

**CITY OF CIRCLEVILLE
PLANNING AND ZONING COMMISSION
104 EAST FRANKLIN STREET
CIRCLEVILLE, OH 43113
(740) 477-8224**

Wednesday, January 7, 2015
City Hall Council Chambers

MEETING MINUTES

MEMBERS PRESENT

Al Sedlak
Don McIlroy
Mike Combs
Marsha Griebel Graham
Terry Leasure
John Ankrom
Bob McCrady
Valerie Goeller, Clerk

VISITORS PRESENT

See Attached List

Chairman Al Sedlak called the meeting to order at 6:00 p.m.

The first item on the agenda was a Public Hearing scheduled from 6:00 p.m. to 6:15 p.m. As requested by Michael Logan, 323 Meadow Lane, Circleville, agent for Thelma and Paul Cox, 225 Moats Drive, Circleville, to rezone property located at 225 Moats Drive, from Special Use District to GB, General Business District.

Al Sedlak stated the public hearing is for the opportunity for any proponent and any member of the public to speak on the matter to give us your viewpoint. We have allotted 15 minutes for the public hearing. At the end of the public hearing we will recess and then open the formal agenda of the meeting. There are a few administrative items on the agenda first and then we will proceed with the matter as set for the public hearing. The P & Z Commission's role in the matter of a rezoning is to make a recommendation to City Council. We do not make the final decision, only the recommendation to either approve or disapprove. I would ask that the commission members not comment or express an opinion during the public hearing portion. This is an opportunity for the public to be heard. If you want our input, when we get to the formal agenda where we are discussing and considering this I'm sure many of us will have opinions and questions.

Mike Logan, 1173 North Court, Circleville was sworn in and stated the property at 225 Moats Driver is currently zoned Special Use. It is a commercial zoned property and most recently used

as a daycare center. You should have a map in front of you that includes the building. It sits very close to the back property line, maybe there is 6' to 8' between the back of the structure and the back property line. There is very little frontage. It could have been a house at one time, but I know previously it was used as a church. It is located across the street from commercial property and the road is wider than a normal residential street. It is in contract to close on the 13th of January to be used as a professional office building. I was informed by Mr. Ankrom that it could not be used as a professional office because it was not zoned that way and that a change in the zoning would be required.

Al Sedlak stated for clarification we have a drawing and it shows the building is located on Lot 15 of the Joseph and Francis Moats Lover's Lane Subdivision. Is the rezoning request just for Lot 15 or does it also include Lot 28 on the corner and Lot 27 which is to the immediate north on Nicholas Drive?

Mike Logan stated all three lots are currently owned by the Cox. All three lots are in contract to be sold. There is confusion as to the two residential lots on Nicholas Drive. The city says they are zoned residential and the county says they are zoned commercial. Valerie, did we request to have all three lots changed?

Valerie Goeller stated no, only 225 Moats Drive.

Marsha Griebel Graham stated the county zoning is how the property is taxed.

Mike Logan stated so they are paying commercial taxes on them even though they are residential lots.

Don Greeno, 143 Nicholas Drive, Circleville was sworn in and stated there are three or four issues on this deal. If it's zoned General Business, what kind of business is going to go in there?

Mike Logan responded it is a CPA Firm and they will employ 15 to 20 people.

Don Greeno stated that is pertaining to Lot 15. These lots are residential and they have been that way for years. Are they included in this property?

Al Sedlak stated that is what I just inquired from Mr. Logan and they are not. The request is only for Lot 15.

Don Greeno stated it's about spot zoning. I can remember the Jehovah Witness Church on Nicholas Drive. A doctor wanted to put in an office there and they said no spot zoning and no business. What's the difference now? My other question is, you have only one way coming in Nicholas Drive. That intersection will not hold business traffic. You come out of there and if you want to go to Lancaster you have to wait to get in and if someone wants to get into Moats Drive you would be surprised at the number of accidents that happen there or near accidents.

It's because of the traffic stopped to turn there and you are coming around the corner and can't see for the traffic stopped going southbound.

Al Sedlak stated where do you live in relation to that intersection?

Don Greeno stated I live on Lot 25.

Al Sedlak stated you are three or four lots from the corner. Your perspective is different because you are a few lots from the corner opposed to living on the corner of Clark and Nicholas Drives. You are very close.

Don Greeno stated I have talked to my neighbors. One couldn't be here and he lives directly behind that property and he is opposed to it. I talked to several of my neighbors and no one wants a business in there. It's residential and that's what they want it to stay and they don't want spot zoning.

