

City of Olmsted Falls
Minutes of a Special Council Meeting
Monday, February 27, 2017, at Olmsted Falls City Hall
26100 Bagley Road – Council Chambers, 7:00 p.m.

The Pledge of Allegiance was recited. Mayor Ann Marie Donegan called the Public Hearing Meeting to order at 7:02 p.m. Roll call was conducted. Present: Councilmen Linda Garrity, Bob Sculac, Paul Stibich, and Terry Duncan. Kyle Miller and Jim Haviland were absent.

Also Present: Gregory Sponseller, Law Director.

The purpose of the public hearings is to consider proposed Ordinance No. 49-2016, on a request by the City of Olmsted Falls to amend the Zoning Map of the City to change the zoning classification of Permanent Parcel No.: 281-14-001 consisting of approximately 53 acres and located west of Mapleway Drive from I-2 “Industrial Manufacturing District” to MUTND “Mixed Use Traditional Neighborhood District;

AND

to consider proposed Ordinance No. 54-2016, on a request by the City of Olmsted Falls to amend Chapter 1218, Tree Preservation and Management; and Section 1232.06(c)(5) of the City’s Planning and Zoning Code to provide for landscaping and tree preservation and replacement requirements in the City for certain development of lands in excess of two acres.

All interested parties will be afforded an opportunity to be heard on the issues.

Mayor Donegan indicated that City Council has received recommendations from the Planning & Zoning Commission to approve the rezoning of Mapleway Drive and it should be noted that approximately two or three months ago the City received a court order that the property be changed from I-2 to a D-4 District. Working with the City Planner the MUTND district was discussed, which is a hybrid of a residential district. Additionally, the Planning & Zoning Commission also recommended approval of the 1218 Tree Preservation and Management and Section 1232.06(c)(5).

Mr. Sponseller administered the oath to those individuals present whom would like to speak regarding these issues.

Tony Campanalie, 7565 Clark Street, stated that he would like to inquire as to what the procedure was to change from industrial to residential. Mayor Donegan stated that Mr. Boyer was denied his request for a zoning classification change years ago. He then took the city to court and won his appeal. The court then mandated a D-4 district. She stated that a D-4 development would look like the Falls Pointe development. The City, working with the City Planner, developed a hybrid which is now the MUTND. These type of development would be more innovative and create much more diversity in housing stock. Again, this court procedure went to the Court of Appeals and ruled that the city must convert the property to D-4. Mr. Campanalie indicated that while reviewing the Court

of Appeal notes a lot of the issues discussed was that there would be truck traffic with the industrial zoning. Mayor Donegan indicated that when Mr. Boyer appeared before City Council she was not a member of City Council so she cannot speak to the details of that presentation, which are no longer relevant as the court mandated D-4. The MUTND classification was also a recommendation in the Master Plan from the county. Mr. Campanalie asked if the business included in the MUTND would be strip malls. Mayor Donegan replied no. This development will be a smaller walkable neighborhood with garages located in the back of the property and small businesses. This is a very different development than a Falls Pointe, which is what the developer could currently build. The developer has not submitted any type of development plan. The public hearing tonight is simply to change the zoning classification.

Mr. Campanalie asked how this would affect the developer's stewardship program with the state. Mayor Donegan replied that this has nothing to do with the stewardship program. She stated that when the developer develops the land the stewardship would expire. If approved, the developer will need to submit a development plan to the Planning & Zoning Commission for approval. Mr. Campanalie stated that the stewardship seems like a loop hole to developed properties.

William Eichenberg, 26549 Cranage, stated that he was a member of the Planning Commission and Board of Zoning Appeals for a number of years. A meeting was held in November of 2016 when the tree preservation was first submitted. The proposal seemed to decimate the current management plan. He stated that during the December, 2016 former Council President Linn indicated that the proposed plan was written by the City Arborist and the Sierra Club and does not know why there were so many radical changes. He is concerned regarding of few changes. For example under 1218.03(d) the critical root zone is changed from nine lines to two lines. He is quite concerned because the way it was presented and Mr. Smerigan was present as well as the gentlemen from Shade Tree Commission. Mayor Donegan indicated that Mr. Smerigan, Gerry Peters, who is the city arborist, and Mr. Shepka from the Shade Tree Commission worked on revisions to the proposed plan throughout the Christmas season and the Shade Tree Commission is now in agreement with the revisions. She stated that the critical root zone rather than the radius is now the canopy of the tree, which means inches are no longer used but rather the tree canopy. Mr. Smerigan replied that was correct. Mr. Sponseller stated that this section refers to the definitions. Mr. Eichenberg indicated that he was concerned because at a previous meeting the way it was presented and his understanding was that they would go down the border of the property owners and Mr. Boyer. Mayor Donegan stated that if Mr. Boyer wanted to develop a D-4 he would have to follow the new preservation plan, if adopted.

Mr. Eichenberg indicated that he was concerned that everything would be cut down up to two feet from the buffer and if you cut the roots of all the trees on the property owners land they would not do well. Mayor Donegan stated a detailed tree protection and management will need to be submitted to the Planning & Zoning Commission as part of a development plan. She stated that there is more property in the City to develop. For example, not unlike Cranage there is a forest behind her personal property as well. The City will create the need for a buffer as she does not want to see issues behind any residential properties.

