department who did a couple of drive bys and then said that they didn't want to send out just one unit out because that would put that one unit in danger to be there by themselves and that they would have to pay a private security company in order to have an officer on scene to keep the issues to a minimum. One neighbor has reached out to the state highway patrol and they will come out every now and then. Mr. Zuilhof stated that he would encourage people to get familiar with the noise ordinance and if people are not following the noise ordinance they can call and make a complaint. Mr. Poggiali asked Mr. Bess if he knows where the runoff from the other marina goes that recently had a big addition put on. Mr. Bess said that he cannot speak for that owner, but he believes that the grade level is significantly higher at that point, and they also have a legitimate steel sea wall which brings their water height up, and their drain to bay is near the higher portion of the sea wall, so it allows for their runoff to escape. Mr. Poggiali then asked Mr. Ochs if someone would have to get a floodplain permit and build to a certain floodplain standard to allow for the runoff. Mr. Ochs said that is correct, but he does not know the specifics on that since that is

through the Engineering Department. Mr. Fischer stated that when the area is flooding, the lake and Pipe Creek seek their own level. When the restaurant is up, that will not cause any more water to go on the neighboring properties, but it would stop water that would be anywhere near being on that property. When there is a storm they will need to maintain that drainage and that will drain to Pipe Creek. Mr. Murray stated that they want to be good neighbors and if anything, having their parking lot available for people to use outside of their business hours, will hopefully solve any parking issues the neighborhood is having. He stated that hopefully his business will also get the city to move in fixing up that area sooner rather than later. Mark Smith, attorney at Flynn Py & Kruse, stated that he was contacted by Mr. Herbst today regarding this matter and so he has some questions for staff. Law Director Brendan Smith stated that this is not a public hearing and is a time for the Planning Commission to ask questions if they would like, but would recommend that the public questioning staff regarding their testimony is out of order. Mr. Smith stated that he is not questioning testimony but he has on questions the plan as proposed and how it fits in with the current standards. Mr. McGory asked Mr. Smith what his questions are. Mr. Smith asked Mr. McGory if it is the board's position that a best use standard be imposed in accordance to 1109.01 or would it be any permitted use will applicable as far as this board's decision on moving forward. Mr. McGory stated that it is his understanding that any permitted use under the current zoning. Mr. Smith asked that as far as hours of operations, is that all year round. Mr. Zuilhof stated that again there is a noise ordinance that the neighbors can read and they can call and make a complaint if they want to. Mr. Miller stated that in the past there has been at least one situation where a developer proposed a development that was resisted by a bunch of neighbors. In that case, the Planning Commission wanted to collect more information that was relevant to the discussion. In this case, with the discussion around the city possibly coming in and doing some work in that area with paving and water issues, that may be something to consider. Mr. McGory stated that he is inclined to agree with the architect that what the applicant is proposing is not going to have much effect on the issues that are already taking place in that area. Mr. McGory made a motion to approve the application subject to staff's conditions and Ms. Castile seconded. Ms. Blair reminded the Planning Commission about Mr. Zuilhof's comments regarding condition number four and stated that the Planning Commission may want to omit that condition. Mr. McGory stated that yes, he would like to clarify that condition number four that was mentioned earlier during staff's comments is not to be included in the motion. Ms. Castile said she is fine with that. Mr. Whelan asked the architect what exactly is going up to four feet since there has been a lot of concern about that. Mr. Fischer said the building would be, but the parking lot would stay almost where it is, as they do not want to bring that much fill in if they do not need to. All voting members were in favor of the motion.

Other Business:

Mr. Whelan stated that he would like to make a statement in order to try to create a path forward for the two residents that have asked for the Planning Commission to consider creating a transient rental overlay district in two different neighborhoods. He said that these two residents have been trying to get an answer for about a year now, so he would be committed to making a motion on behalf of individuals or groups wanting a public hearing to create a transient rental overlay districts in an area if they meet two criteria of which he would like some feedback from the other members on: 1) They would need to work with Planning staff to create boundaries for the proposed transient rental overlay district. He said he was thinking that at first that would be 40 contiguous parcels, but maybe that is too much and maybe 30 would be enough, 2) A petition is signed by at least 25% of the neighboring property owners who are in favor of the proposal. Mr. Zuilhof stated that any Planning Commissioner can propose legislation to create a new district, whether they think it is a good idea or a resident approached them. Mr. Whelan said that he is not comfortable with doing so just because a resident asked them to and that is why he would like to put in place some parameters. If there are no parameters then the commissioners could be getting approached from people all of the time. Mr. McGory asked if there was an entire square block in favor, would that be enough? He said that he definitely thinks the person with the proposal should have some support from the neighboring property owners, but maybe 25% is not necessary just to have a hearing, because at the hearing there would be more discussion that everyone in that area could come and give input on. Mr. Miller stated that he would like to make a motion to authorize Mr. Whelan to work with staff to bring forward a proposal for what would be required from residents who want to have a public hearing on creating a transient rental overlay district. Mr. Zuilhof seconded the motion. Mr. McGory stated that he would also almost hate to require a minimum amount of support, but thinks that there should be some. Mr. Whelan said that it might be a little

