

**Cuyahoga Falls City Council  
Minutes of the Planning & Zoning Committee**

**April 3, 2017**

**Members:** Russ Iona, Chair  
Jeff Iula  
Vince Rubino

Mr. Iona called the meeting to order at 6:30 p.m. All members were present.

**Legislation Discussed:**

Temp. Ord. B-25

Temp. Ord. B-26

**Discussion:**

**Temp. Ord. B-25**

An ordinance accepting the Planning Commission approval, findings and conditions of the site plan for the construction of a 62-unit senior apartment complex at 320 Pleasant Meadow Boulevard and on Parcel 35-00578, and declaring an emergency.

Mr. Guerra, Planning Director, stated that this is file MSP-16-00039. It still has the 2016 file name, because it started off in November of 2016 and it didn't come to the Planning Commission until 2017. It is site plan approval for a 62-unit senior apartment building. It also has a 2,000-square-foot community and exercise size space attached to it. Mr. Guerra then made a Power Point presentation of the land use for this area from 1938 to 2016.

In 2016, NRP was looking at senior apartment buildings to build. They approached the owner of this property to build a senior apartment building there. Mr. Guerra stated that there were questions about environmental conditions on this land. In 2009, the City applied for a Clean Ohio Assistance Fund. The City received \$136,000 to figure out what was going to be done with the Gun Club. They took 266 ground water and soil samples and, of that, they found that arsenic concentrations exceeded one or more standards in all but one of the 266 samples. A lot of arsenic is natural, but they found that lead exceeded one or more in 103 samples. It was estimated that there were between 13,000 and 15,000 cubic yards of soil impacted above applicable standards from the depth of one to four feet. The two remedies are to pick everything up and take it to a hazardous waste facility or use a chemical that makes the lead stick together so it can be removed or capped in place. The estimate to clean it, at that time, was between one and two million dollars. They applied a few times for funding and did not get that funding. In 2016, they worked with US EPA with approximately \$25,000 to do a remedial action plan. The City hired a different environmental firm and they came back with a \$3.6 million cleanup cost. At the same time, NRP did an environmental assessment. They confirmed that there really wasn't any contamination on that property; it was just in the area that they shot the guns and where the lead landed. In 2016, they did a Phase I, Phase II and a remedial action plan to treat this space and came up with three

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alternatives: The first was no action, put chain link fence with barbed wire on top of and keep it there and make sure no one gets in that site; second was to be innovative and keep it in place and the third was to remove it at a cost of \$2.9 million. It was decided that they would use alternative two, stabilizing soils on site. Following stabilization, onsite soils will be capped to fully ensure there would be no direct contact with lead. Capping involves placing a cover over the contaminated soils. It does not destroy or remove the lead; instead it isolates it to keep them in place to eliminate direct contact or exposure. The original estimate to do this was \$800,000.

Mr. Guerra stated that the plan starts at Wyoga Lake Road and goes all the way down to State Road. It includes trails and stream bank stabilization. There are natural storage areas, so when the rain comes in, it stores it and slowly put it into the creek. By doing this, it provides about one inch of reduction within the entire valley to Mill Pond dam for a typical one-year storm. In future phases, there will be dam modifications that will provide significant flood reduction potential. In the Mud Brook Incentive District, the cost is about \$3 million and in the Mill Pond Incentive District, because of the pond, it is more expensive at about \$9 million. To do everything is about \$12.25 million. As they move forward, these estimates will become more detailed. The City has applied for money through the Department of Natural Resources in the amounts of \$700,000 and \$625,000 to start this project. It includes trails, the creation of wetland storage, additional storage and enhancing storage on Bath Road to be able to store water in there. This cost does not include the cleanup. They must go to other sources to do that. The total cost of the State grant is \$971,000. There are costs that they still must work with for the Brownfield cleanup.

Mr. Nicholas Sugar, Senior Planner, stated that this is the process the City uses to review these plans according to code. A City plan to develop a project area conforms to all applicable zoning regulations, design regulations and subdivision regulations. The plan takes City regulations in the code and is a comprehensive review of that. It's covers all departments: Fire, Engineering, Water and Electric. Stream corridor protection is very important along with Fire and EMS access. It covers lighting, landscaping design, buffering between the properties, open space, building form and design and what materials are used. All these things are taken into consideration. This is a lengthy process in that it could take a couple months of back and forth between the Planning Department and the developer to really hammer out any minutia and get a workable plan. Stream corridor protection is an area of concern because Mud Brook flows through this area. There are a couple different tools that can be used to protect the Mud Brook area. One tool sets protection limits based on the drainage area of Mud Brook. That is taken from the Ohio Department of Natural Resources. There are protection limits called buffers. The most restrictive area is a preserve barrier. It's 30 feet from Mud Brook. That prohibits any kind mowing or clearing in that area. The managed buffer is 75 feet from the preserve buffer. That's limited tree clearing, but it doesn't allow any structures. One hundred feet from that is the limited development buffer. There are even less restrictions. It allows for some development, like parking areas and accessory structures, but doesn't allow full-fledged development in that the area. The second tool and most efficient is to own the land as a City. Historically, the City has been acquiring property around Mud Brook and, most recently, Mill Pond. As part of this project, the City would acquire property