David Greeno, 24295 Huber Hitler Road, was sworn in and stated I own the property at 139 Nicholas Drive which is right next to the two vacant lots. They are saying they are going to employee 15 people in this building; how are you going to handle all the parking in that area?

Mike Logan replied I am not aware.

Rich Vannatta, 977 W. Broad Street, Columbus, Ohio was sworn in and stated I am the agent for the buyer. They are an accounting firm, not a big office. They would have five to eight employees. They don't have high volumes of traffic. They mostly have commercial clients. They send information in or drop it off. The accountants do the work and they mail out their various tax forms. It's not a high volume, lot of traffic in and out, you get several months out of the year where there is virtually no activity other than employees doing the day to day accounting on different accounts. They are actually joining several firms in town into one firm. They are employees here in Circleville moving there. The traffic leaving there would go north to Nicholas Drive and out to the light. What minimal traffic that would be.

John Ankrom stated do you know how many square feet the building is?

Rich Vannatta replied about 1,500 square feet on the first level and currently there is an apartment in the basement. They would utilize the basement for storage.

John Ankrom stated how many parking spots are on the lot itself?

Mr. Vannatta replied a good six to eight parking spots on the lot. I did not count them. There is a storage building that takes up one and half or two parking spots. We assume the seller will take the storage shed with them. There could be parking in front of the building on the street.

Mike Logan stated the County shows 2,248 square feet. There will be a lot less traffic than what exists with the daycare. Spot zoning to me would be zoning a property that is not adjacent to other consistent properties. This is not spot zoning, there is commercial zoning across the street which is adjacent. I heard that term spot zoning earlier today and I guess I would like a definition for spot zoning. I thought it was when you zoned a property that didn't have any relationship or touching another property that was zoned like that. This is not spot zoning.

Al Sedlak stated it is a less legal term than just general jargon. It can mean different things to different people. Some people would consider this spot zoning if it's approved and some wouldn't because it's adjacent.

Mike Logan stated but it's already a commercial use. I would like a definition of how this is spot zoning. I don't want to argue with the neighbor, but I question how this is called spot zoning.

Don Greeno replied to Mike's comments. He is talking across the street is commercial and I agree. That is where the line draws. It doesn't say you come across the street and it's commercial. If you do, you might as well come on up and buy my property. Because I will raise hell until I die. I am 75 years old and I won't put up with this crap. If someone is going to tell me that they are going to do what I don't want them to do without my say they better take a hike!

Al Sedlak asked for additional comments from the public. No additional comments were made and the public hearing was closed at 6:15 p.m.

The first item on the regular agenda was approval of December's meeting minutes. Don McIlroy motioned to approve the minutes as submitted, seconded by Bob McCrady. All yeas, motion carried.

The next item on the agenda was election of 2015 Officers.

Bob McCrady motioned to nominate Al Sedlak as Chairman, seconded by Terry Leasure. Bob McCrady moved to close the floor to other nominations. All in favor of Al Sedlak remaining Chairman.

Don McIlroy motioned to nominate Marsha Griebel Graham as Vice-Chairperson, seconded by Terry Leasure. Bob McCrady moved to close the floor to other nominations. All in favor of Marsha Griebel Graham remaining as Vice-Chairperson.

Service Director, John Ankrom will remain as Secretary and Valerie Goeller will remain as the Recording Secretary.

The next item on the agenda was to vote on a recommendation from the public hearing to forward to City Council.

Al Sedlak stated this Commission has had a history with this parcel of real estate. When most of us came onto the Commission there was a church at this location. Churches along with several other types of facilities such as schools and nursing homes tend not to be situated in commercial or retail areas. They tend to be interspersed among the community and so they have a special zoning classification. It used to be called Community Facility (CF) District and when the Zoning Code was updated in 2009 the name was changed to Special Use (SU) District, but it is the same thing. You don't generally see churches in business districts. They are typically scattered around the community and this parcel was given that designation because it was historically used as a church. At some point the use of a church had ceased and a request came before the city to approve a child daycare center in that facility. A child daycare center is a use that fits into the SU District. The SU District is unique in that all the uses are considered as Conditional Uses. In order for someone to use something in a SU District they have to come to this Commission to get a Conditional Use Permit. If someone wants to change the use from one that is allowed in the district to another they have to come to us for a Conditional Use Permit. May of last year we had a request for another Conditional Use Permit to change the use of this parcel from a child day care to an adult day care facility. Many of the issues discussed at the public hearing tonight was also brought up that time. We approved that request, but I don't think that use was ever put into place. The request we have now is to change it to a General Business (GB) District. The GB District is a very broad zoning classification for many kind of businesses. Unlike the SU District if a property is given the GB District classification and it's presented to us that it will be used as an office with X amount of employees, that is not a condition or restriction. If City Council approves this recommendation or the request and rezone it to GB District it can be used for any permitted use in the GB District without the matter coming back to this board and without any notice to any of the adjoining property owners. (Al read Section 22.02 Permitted Uses in the GB District) If City Council approves this request it can be used for any of these purposes I just read. This property is located on the north side of Moats Drive and the properties on the south side of Moats are already zoned GB District. I believe there are three properties. The gas station, Goodwin's Restaurant and Sheiber's Pharmacy each of those businesses front on Lancaster Pike with the lots extending back to Moats Drive. Each of those businesses have a driveway that comes from the back of the business out to Moats Drive.

