

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

January 3, 2023

Members: Susan Spinner, Chair
Jerry James
Adam Miller

Mrs. Spinner called the meeting to order at 6:49 p.m. Mr. Miller was absent.

The minutes of the November 21, 2022 Planning & Zoning Committee were approved as written.

Legislation Discussed:

Temp. Ord. A-125

Discussion:

Temp. Ord. A-125

An ordinance approving a zoning map amendment for property located at the intersection of Clyde Avenue and Buchholzer Boulevard, from C-1, Commercial to R-5, Mixed Density Residential, and declaring an emergency.

Mr. Adam Paul, Senior Planner, presented Temporary Ordinance A-125 to Council. Zoning Map Amendment (Section 1113.07 Zoning Map Amendment) – Parcel No. 0220528, at Clyde Ave. & Buchholzer Blvd. from C-1, Commercial to R-5, Mixed Density Residential. Applicant/owner Antonio Pilla is requesting a zoning map amendment, from C-1, Commercial to R-5, Mixed Density Residential in order to construct up to 40 townhomes dispersed among nine buildings.

The existing C-1, Commercial District is a commercial district providing for small-scale and large-scale commercial uses, which rely on high automobile accessibility. rural, suburban, or urban areas. The requested R-5, Mixed Density Residential is an urban residential district integrated into other mixed-use urban environments and buffering lower-density neighborhoods from busy corridors, characterized by a range of dwelling types, smaller lots, and high pedestrian connectivity.

The surrounding area is characterized by existing C-1, Commercial immediately south of the site and by R-5 multi and single-family developments immediately to the West, North, and East of the proposed development. The R-5 proposal does not conflict with the goals of the General Plan or with adjacent zoning districts. The proposal is generally in accordance with the requirements of the proposed zoning district, associated plans, planning area development patterns, and proposed uses. Planning Commission Review and Recommendation

At the November 1, 2022, Planning Commission meeting, the Commission members voted to recommend approval of the Zoning Map Amendment for Parcel #0220528- Clyde Ave. from C-1, Commercial District to R-5, Mixed Density Residential. The commission found the application to be consistent with the criteria established in Section 1113.07 D. Map Amendment Review Criteria based on review and findings associated with file MAP-22-00041 The subject parcels is currently

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best described as vacant but does have infrastructure related to past development activity. According to City Engineer Tony Demasi, “An existing underground storage and water quality system for the Trinity Square Development (Walgreens, Five Guys, Moe's, etc.) is located within the southerly 40-feet of this property.” Mr. Demasi further explained that “this parcel, and the Walgreen parcel, were once a landfill. In order for the Walgreen project (which was called Trinity Square) to proceed, the developer worked with the Ohio EPA to obtain a Rule 13 authorization. The Environmental Covenant for these two parcels was issued by the OEPA in 2011. This authorization not only allowed for the Walgreen project to proceed, but also stipulated limitations to what can be built on these two parcels. In particular, Section 5 of the Covenant states that only commercial or industrial land uses are permitted, as defined in the OAC.” The developer discussed the background and testing and review process with Planning Staff and provided documentation and contact information for the Project Manager that worked with Ohio EPA on resolving this matter. An Amended Covenant Not to Sue (CNS) for the Trinity Square Redevelopment Property (09NFA355) was issued by the Director of the Ohio EPA in August of this year. The CNS allows for “Restricted Residential Land Use” which simply means “no basements.

Mrs. Spinner stated Council has conducted a public hearing and have had details provided for them. She asked if it is possible that these townhouses might serve as a buffer from some of the commercial traffic that is in that area.

Mr. Jonathan Novak, Director of Design, Onyx Creative, 2500 Emery Road, Cleveland, Ohio, 44128, stated that that townhouses will be a nice addition. He believes there is a buffer between a lower-density residential and a higher function like commercial. He does not think that 40 units will generate a lot of noise. There are some positive attributes in the design that would contribute to noise abatement.

