



CITY OF OLMSTED FALLS
PLANNING COMMISSION
MINUTES
NOVEMBER 9, 2016
7:30 PM
COUNCIL CHAMBERS

Present : Bill Eichenberg, Brett lafigliola and Fran Migliorino.

Others Present: Santo Incorvaia, Asst. Law Director, Ken Fisher, representing Mr. Willis Boyer, Tom Shepka, Chairman Shade Tree Commission, Tony Campanalie, Shade Tree Commission member, and George Smerigan, City Planner.

The meeting was called to order by Chairman lafigliola at 7:30 p.m.

1. PC 11-2016: Recommendation from Planning Commission regarding the proposed change in zoning classification for pp#281-14-001, consisting of 53 acres, located west of Mapleway Drive from I-2 “Industrial Manufacturing District” to MUTND “Mixed-Use Traditional Neighborhood District.”

Mr. Eichenberg indicated that his property abuts this particular property and he has been writing to the developer to see if he would sell some of the land over the years and wanted to state that for the record. Mr. Incorvaia asked if Mr. Eichenberg had any ownership interest in the parcel being rezoned. Mr. Eichenberg indicated that he does not own any of the land but he continues to mention to the owner that he is interested in purchasing some of the land. Mr. Incorvaia indicated that he does not believe there is any type of conflict regarding the proposed change in zoning classification.

Ken Fisher indicated that he is the attorney representing the property owner, Willis Boyer, who is recuperating from knee surgery and could not be present this evening. The purpose of his appearance is simply to note for the record the request as stated on the agenda that the rezoning be set for public hearing and we are requesting that hearing take place on December 14, 2016. This date was discussed with Mr. Smerigan and the administration.

Mr. Smerigan indicated that the rezoning is being initiated by the city as part of the resolution of the matters with regard to this property. The intent is to place this property into the MUTND district, which the Commission recently created. This would place the property in a similar status as the properties along Columbia Road. As the Commission is aware the district is structured with D-1 as the underlying rights, which is the lowest density of single family, until such time as a development plan comes forward for approval. As part of the court settlement an order permitted development under D-4 and the rezoning to the MUTND would replace that order.

Mr. lafigliola stated that Mr. Smerigan’s memo states “it is anticipated that the property owner will eventually submit a development plan consistent with the provisions of the MUTND, Mixed Use Traditional Neighborhood District, in the same manner as the properties located along Columbia Road.” He asked if that is still the property owner’s intent. Mr. Fisher replied yes and believes in the proposed MUTND that is a requirement and we will comply with all code requirements, if the property is rezoned.

Mr. Incorvaia stated that he would like to confirm that the property owners consents and agrees to the change in zoning. Mr. Fisher replied that the applicant is the city but the property owner does agree and concur with the proposed zoning change.

Ms. Migliorino asked if the applicant planned on having a proposal submitted to the Commission on December 14, 2016, if not, what is important about that date. Mr. Fisher stated that he is present on behalf of Mr. Boyer and that is the date he would be available to participate in a public hearing and was discussed with Mr. Smerigan and the administration. There is nothing magical about the date but he does have email correspondence with Mr. Boyer who is recovering from knee surgery but that is a date when he could be present. Ms. Migliorino asked if the Commission approved the request this evening would the Commission have 12 months to consider a development plan. Mr. Smerigan replied that this would be no different than any of the other properties on Columbia Road, it would be whenever the applicant submits the plan. Until a development plan is submitted no development would occur. Ms. Migliorino indicated that she was under the impression that a development plan was proposed but not presented to the Commission. Mr. Smerigan replied no.

Mr. Eichenberg stated that he believed a variance would be granted to add the MUTND. Mr. Fisher indicates that the variance was granted based on the resolution of a prior lawsuit that he was not involved in. The variance would no longer be a matter of record assuming the rezoning is granted. Mr. Eichenberg asked if the Commission would receive a final copy of 1232 and 1260, as this was worked on last Fall with the county. Mr. Smerigan indicated that he would make sure Mr. Eichenberg received a final copy.

Mr. Iafigliola read a memo from the Clerk of Council dated October 27, 2016 which states "during the Council meeting of September 27, 2016 legislation was presented to rezone an area on Mapleway from I-2, Industrial Manufacturing District, to MUTND, Mixed Use Traditional Neighborhood District. As requested by our city ordinances this matter must be referred to the Planning Commission for a public hearing and recommendation. In order to have time to run the ad in the newspaper for 10 days as required, I am requesting that Planning Commission schedule a public hearing at the next available Planning Commission meeting. I have attached Section 1212.03 of the Codified Ordinances as well as Ordinance 49-2016 for your review."

Mr. Iafigliola will **set** the public hearing for the regularly scheduled Planning Commission meeting on Wednesday, December 14, 2016 at 7:30 p.m. in Council Chambers.

2. PC 12-2016: Recommendation from Planning Commission regarding amendment to 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.

