

Cuyahoga Falls City Council
Minutes of the Planning & Zoning Committee Meeting
September 2, 2008

Members: Diana Colavecchio, Chair
Kathy Hummel
Ken Barnhart

Mrs. Hummel called the meeting to order at 6:15 p.m. Mrs. Colavecchio was absent.

The minutes from the June 2, 2008 and July 21, 2008 meetings were approved as submitted.

Legislation Discussed:

Temp. Ord. A-76

Discussion

Temp. Ord. A-76

An ordinance authorizing and approving the site plan and conditional zoning certificate for development of an 11,954 square foot retail facility at 1841 Bailey Road in an MU-2 neighborhood center district and declaring an emergency.

Mr. Guerra distributed copies of the revised stipulations based on comments received at the previous committee meeting. Specifically, under "Site Plan Improvements," there must be 100% opacity screening adjacent to residential uses. A revision was also made under "Conditional Zoning Certificate" stating the patio must be no larger than 800 s.f. and must be screened from the parking lot with a five foot fence and landscaping. The fence and landscaping must provide a year around 75% opacity. These changes meet all code and zoning requirements. Mrs. Ritzinger asked what the developer would be using for fencing around the patio or would he be putting in mostly landscaping. Mr. Guerra stated the developer had not yet decided but as long as there was 75% opacity, it didn't matter.

Hugh Gary, 1873 Dwight, felt that a fence from the parking lot to the bank would help block noise. The lighting continues to be an issue for him. There is still a temporary light that was put up during the bank construction that shines over the neighborhood. He also asked who would be responsible for mosquito control due to water in the new retention basin. There is already one behind the video shop that has water all the time. It does not drain. Mrs. Hummel asked whether there was a requirement in the code regarding the fence Mr. Gary was referring to down the east side. Mr. Guerra stated there was not. He stated during first part of the development, they put up mound arborvitae which is a much better screen than a fence would be. He added that the trees that had died have been replaced. They want to protect what exists today.

Carrie Madden, 1810 Chatham Street, stated she owns a lot that butts up against Dwight. She indicated she and other residents had several concerns. The arborvitae died from lack of watering. They were put in during the high heat of summer and no one watered them. There was concern about mosquitoes breeding in the standing water that does not drain out of the retention ponds and there were questions as to who was responsible for mosquito control. She asked if there was any alternative to a retention pond and wondered if a rain garden similar to the one on 6th Street could be used instead. On August 14, there was a lot of rain and the area flooded. That had never occurred prior to the development. She also asked whether the church has been notified that a tavern was being put in. She questioned whether a different design could be done of the building and was also concerned about the type of sign that would be used. Mrs. Hummel stated with regard to a change in design that it was common practice for a public hearing to be held at a Planning Commission meeting. That did occur and a few changes were made since then. It is a property owner's right to build

what they want as long as it meets the Code. Mr. Guerra stated with regard to signage that each business would have a sign and there would also be a monument at the Bailey Road entrance. The Code is very specific on signage requirements. Regarding the arborvitae, there is a chance the root system will die if a fence is put in. He stated that the Code requires storm water best management practices. The developer is going with a natural pond and it is not something that will have water in it. The only other option allows underground storage. The pond will be more natural. According to the Code, the developer cannot create any more run-off than what is already there. When the retention basin is in, it should take care of the problem. With regard to mosquito control, he indicated that would fall under the County and he was unsure how the County handled that. Ms. Madden questioned why the patio had to be 800 s.f. She stated the Cashmere Cricket had an outside patio that was much smaller and seemed to work well. Mr. Guerra stated they wanted a little larger patio in case people wanted to eat outside during the day but added that it has not yet been decided that the patio will be that large. Ms. Madden was concerned about alcohol being consumed on the patio. Mrs. Hummel stated that one of the things addressed by the conditional zoning certificate is that no alcohol or music entertainment can be on the patio. That is required for a bar. If a restaurant were to go in, they can serve food. This condition is in place for this bar and future bars. She added that when an entity applies for a liquor license, it must show to the Department of Liquor Control and the police what the boundaries are in which it will serve alcohol. The City is saying "no" to the patio. She stated the language can be changed to reflect no alcohol "served or consumed." She added that the Church would be notified as part of the liquor application process and can object at that time if it wants. Ms. Madden stated the neighbors would like to restrict deliveries and dumping of trash to between 8:00 a.m. and 9:00 p.m. only. Mrs. Hummel stated that business owners are at the mercy of deliveries and cannot always request specific times. With regard to noise created by dumping of trash, she suggested the neighbors talk to the owner. The City cannot control that issue because it is not a conditional use. The City is only able to control this business because it is a bar. Ms. Madden asked if there were any other tenants for the plaza. Mrs. Truby stated it is listed with a broker and there has been a lot of interest so the developer would like to get it started. Ms. Madden was concerned about the potential of yet another vacant building standing in the City.