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which is all in the stream corridor protection area. In combining those two tools, there is protection on private property and public property.

Mr. Guerra stated that the Gun Club area was donated, because it couldn't be built. It was something the City needed for storm water protection. There is an easement area that would allow for a trailhead and a trail coming off there and some parking. There is a tree protection requirement and a tree inventory. Trees that are over 18-inch caliper must be replaced. There are exceptions if they're diseased or there is a safety issue. There is a grand total of approximately 175 trees. The City is working with the developer at planting 175 to 200 new trees; maybe 250 new trees. The retention basin is there until they construct larger ones that are in the plan. There are also requirements regarding lighting and pole size. Mr. Guerra stated that the City uses the Institute of Transportation Engineers Trip Generation in looking at projects. When there was a plan for 18 single-family homes, the trip generation was about 172 cars per day. Everything is coming out on Pleasant Meadow; not Hunter Parkway. This elderly housing, they calculate about 216 at the maximum per day. That is very close to single-family housing. In elderly units, the typical age is 74, so there's not a lot of parking. Mr. Guerra stated that the recommendation is to recommend approval for major site plan. They believe this that project has less impact than all the plans that came before it. There's a new public access agreement for the trail. There's a little bit of a cul-de-sac that's in the last portion of the setback of the limited buffer that must be done correctly so that it doesn't cause a drainage problem. They want the developer to take a tree inventory and develop a plan with that. The Fire Department requested a 20-foot-wide asphalt strip around the building for emergencies. Those are the recommendation that the Planning Commission made.

Ms. Mary Hada, NRP Group, 5309 Transportation Boulevard, Cleveland, stated that she has been working with the landowner on this site for a couple years. They did a full presentation at the Planning Commission meeting. They have worked with the City to meet all the criteria that was in the application and additional things that they worked out to make this a coordinated effort for the site plan, so the City could move forward with their trail and preserve the green space, but then also do the housing for the seniors, where it's already zoned R-5. Ms. Hada stated that their team is present and available for questions. She stated that it has been wonderful working with the City, and that Mr. Guerra does a very nice job.

Mrs. Pyke asked what company recommended that water be used as a barrier for the lead. Mr. Guerra stated that that was EDG, Environmental Design Group. They are not using water as a barrier. There will be fabric with clay on top of it and that clay will be molded so water can be put on top of it. Mrs. Pyke asked how many parking spaces were available per unit. Mr. Guerra stated that there are 74 parking spaces, so it meets the City's code. Mrs. Pyke asked if there is a guarantee that this will remain a senior complex. Mr. Guerra stated that it is being funded as a senior complex. Ms. Hada stated that their minimum age for the property when they qualify somebody to live there is 55. They do file a restrictive covenant with the County that says that it's going to be elderly housing for 30 years. Mrs. Pyke asked if it was income-based housing and how does one qualify. Ms. Hada stated that they do a landlord reference, credit check and criminal background check on each qualifying tenant. It is 60 percent of the adjusted median income and

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under. Mrs. Pyke asked if the caliper of the replacement trees could be larger. Mr. Guerra stated they really want to do the best thing for screening. It could be some nice fencing. It could be trees in certain locations. Once the property is graded and they see where things are, they will work with the developer. They have a good landscaper working on this project to get the biggest impact. Mrs. Pyke asked how many stories the building would be and how trees would be used to buffer if it's 20 feet below the units. Mr. Guerra stated the buildings are four stories. Ms. Hada stated that they have a sample elevation available. To address some of the concerns they heard at the Planning Commission meeting, they do have a buffering plan. Mrs. Pyke asked if there is any report about the number of accidents currently at the intersection at Pleasant Meadow. Mr. Guerra stated that they do not have any numbers there. Mr. Pallotta asked if there is any design or policy about putting a traffic light in where Wyoga Lake Road and Pleasant Meadow come together. Mr. Guerra stated that was up to Traffic and if it's warranted. The biggest problem with that is in the morning when the buses are out there. Senior housing is going to generate as little traffic as possible, almost the same as if that single family 18 lots were there. A lot of that traffic in that area is generated from other things and not so much this.