Mr. Iafigliola indicated that the Clerk of Council submitted a memo which states "at the most recent Council meeting of October 24, 2016 legislation was presented 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. As requested by our city ordinances this matter must be referred to the Planning Commission for a public hearing and recommendation. In order to have time to run the ad in the newspaper

for ten days as required I am requesting that Planning Commission scheduled a public hearing at the next available Planning Commission meeting.”

Mr. Smerigan stated that City Council has referred this matter to the Commission for a recommendation. The proposed changes would modify some of the provisions of the tree preservation and management code. There is a change to 1232.06, development plan review, which is intended to coordinate with 1218. There has been previous discussion regarding issues in the tree preservation plan. For instance, in the present code the building administrator is responsible for some reviews that should rightfully be reviewed by the City Engineer. As part of the Commission’s review a public hearing needs to be held.

Tom Shepka, 9058 Columbia Road and Tony Campanalie, 7565 Clark Street stated that they are present this evening as representatives of the Shade Tree Commission. Mr. Shepka indicated that he is one of the original authors of 1218. Mr. Shepka stated that the rewriting was not the intent of the original writing of 1218. He stated that under applicability, if the developments are regulated by 1232, that would eliminate chapter 1218. Mr. Smerigan indicated that there are landscaping requirements in 1232 and those would apply to developments done under 1232 rather than 1218, so we do not have dulling chapters with projects. Mr. Shepka stated that requirement would phase out 1218. He stated that landscape finished plans have nothing to do with tree management, two separate issues, you cannot remove one and replace with something else. He is not happy with the proposed changes as the proposed changes removes the whole intent of 1218.

Mr. Campanalie stated that Chapter 1218 was written for a purpose and was used for a purpose and did work. Mr. Shepka stated that he understands where these proposed changes are leading. Mr. Shepka indicated that he is present to let the Commission know what areas should be reviewed of the proposed changes, prior to voting on the changes. Mr. Iafigliola stated that he would suggest that Mr. Shepka indicate his concerns in writing and submit to the Commission for review. He would also request that Mr. Shepka and Mr. Campanalie attend the public hearing. Mr. Shepka indicated that the proposed changes also needs to be forwarded to Shade Tree Commission for review.

Mr. Smerigan stated that legislation is presented to Planning Commission for recommendation which is then sent back to Council for a final determination. The Shade Tree Commission has opportunity for input during the Commission’s public hearing as well as City Council hearing.

Mr. Campanalie stated that if 1218 is removed it will clear the way for land clearing which is how Shade Tree is understanding the proposed changes. He would like to know who designated the 53 acres on Mapleway as a registered forest as the State Forestry does not understand. In the Busby Creek proposal it states “43 acres in the State Designed Forest as many of the thousands of existing trees if possible will be retained” but he has an email from Jay Linn stating “this parcel is a registered state forest and set aside from the state to allow him to harvest his forest.” He asked again, who did this and who said to the state that this is a state forest.

Mr. Incorvaia stated that the designation comes directly from the state not the city. This designation was given without any input from the City, which allows the property owner to

apply for a reduced real estate tax rate. Mr. Campanalie asked the City doesn't get a say in anything. Mr. Incorvaia stated that the city does not get to reply to the designation of the state. Mr. Campanalie stated he understands but this was designated for the purpose of land clearing. According to forestry they informed him that they do not do that. He again, asked who got this designation from the state to clear the land. Mr. Incorvaia stated that the property owner would make the application, not the city. Mr. Campanalie stated that he would like to review the paperwork. Mr. Incorvaia indicated that the city does not have copies he would need to request the information from the state.

Mr. Smerigan indicated that Mr. Boyer attempted to get a permit to perform some clearing and the designation issue is separate from the legislation before the Commission this evening. Mr. Campanalie stated that Chapter 1218 is being "wiped off the book." Mr. Smerigan replied that was not accurate. The amendments to 1218 have nothing to do with the designation of Mr. Boyer's property or his ability to clear it that is a permitting issue. The law is currently in affect. Mr. Campanalie stated that it falls into concert. Mr. Eichenberg asked who authored the amendments to 1218 and added "except developments regulated by 1232" the only two developments left are Mapleway and Columbia. Mr. Smerigan replied he was the author. He can explain the proposed changes this evening or during the public hearing.

Mr. Iafigliola indicated that he believes everyone is trying to handle a lot of issues. He does not necessarily understand Mr. Campanalie's question about the state designation. Mr. Campanalie stated that the proposed changes happen for a reason. To him, the property is designated to be cleared and now 1218 is rewritten and now you can do whatever you want with the land. That is not the intent of 1218 and that is why us taxpayers are here to have a say into what goes on.

Mr. Incorvaia indicated that after the public hearing is held the Commission has 30 days to make a recommendation to Council. Mr. Iafigliola asked if the Commission does not come to a consensus how would the legislation return to Council. Mr. Incorvaia indicated that he would need to review the code.