Mr. Eichenberg stated 1218.09 entitled "inspections, violations and penalties," it used to say "the city will regularly" but the proposed language is "the city may" and feels Council should discuss that issue. Mayor Donegan stated that these proposed changes were reviewed by Shade Tree, Planning, and obviously Council has been aware by listening or participating and this is the

revisions that the boards are recommending Council approve. This public hearing is to hear the comments from the public for Council to take into consideration. Mr. Eichenberg stated that bonds have been eliminated and as he previously stated he served on Planning Commission for a number of years and the bonds is how we got developers to do things. Mayor Donegan indicated that the preservation plan states in a previous section that “performance and maintenance bonds shall be provided per section 1224.09(a)(b), failure to install trees within the required time shall result in forfeiture of the bond” so that is already indicated in the current plan. Mr. Eichenberg stated that if you do not have a bond then developers can do what they want.

His next issue is regarding flooding and thanked the Mayor for her concerns about flooding. He has read a number of nice articles in the paper regarding her comments on this issue. He stated that the Woodgate Farms development on Schady Road drains into Minnie Creek with a culvert. There was a story in a Minnesota paper that stated what happens upstream with the water and building results in flooding downstream. He is happy that the Mayor is watching out for residents regarding flooding issues. Mayor Donegan stated that she is attempting to solve flooding, which is not easy because it is complicated and expensive. The City has enough flooding and she does walk the city after a rain and cannot look residents in the eye because we have ignored the flooding issues for a decade. These are the reasons we have a good city planner and engineer to make certain that any water issues are directed away and not into the back yards of Cranage and other residents. Mr. Eichenberg indicated that a large tree absorbs 36,000 gallons of water per year and heard that the property would be clear cut which made him concerned regarding where the water would go. Mayor Donegan stated that from what she understands Mr. Boyer will be looking at a generous buffer and provide more than what would be required because he wants this to be successful as well and create some diversity in our housing stock. She indicated that this is also the reason the City Planner attends most of the Planning and Zoning meetings to make certain we are making smart planning decisions as opposed to how it use to be done.

Stephen Hoca, 26493 Cranage, stated that he lives on the south side of the street two doors from Mr. Eichenberg. His concern is flooding and as he understands each of those big trees holds 36,000 gallons of water which is what makes the wood so heavy. He has gone 100 feet or so behind his property and there is a swampy area there that fills up with water and over time it goes down and he almost feels that they are going to fly by the seat of their pants to do this and that there is really no structured plan its more of a lets figure it out after the fact. Mayor Donegan replied that was not the case. All this will do is change the zoning classification to a MUTND. She stated that Mr. Boyer will then need to submit a full development plan to the Planning & Zoning Commission which needs to include plans for water run-off, the trees and the buffer. The reason we do not have any details today is because this hearing is not about any plan. Mr. Hoca stated that last year the project was started and inquired as to why it was immediately stopped. Mayor Donegan indicated that was due to the stop work order she placed on him. Mr. Hoca stated that he was one of the residents who contacted the City. He also indicated that Mr. Boyer spoke with Mr. Eichenberg and Mr. Eichenberg informed him that he was going to start the project. He had those big wrecking machines there and then it was stopped and to him it sounded like he did this before even asking for permission. Mayor Donegan stated that it is complicated because of his Woodland Stewardship Program. Sufficient to say the City issued a stop work order which remains in effect today. If the developer wants to develop, which we believe he does, and wants to develop under the MUTND, which again, was recommended in our master plan, and also our Planning & Zoning Commission, he will need to comply with all of the different rules and laws that are afforded to anyone. The City currently does not have an MUTND zoning classification so this is unique and something being

considered. Once the developer decides to develop he will need to a full development to the Planning & Zoning Commission and work with George Smerigan showing what he will do with water retention and run-off, as well as what the development will look like including buffers and then Planning & Zoning will make the decision to approve those plans or modify. Mr. Hoca asked if this was related to the sewer project. Mayor Donegan replied no but the first sewer project is located around this property and will be completed by late spring early summer. The City has sent certified letters to the remaining residents for Phase V. Mr. Hoca asked if a formal meeting would be held regarding the sewers because there are people on the fence with their pre-existing hi-tech septic systems that have the three channels like his neighbor. Mayor Donegan stated that once you receive the letter you have an allotted time to respond. Those objections will be presented to the Board of Equalization and during that process there will be a public meeting to present what everything will look like and when the project will start. Mr. Hoca stated that the digging for the sewers is somewhat related to this project and asked when that would officially start. He indicated that he spoke with Mr. Sheehy who indicated it would be the first part of the summer. There are a lot of gray areas we are still trying to iron out like the real effective cost of the sewers because they are telling residents right now it is \$12,000 and it seems to him like it could cost a lot more than that. Mayor Donegan stated that the cost is based on all the money the city has received and is only an estimated cost. Mr. Hoca stated that Mr. Boyer will not be cutting down the trees tomorrow until it is all approved through a builder. Mayor Donegan replied that was correct. Mr. Sculac stated that the reason for the stop order was because this was not approved yet. The Planning Commission had not recommended approval of the rezoning to Council in order for this public hearing to be held. Mr. Hoca stated that it seemed the developer was really on a mission to tear down the trees at that time. Mayor Donegan asked Mr. Hoca to imagine owning a piece of property for 15 to 20 years and not being able to put any industrial on it then having to go to court. He is entitled to be able to build on his property and the city believes this is the best scenario and the developer has been very patient while we have worked through the MUTND development.

Mayor Donegan stated that this concludes the public hearing and thanked everyone for attending.

Mr. Stibich moved to **adjourn**; Ms. Garrity **seconded**. Poll: 6 ayes; 0 nays. **Motion carried**.

The meeting adjourned at 7:32 p.m.

Ann Marie Donegan, Mayor

Angela Mancini, Clerk of Council