Mrs. Spinner stated that if this legislation is not passed, the property would remain commercial and more business and more traffic could be in that spot.

Mr. Novak stated that he would agree that this is the lesser harm to the neighbors in terms of its use. He would not want that parcel to be zoned commercial. That would be its least-best use and moving it to R-5 its best use.

Mr. Balthis inquired about the additional EPA testing that needed to be done in order to ensure that it was appropriate for residential development.

Mr. Antonio Pilla, Applicant, 1151 North Ridge Drive, Novelty, Ohio, stated that when they purchased the property, they hired an environmental company that had worked with the Ohio EPA for quite a few years. They had to file a form and application to get the okay for residential. They had to drill holes in the property, have the land tested at a lab and send the results to the Ohio EPA. The same process was done years ago by the developer of the Walgreen's building, and it passed then, too, but the Ohio EPA wanted them to go through the process again just to make sure that the land is not contaminated, and it was not. What the EPA gave its approval for is restricted residential with no basements, not because it is contaminated, but for safety reasons. They are okay with any building on concrete, covered with asphalt or with two feet of dirt on top of it. They sent

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to form to EPA, who reviewed it and made some changes. Both parties have signed it, and it has been recorded.

Mr. Balthis thanked Mr. Pilla for his answer and all the work he did to make sure everything is safe. He then asked what the City's involvement has been in the process. Mr. Tony Demasi, City Engineer, stated that when the previous development was put in, that developer knew, at that time, he was going to put in commercial. Going through the Rule 13 process, which is the process through the Ohio EPA when a landfill is found, ended up with a covenant on the property that said development could occur as long as it remains commercial and not residential. When this current purchase was made, a revision to that covenant was requested by the developer of the property to the EPA to revise the covenant from commercial only to restricted residential with no basement. It was a revision of the covenant on the northern part of the property. The southern part of the property still has the commercial-only covenant. It is a journalized covenant that is recorded with the parcel and can be found on the Summit County website.

Mr. Stams asked if the City is satisfied with the testing that has been conducted on site. Mr. Demasi stated that the EPA issues the covenants and the approval. The City is not involved. Mr. Stams asked why the EPA made the no-basement restriction. Mr. Demasi stated that it was because of the gases that might come up that are inherent to landfills, such as methane.

Mr. Stams asked if the testing has occurred on this site and if they tested the whole area. Mr. Pilla stated that the environmental company that was hired worked with the Ohio EPA to drill 12 test holes throughout the property. The EPA told them where to drill holes and to check all corners and the center. This was the second time it was done. When the first developer did the testing, it turned out okay, but the EPA asked that they do it again. Mr. Stams thanked Mr. Pilla for being present and answering his questions.

Mr. Brillhart asked how long ago a landfill was located there and was the EPA test considered a Phase 3 test. Mr. Pilla stated that he does not know if it was Phase 3 test. The EPA said it was a brick factory 70 or 80 years ago, and then a church bought the property. Mr. Brillhart asked if these townhouses are going to be rental units or owner occupied. Mr. Pilla stated that they are market-rate rentals.

Mrs. Penta stated that there are 40 units, and, if each unit has two cars, that would be a lot of cars in that area. That area was used as a cut-through to walk through the woods to get to Best Buy or Target. She asked that the be mindful of the residents that are currently there with privacy and lighting. She knows the City, the Planning Commission and the Planning and Zoning Committee will do everything they can, as they have with other projects throughout the city, to accommodate and be open to ideas for improvement. She wants to make sure they are keeping that line of thought with this project.

Mr. Novak stated that that is a legitimate concern. As they were doing the design phase, they included is a center space to create public space and sidewalks to encourage connectivity. It is not an enclave that is distinct and separate from the community.

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Mr. James moved to bring out Temp. Ord. A-125 with a favorable recommendation, second by Mrs. Spinner. Motion passed (2-0).

The meeting adjourned at 7:03 p.m.