Bob McCrady stated they don't have the 50' required setback.

John Ankrom stated that is the setback for new structures. If you want you could take that into consideration. That might weigh into your opinion. If it was a new structure they would have to maintain the 50' or vary it.

Don McIlroy stated can we put a condition that it can only be used as office space?

Al Sedlak stated I would say no. We aren't making a decision we are making a recommendation. Our recommendation would be Yea or Nay.

John Ankrom stated it does read under Amendments that our recommendation could be one of three things. It reads it can be approved as requested, approved with modifications, or be denied. What does approve with modifications mean? Does that mean with a condition? In our zoning any time the use is changed in a building it requires coming back into the P & Z Department. If a professional office came in and in the future they wanted to change that use they would have to come back into our office to secure a Zoning Permit. They wouldn't have to come before this Commission again.

Rich Vannatta stated that makes a lot of sense. Even if this Commission or Council would consider this a Special Use we wouldn't be opposed to staying in the same category calling it an office and that's the only use it can be used for.

John Ankrom stated but an office is not listed as an allowable use in the Special Use District.

Rich Vannatta stated but there are offices listed such as doctor offices allowed in the SU District. It is a broad category as I recall.

John Ankrom stated there is no category here that fits a professional office. I go back to amending it with modifications. I don't know what all that means.

Al Sedlak stated modification not to the use, but maybe the technical aspects of the requests. We have had a number of rezoning request, but I don't think we have ever done that. It is usually yea or nay. I am uncomfortable recommending something with restrictions that we can't impose on a General Business District Parcel. What they are asking for is a permitted use.

Mike Logan stated going back to the permitted uses in the GB District. There could not be a drive-thru on that property and there wouldn't be a liquor permit issued on that property. I'm trying to understand your reluctance in the uses for GB District. That property does not lend itself to many of the allowable uses. It isn't possible. You couldn't make it a car lot, it isn't possible. What is left is a bank or an office that is possible. The laws that restrict what could be there outside of the code, the property would restrict any future negative use to that property and it's already zoned commercial.

Al Sedlak stated General Business and Special Use Districts are different things.

Mike Logan stated Commercial/Special Use. They are paying commercial taxes.

Al Sedlak stated we take a lot of care and attention to the zoning classifications. There have been discussions about spot zoning. Special Use District's by their very nature are examples of spot zoning. You have a church in the middle of a residential neighborhood that is spot zoning.

Mike Logan stated but when you have adjacent zoning it is not spot zoning.

Al Sedlak stated correct, that makes this a little different.

John Ankrom stated in my opinion this isn't spot zoning because it abuts a GB District and you can extend those zones across public right-of-way which is what Moats Drive is in this case. Our Zoning Code from the parking perspective is you need one spot for every 300 square feet of building. The gentleman indicated it was 2,200 square feet so that is around eight spots that are required to be on lot. The drawing Mike submitted showed it just over 2,000 square feet. So either seven or eight lots will be required if that is going to be a professional office. They will also have on street parking.

Al Sedlak stated it is my feeling that any modifications or changes should come from the proponent. Mr. Logan, do you want to address this or proceed as your request is submitted.

Mike Logan stated we have no problem with a condition that it would be used as a professional office building only. We would be happy to put a deed restriction on it.

Al Sedlak stated that is a legal matter and not appropriate.

Mike Logan stated a deed restriction would be tough to get around.

Marsha Griebel Graham stated I suppose you could but deed restrictions are only as good as those in a subdivision. We don't have the enforcement power and it becomes a civil issue.

Mike Logan stated for protection we would be willing to offer that.

Don McIlroy motioned to approve with the modification that it can only be used for professional office use only, seconded by Bob McCrady. VOTE ON MOTION: AL SEDLAK, NAY; DON MCILROY, YEA; MIKE COMBS, YEA; TERRY LEASURE, YEA; JOHN ANKROM, YEA; MARSHA GRIEBEL GRAHAM, YEA; BOB MCCRADY, NAY. 5 YEAS, 2 NAYS, MOTION CARRIED.