Mr. Kenneth Weinberg, NRP Group, stated that have a rendering showing the grade differential at approximately 20 feet, plus or minus, up to 22 in certain spots of what someone would be seeing from the top of the property down. It's a four-story building, but the line of sight is just the top two stories that would be impacted. Mr. Matthew Neff, GPD Group, 5595 Transportation Boulevard, Cleveland, presented an aerial view of the site as it looks today and what they envision it to be. Mrs. Pyke asked if they removed any trees on the hill. Mr. Neff replied that there were trees on the hill that were cut down. It will be structurally filled in at its proper compaction and meet all geotechnical conditions required. There will be some retaining walls as part of the project. Mrs. Pyke asked if the retaining wall is terraced so that there can be planting within that retaining wall. Mr. Neff stated that it was. Mrs. Pyke asked if there was a reason to remove the trees that were on the hill. Mr. Neff stated that that is where the building is going. Mrs. Pyke asked for a copy of the topography of that, along with an overlay of footprint of the building with the retaining walls. Mr. Neff stated that it is not part of this plan, because the terraced retaining wall is planned for Phase II, but he will get that to Council.

Mr. Colavecchio asked if, when they refer to Phase I, they are talking about completion of the 62 units or additional units. Ms. Hada stated that Phase I will encompass 62 units and the clubhouse. Mr. Colavecchio asked if another phase is contemplated. Ms. Hada stated that north of the clubhouse is where Phase II would be. Mr. Colavecchio asked how many units Phase II would contain. Ms. Hada stated that they're estimating between 40 and 60 units, but that would be years down the road. Mr. Iula asked how far the apartment building would be from the condos on Prescott. Mr. Guerra stated that it is 110 feet to the property line and probably about 30 feet off the property line, and then North Point is about 200 yards. Mr. Iula stated that a lot of Prescott residents are very upset, because, one day, they had whole woods full; the next day, there's three trees left. Mr. Guerra stated that he understood that, but they don't own the property. Those trees were going to get cut for any type of development, whether it was this one or single-family homes. Because of this project, they will be able to use the property taxes generated to make some great

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open space adjacent to this with storm water retention. Mrs. Pyke asked if Mr. Guerra was the only one to approve the tree plan. Mr. Guerra stated that was the Planning Department. When they start the process for the ODNR grant, they are going to have some public meetings that residents can participate in. Mr. John Slagter, counsel for the applicant, stated that they appreciate Council's consideration of this. They have worked closely with the Planning Department and the City on this proposal. The changes that have been made and suggested will improve the overall area. There's obviously a level of frustration whenever there are trees next to a home that are modified, but they did comply with all the requirements of the City. This is not a project that requires a change in zoning or other requirements. They meet all the minimum requirements and exceed many of them. They are here to work with the City and reasonably address whatever concerns exist.

Mr. Don Blackford, 3527 East Prescott Circle, stated that he thought that when they elected their leaders, they were supposed to help and protect them and not let outsiders come in and ruin their neighborhoods. His wife called sobbing and crying that they're taking all their trees, and squirrels are running around and they don't know what to do. This was the poorest location for this, because it's ruining their neighborhood. Only one letter was sent from the Planning Commission meeting on the 13th. It just happened to come to their house. The speed and secrecy this project received to be approved and the fast destruction of their virgin woods before they had a chance to respond to it makes him suspect that this is was done deal before anybody could object to it. The hundred-year trees are gone. It looks like Nagasaki after the bomb. The only compensation he and his neighbors want is not to build these buildings. They were there first. They didn't ask any of the residents' opinions of this. That's something that should be changed in the laws. Talk to the people affected. If they don't want the project, then change the zoning.

Ms. Niki Lucas, 3532 East Prescott Circle, stated she was speaking on behalf of the five communities that she visited this week: Prescott Commons, Prescott Green, North Point, East Bath Woods and the Dales. She truly believes that they entrust day-to-day decisions to elected City of Cuyahoga Falls officials who are acting on behalf of the voters and residents, but this decision to build two four-story apartment buildings amid a single and clustered home community has the residents and voters deeply concerned and overwhelmingly unhappy. Collectively, they obtained over 200 signatures on a petition that opposes the building. The construction of the apartment within their community will destroy the peaceful and beautiful view, lower their property values, potentially compromise safety and provide a completely disjointed look. They believe that the desire to obtain tax dollars is completely outweighing any necessity to maintain a consistent or classy look, honor the value of the environment and the animals and appreciate the happiness and support of the residents and voters. They are asking for a collective re-evaluation of this decision, because these buildings do not fit. They are asking their elected officials to assert their power and intelligence and make a way for this to work for everyone. If there's absolutely nothing that can be done, they need buffers, walls and trees. They need a guarantee that this is going to be senior housing.