cumbersome if they invite everyone to share their proposals without any requirements. If that is the case, there would be a different proposal every month. That is why he thought there should be a minimum amount of support from neighboring properties. Mr. Poggiali stated that after Mr. Whelan talks with staff to come up with a proposal he can bring a proposal to the commission and then there can be more discussion at that time. Mr. Whelan stated that he thinks he needs to clarify that there has already been two proposals from residents that were brought to staff and the Planning Commission. He said that he does not want to be approached from residents asking him to bring a proposal to the Planning Commission because some people could argue that he is playing favorites, and that is one of the reasons why he thinks there should be requirements on how a resident brings forward a proposal. Mr. Zuilhof made a motion to suspend debate and vote on the motion. With no second on the motion, Mr. Miller stated that he does not necessarily know if 40 contiguous parcels is needed, but figured that could be something Mr. Whelan and staff could discuss further and then bring back to the Planning Commission to vote on. Mr. McGory stated that it sounds like a motion is not needed then, if any Planning Commissioner can already bring forward a proposal to the Planning Commission at any time. Ms. Castile said that what she thinks Mr. Whelan is getting at is that if there are no requirements set on what is needed from the residents and each Planning Commissioner has a different opinion on what they think is enough, then people will just wait to hear who requires the least amount of work, and then residents will go to that Planning Commissioner for support and ask that Planning Commissioner to bring the proposal to the rest of the commission. Ms. Blair stated that the ordinance says that whenever it is deemed appropriate and in the interests of the general welfare of the city, a Planning Commissioner can initiate a public hearing to consider a transient occupancy overlay district. From what she is understanding, Mr. Whelan is saying that the two criteria he mentioned is what he believes what is appropriate and in the interests of the general welfare of the city. So if he is approached with someone that meets those two criteria, then he would be willing to make a motion to hold a public hearing for a proposal to be heard at, and that is allowed per the current ordinance. Mr. McGory asked the law director for clarification on if they even need a motion to move forward. Mr. Heil responded that from his understanding, it is Mr. Whelan's intent to publicly state that he would like to create a potential process for bringing forward a request for a transient rental overlay district because currently the only people that can initiate that discussion is the City Commission and the Planning Commission. Residents cannot currently do that, but with what Mr. Whelan proposed, that would allow residents the ability to do that, so long as they follow those requirements. Mr. Miller stated that with his motion, it was his intent to have staff discuss the requirements further with Mr. Whelan as staff might have a better idea on how many parcels would be needed to create a district, as well as how many neighboring properties in agreement are needed. He said he would also be willing to sit with staff and Mr. Whelan to give his input as well. Mr. Poggiali made a motion to amend the motion to have Mr. Miller and Mr. Whelan both work with staff to come up with the criteria needed for residents who want to have a public hearing to bring a transient rental overlay district proposal to the Planning Commission. Mr. Whelan seconded the motion. All voting members were in favor of the first motion. All voting members were in favor of the amended motion.

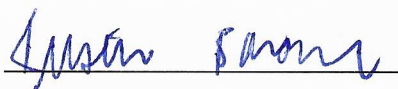
Meeting Adjourned:

Mr. Zuilhof moved to adjourn the meeting and Mr. Poggiali seconded. The meeting ended at 7:23pm

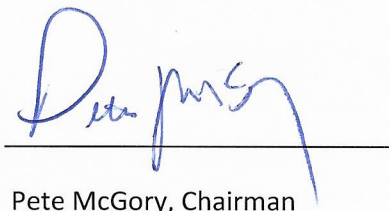
Next Meeting:

March 23, 2022

Approved:



Kristen Barone, Clerk



Pete McGory, Chairman