Mr. Reghetti, 1515 Treasch Drive, stated there is supposed to be a street between the bank and the property and asked if one would be put in. Mr. Guerra stated if there were once plans for it, it was apparently never built. Mr. Reghetti stated it was supposed to go from Bailey to Sedro. Mr. Guerra stated there is no street. Dwight did not want to be connected with the development so it is a dead-end street. There are three parcels: the bank, the proposed building and Family Video. He asked if Mr. Reghetti was talking about Oneida. He stated that is all private property now so the only way the City could put in a street was to purchase property. Mr. Reghetti stated people have built buildings over a gas line. Mrs. Hummel stated they would have built them on easements and if the utility companies were to need to get to their lines, that will be a problem for the resident. With regard to previous plans for the street, she stated if the property is in private hands, it does not mean the street will be built. Whoever owns the property now does not want a street there. Mr. Reghetti stated that is not right because his property is at Treasch Drive to Oneida and is blocked in. Mrs. Hummel stated he would have to talk to Mr. Guerra about not having access to his property. It would also depend on what his deed says. She suggested Mr. Reghetti take his deed and any other paperwork he has to Mr. Guerra.

Diane Kempton, 1785 E. Bailey, asked for an explanation about the trees. Mr. Guerra stated the three that are there now will remain. Where there are no trees, there will be a six foot fence and every 16 feet will have a brick/stone column. Where there is no arborvitae, there will be a fence. Mrs. Kempton was concerned about residents who would look out their window and see a fence. Mr. Guerra stated it is going to be a very nice fence and similar to the one at the condos on E. Bath Road.

Mr. Gary asked how many square feet the bar was and would it be able to expand. Mrs. Hummel stated the bar could expand to one additional unit for a total of 1,700 s.f. Mr. Gary stated another problem residents had was that trash pick-up at the video store occurred at 3:00 a.m. to 4:00 a.m. He felt that was way too

early. Mrs. Carr stated the City has an ordinance that regulates times. If someone would give her the name of the hauler, she will get it handled.

Mike Walden, 1855 Dwight, stated he went to the bar in Cleveland and found it to be a nice place. There was a nice t.v., and the atmosphere was fine. At the present time, the bar here does not look like it will be a problem. He checked the owner's past history with Liquor Control and found two violations that were taken care of. They were minor and had nothing to do with music. He did not think the patio for smoking needed to be so large. His concern, however, is where the owner is going with this. He already has a nice tavern in Cleveland. He acknowledged Mr. Weeks has a right to go anywhere but he thought it seemed odd that Mr. Weeks was hooked up with a builder in Cuyahoga Falls. He stated that the pond behind Family Video has water and trash and one reason it backs up is because the trash covers the sewer so water cannot drain down. Family Video does not take care of its property. The trash container is never totally enclosed. They also use rocks instead of grass in the devil's strip and every time it rains, rocks wash onto the sidewalk which makes it hazardous for pedestrians. He felt if an edging was put in, it would help to keep the rocks on the devil's strip. He stated this developer has owned the property for quite a while and had let it go allowing weeds to grow, trees to die and a dumpster that never got emptied so it was overflowing. However, when it came down to this project and after complaints from the neighborhood, suddenly, everything is being taken care of. He hopes they will keep the property up and not let it go like Family Video has. He felt the City seemed to be building new buildings when there are vacant ones available. He wondered what direction the City was taking with all of the empty buildings. Is it going to build new buildings and not require tenants. Why not direct people who want to build towards the empty buildings? He does not have a problem with Mr. Weeks putting in a tavern and hoped it will be run the same as the one in Cleveland.

Mrs. Hummel stated she appreciated the comments about the rocks at Family Video. That will be remembered in the future on other developments. Mrs. Truby addressed Mr. Walden's comments concerning vacant buildings. She stated it is the same situation throughout the County. They cannot deter someone's property rights. When people come to the City with a \$2 million development, the City will work within its code and regulations to make the development the best it can be. They also point people who contact the City regarding office and retail space to empty locations. Mr. Walden stated he did not understand why developers move further and further into neighborhoods vs. staying in town. Residents can go from their homes into the town. They do not need the town coming to them.

Mrs. Hummel asked whether the language in (1)(b)(i) was specific enough to deal with expansion of this use. If the bar expands to another store front in the building, would the City need another conditional certificate. Mr. Arrington stated this language allows a conditional zoning certificate at this location. If the business expands, the owner will need another conditional zoning certificate. Mrs. Hummel stated the current proposal was based on comments made and suggested an amendment to the last sentence to indicate there will be no alcohol served "or consumed".

Mrs. Klinger stated she had received an email from Mr. Malden and asked him if he covered everything that was in his attachment because she was unable to open it. He stated he did.

Committee recommended bringing out Temp. Ord. A-76.

The meeting adjourned at 7:22 p.m.