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Ms. Lynn Divis, 3446 East Prescott Circle, stated that she was an analytical chemist. When she heard about the arsenic and the lead residue, she got really concerned. She specializes in trace analysis, and trace levels of these chemicals can be toxic. She asked what laboratory was used for the lead and the arsenic. Mr. Guerra stated that they use a couple different firms. Both plans were approved by the Ohio EPA and US EPA, so they are confident about that. Ms. Divis asked if she was correct in understanding that the lead and arsenic are not going to be remediated; it's going to be covered. Mr. Guerra stated that if they removed the soil and took it various landfills, it would cost \$2 million to \$3 million. They worked with Environmental Design Group to come up with plan that has both Ohio EPA and US EPA approval. The capping involves keeping the lead in place by putting a clay cap on it with some fabric film underneath that and then, on top of that, putting more soil and then doing some of our storm water retention in that area. It will be all open space. Ms. Divis asked if a study been done about leaching of the lead and arsenic. It won't leach. It just stays in that location. The biggest problem is Mud Brook, because there's a little bit of the lead in Mud Brook. They must stop the creek for a little bit and clean that area out. Ms. Divis asked if the lead and arsenic in the soil are in soluble salt or insoluble salt form. Mr. Guerra stated that they're insoluble.

Mr. Thomas Cargo, 3517 River Rock Drive, stated that he has been in banking for 49 years. For over 37 of those years, he has financed over \$2.7 billion of the projects like what these folks are wanting to do. He has no problem with what they're wanting to do, because they were given a shopping list of what is permissible on that site by the City of Cuyahoga Falls. His issue is the City is literally using these projects as a hostage to generate the dollars to deal with the waste water problem that currently exists. Without these projects happening, the City does not have the money to fund the need to correct the issues that already exist, let alone additional projects that come into the forefront. They can't control what happens in Hudson, Boston Township or Stow. They are downhill from all three of those locations, and water runs downhill. Until they can come up with a comprehensive study and understanding of what other communities are doing in their developmental projects, they are putting a Band-Aid on an open wound.

Ms. Dianne Papes, 3483 East Prescott Circle, stated that she has lived there for four and a half years. She has seen the apartment complex go up at the corner of Bath Road and State Road. She has seen Ryan Homes go in and tear all the trees out in the places where they're now building condos. She has this proposal that's happening in her neighborhood right now. She wants to say that evergreen trees do not replace deciduous trees in terms of cleansing the air. They don't use up as much carbon dioxide and they are not getting the benefits of the trees that were already removed from the area. She would like to know how they're benefiting from this. Mr. Guerra stated that, in the last 40 years, the City has purchased open space to protect it. The benefit of this project is they're giving the City three more acres of open space where the City will be putting the trails and storm water retention. Ms. Pape stated that she has a friend who lives in senior housing and they fight over parking spaces. People that are 55 years old living limited income are going to be working for another 15 years. They're going to be driving a car. Mr. Guerra stated that there are standards that indicated there will be 216 potential trips per day from 62 units; less than typical apartments.

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Mr. James Massey, 288 Hunter Parkway, stated that he has given the members of Council a letter that he sent out to the newspapers. He has been involved with the Muskingum Water Conservancy District in the State of Ohio for about 25 years. He's owned property in Seneca Lake. He now owns property on Atwood Lake. They have a great deal of influence within the State of Ohio. There are 18 different counties and they control one-fifth of the State of Ohio insofar as water is concerned. That includes retention basins, rivers, streams and lakes. They do have authority in Summit County. It runs all the way from Lake Erie down to Muskingum where it dumps into the Ohio River. Mr. Massey stated that he has talked to Judge Hoover, who he has known for 30 years and who has been a judge for a long time. He and Judge Hoover discussed a lot of issues that might come up at this meeting tonight. He asked Judge Hoover what citizens' rights are concerning what the City Council members would approve tonight. Judge Hoover said they have quite a few rights, referendums, or whatever they could put together, but that a referendum in this case probably wouldn't work, because they would need the votes from everybody in the City of Cuyahoga Falls. Judge Hoover told him they can do it if they work hard. They will probably lose, but he said it is possible for citizens that are involved in a situation like this to win these arguments, and they have been done before. Mr. Massey stated that he also spoke with Judge Paul Gallagher, a judge within Summit County. Judge Gallagher also represents Summit County as a judge within the Muskingum Water Conservancy District. When he asked Judge Gallagher what could be done to stop this, he said, because he is a judge, he can't talk to people about what's going to happen. This thing could end up in his courtroom, so he can only go so far, but he said citizens can go against rules, regulations, statutes and ordinances and Ohio Revised Codes. Mr. Massey stated that there are ways that they can either delay it or restructure it or maybe even kill the idea. He stated that the judges he talked to encouraged him that citizens have got to be listened to by Council members and courts. If they think their hands are tied because the zoning regulations say they can do this, that's not exactly accurate.