Mr. Eichenberg asked if an arborist could review the proposed changes because the critical root zone definition was revised to read "this is a circular area surrounding a tree" and this is the most important area to protect the tree because if you cut into the root area the tree dies. He stated that on page six, for who know what reason, the changes remove "for the general location of wooded areas on adjacent properties within 50 feet of the boundaries of this project" and there are six more lines that were removed. He stated you can't cut the roots because then the trees on neighboring properties will die. His property abuts this property and he has some large trees in the back and if he does not want someone killing those trees. Mr. Shepka stated that the city is now using a city employee and prior to that we used an arborist consultant who helped write the original 1218. He is not criticizing Mr. Peters and is happy there is an arborist on site, but, to be involved with city issues like this his first thought is a conflict of interest. Mr. Iafigliola stated that he would suggest using the consultant arborist that has been used in the past. Mr. Shepka indicated that he will be asking individuals that he knows who, are city arborists, to review the proposed changes.

Mr. Incorvaia indicated that Section 1212.05(c) states “when an amendment is initiated by Council, Planning Commission shall do one of the following, recommend that the amendment be granted as requested; the amendment be granted as modified by the Planning Commission or that the amendment be denied. Planning Commission shall be allowed a reasonable amount of time for consideration report. If the Planning Commission does not make a recommendation on a motion passed by Council within 30 days after the Commission’s public hearing following receipt of Council’s resolution and time for responding is not extended by Council, Council shall determine that the recommendation of the Planning Commission is that the amendment be denied.” He stated if the Commission takes no action 30 days after the public hearing without an extension from Council the recommendation would be that the amendment be denied.

Mr. Iafigliola **set** the public hearing regarding Planning Commission docket #12-2016 for Wednesday, December 14, 2016 beginning at 7:30 p.m.

COUNCIL LIAISON REPORT – Mr. Iafigliola asked who the Commission’s liaison is. Ms. Migliorino responded Jim Haviland. Mr. Iafigliola requested that the Clerk contact Mr. Haviland and request that he is present for the meetings or indicate why he cannot be present. He stated that a public hearing was scheduled this evening that are recommended by Council and he feels that it is appropriate that someone from Council be present. He stated that if Mr. Haviland is not able to attend he suggested sending another council member in his place or some form of communication.

MANAGER OF BUSINESS & COMMUNITY SERVICES REPORT – Mr. Iafigliola indicated that Ms. Jones is not present.

OTHER BUSINESS – Mr. Iafigliola indicated that at last night’s election it was passed by the voters to eliminate and combine certain boards. He received a memo and a general mailing at his home. As he understands it there are currently three members of the Planning Commission and the new Planning & Zoning Commission will take affect and asked if there was a timeline for the new board to begin meeting. Mr. Smerigan stated that in order to accomplish the modifications to the Charter a number of amendments to the Codified Ordinances will need to take place, which could take several months. Mr. Incorvaia indicated that the city also needs to wait for the election results to be certified which could possibly take a month.

Mr. Iafigliola requested a copy of the master plan during the last meeting that was adopted earlier this year. He requested that Mr. Smerigan develop a table that shows what in the master plan is within the Planning Commission’s purview and develop some sort of triage for those items. For example, what is already happening that doesn’t need Planning Commission’s help because other partners taking the lead; here are the ones that are not happening and maybe the Commission could offer some assistance; and some that are not happening and the Commission has no influence.

Mr. Iafigliola stated that the Commission discussed taking a walk on a Saturday around the city and inquired if the member would be available on November 19th in the morning. Mr. Incorvaia stated that if the Commission schedules a walk he would suggest that the same notice as any

other Planning Commission be posted since there will be a quorum of members and you will discuss planning issues. For example, the meeting will start at a certain point whether it's the corner of two streets at 9:00 a.m. Mr. Iafigliola indicated that the Commission members will meet in the parking lot at the covered bridge on November 19th at 10:30 a.m. and walk to the Bagley Road Bridge and back. Ms. Migliorino indicated that at a previous meeting Ms. Jones presented information about the city purchasing property off of Lewis R in order to satisfy a ODNR grant. She would like to know if the purchase agreements were signed and if the city did purchase that property. Mr. Incorvaia indicated that unfortunately he did not have that information available. Ms. Migliorino indicated that during the walk she would like to look at the property purchased.

APPROVAL OF MINUTES – Mr. Iafigliola moved to **approve** the minutes of May 25, 2016 as modified; Ms. Migliorino **seconded**. Poll: 3 ayes; 0 nays. **Motion carried**.

Mr. Iafigliola moved to **approve** the minutes of July 27, 2016 as modified; Ms. Migliorino **seconded**. Poll: 3 ayes; 0 nays. **Motion carried**.

Mr. Iafigliola moved to **approve** the minutes of September 14, 2016; as modified; Ms. Migliorino **seconded**. Poll: 3 ayes; 0 nays. **Motion carried**.

ADJOURNMENT

Mr. Iafigliola moved to **adjourn**; Ms. Migliorino **seconded**. Voice Vote: 3 ayes; 0 nays. **Motion carried**.

Meeting adjourned at 9:05 p.m.

Planning Commission Clerk

Date

Planning & Zoning Chairman

Date