Mrs. Sharon Blackford, 3527 East Prescott Circle, stated that her concern is the schools. If they continue to keep building these high-rise apartments and senior complexes, statistics show that those residents do not support school levies. They have no vested interest in the community. The schools are in desperate need of help. She doesn't think a levy will pass with all those renters.

Mr. Frank Phillips, 3517 East Prescott Circle, asked how many additional vehicles there would be. Mr. Guerra stated that, based on calculations using 62 units, there will be 216 cars. It does create more traffic, but, in comparison to other developments that are going in there, it creates less traffic. Mr. Phillips stated that it's going to create too much traffic. Ms. Renee Nist, 3477 East Prescott Circle, stated that she would like to remind everyone about the wildlife in the area. They are connected to Cuyahoga Valley National Park, which is very close. They have many animals that come up to their area from the Valley. With tearing down the trees and changing the environment, they have disrupted the habitat of the area of the National Park. This area needs to be preserved.

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Ms. Martha Meadows, 3479 River Rock, stated that, for 10 years, their Association Board has tried to get some assistance from the City regarding increasingly heavy rain water runoff. Their Homeowners Association has spent thousands and thousands of dollars to try to control the vast volume of water flowing from the north. They put in a catch basin at their expense. They maintain the creek to keep the water flowing at their expense. They even put in an underground septic system. They have had zero assistance from this City. Had the City officials, elected or otherwise, visited the north and northeast border of North Point during or after the rains last Friday, they would have seen a 12-foot wide swath of fast-moving water. It is getting worse. Without even looking at the existing problem, they want to add more impervious surfaces and more retention ponds that are going to, quote, trickle into Mud Brook. They are aware of the need for more tax monies that will benefit the City, but they desperately need the City to address, in concrete ways, the dangerous and increasing water problem. Now that the trees are gone, now that the habitat has been taken away, now that there are acres of standing water, the mosquito problem is going to be serious in this area.

Mr. Iona stated that he would like to thank everyone for coming tonight. He has deliberated about this a lot. When someone owns private property in the United States, in Ohio, in Cuyahoga Falls, if they meet the Planning and Zoning requirements, they can do what they want with it if it meets those requirements. He is on the Planning Commission. The Planning Commission simply says it either meets the requirements or it doesn't. As demonstrated by the presentation given earlier, this project meets the requirements. What the Planning and Zoning Committee must do tonight is to vote whether this goes forward or not. Next week, the full Council will vote. There are other remedies they can seek if this ordinance passes. He doesn't know how effective they are. That's something for the public to decide.

Mr. Rubino moved to bring out Temp. Ord. B-25 with a favorable recommendation, second Mr. Iula. Motion passed (3-0).

**Temp. Ord. B-26**

An ordinance accepting the Planning Commission approval, findings and conditions of the site plan for the construction of a 28,437-square foot warehouse and parking lot expansion at 89 Cuyahoga Falls Industrial Parkway and on Parcels 35-06268, 35-06252 and 35-05933, and declaring an emergency.

Mr. Sugar stated that this is also a major site plan. It's Roadrunner Transportation on Cuyahoga Falls Industrial Parkway. There are two main improvements. The first is a warehouse addition, which is 28,000 square feet. That warehouse addition is going to be located on the western edge of the current building and it's going to match the existing exterior. It's a block-and-metal building. There also will be a couple parking areas. These will be both for semi-trailers, as well as employees. Recommendations were made that would require a lot consolidation be performed to create an all-in-one lot once this is developed. The parking areas will be fitted with curbs per Section 1145.03 of the General Development Code. Also, additional planting shall be added around the east parking area per Section 1145.08 of the General Development Code regulating



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landscape design. With that, the Planning Commission found that the proposed improvements met our requirements and approved File MSP-17-00005 with those stipulations.

Mr. Iula moved to bring out Temp. Ord. B-26 with a favorable recommendation, second Mr. Rubino. Motion passed (3-0).

The meeting adjourned at 8:12 p.m.