Al Sedlak stated I want to explain why I voted against it. Over the years we have had people want to establish a retail business in a residential neighborhood and we uniformly and consistently denied those requests. I realize this is across the street from commercial properties, but it is still a residential use and a bad precedent to recommend changing something in a residential neighborhood to a GB District.

Don McIlroy stated I voted yes because I have talked about small business growth since day one that I came in to office. If we want to continue to attract business in our community we have to start with small businesses.

Marsha Griebel Graham stated I agree with Don. I am a big proponent of small business, I own a small business, and a big proponent of the P3 Board.

Bob McCrady stated I agree with Al we have to protect the residential community.

John Ankrom stated under GB District, permitted uses, there is a whole series of categories. Are we limiting it to one specific category? When you say professional offices it could fit into a couple different categories. A. is Administrative and Business Offices. Under Business Services it includes consulting services.

Don McIlroy stated any professional office.

Al Sedlak stated the next step is Council's Public Hearing. Notices will be given and each of you can attend the meeting to have your voice heard.

Al Sedlak stated there is a slight change in the agenda to accommodate someone's work schedule.

The next item heard was a Lot Split, as requested by Ohio Power Company, 1 Riverside Plaza, Columbus, for Cargill Inc., 15407 McGinty Road West, Wayzata, MN to divide property located at 315 West Mound Street, in an area zoned LI, Limited Industrial District.

Russell Cowley, 1 Riverside Place, Columbus, Ohio was sworn in and stated I am the Real Estate Representative for Ohio Power Company/AEP. My job is to buy property designated by distribution or transmission. To my knowledge this property will be used for an expansion and upgrade of an existing facility. It will be upgraded to protect and serve the city of Circleville. You will have plenty of power for years to come.

Al Sedlak stated reading the legal descriptions and trying to match them up with the plat it appears that the first parcel 4.779 acres includes two lots designated on the plat as A and B. The second parcel of 3.844 acres includes the same area, but without parcels A and B. I'm not clear why they are overlapping.

Mr. Cowley stated you have a breakdown of each tract. This is an Alta Survey that we got from Central Surveying. It is broken down by each tract in different areas. What we are buying from Cargill is 4.77 acres. There will also be an agreement with us and Cargill for a 100' right-of-way strip on the southwest side running along beside Route 23. This will all be connected eventually with the Chillicothe area coming this way from Pickaway and Ross County. We are upgrading both Circleville and Chillicothe.

Al Sedlak stated the 4.779 acre description includes the three subsequent descriptions.

Mr. Cowley replied correct.

Al Sedlak stated you want us to approve the creation of the three smaller lots out of the larger one you are getting.

Mr. Cowley replied yes.

Al Sedlak stated is there frontage?

John Ankrom stated what is the current disposition of the AEP site? Where there is a substation on the corner of Mound Street and the off-ramp of Rt. 23 has frontage on Mound Street. Is AEP retaining the existing substation site?

Mr. Cowley stated yes, but it is being expanded.

John Ankrom stated as long as they retain ownership they will have frontage.

Mr. Cowley stated this is in addition to. There is an access easement that runs along Rt. 23 it is a 100' x 600' right-of-way strip that will also cross over Rt. 23. I am not 100% sure of that, but that is how I understand it. Once it crosses over Rt. 23 it will then go south into Ross County.

John Ankrom stated that must be the new overhead transmission line that is coming in.

Mr. Cowley stated probably, but I am not familiar with that.

Al Sedlak stated is there anything left of Canal Street?

John Ankrom stated we don't know if it's still owned by the city or not. The ownership of the right-of-way is something being researched. The Railroad Commission has been in town investigating some closure of existing railroad crossings. Part of that task and study which we should be getting in April is clearly identifying who owns what as far as Canal Street is concerned.

Al Sedlak stated when Cargill transfers the property to Ohio Power will it be transferred as adjacent property? If so, there will be a Deed Restriction making it an Adjacent Parcel Transfer.

Mr. Cowley stated correct.

Marsha Griebel Graham stated they had to do all these other little legal descriptions because they are renaming property. It's not all that parcel. They are from other lots and you have to know what was split out.

Don McIlroy stated this is quite an investment for this area. Do you know what the cost of improvements will be?

Mr. Cowley replied I do not, but I am sure there is one. I can tell you we paid \$200,000.00 for this parcel of land.

Marsha Griebel Graham motioned to approve as requested, seconded by Terry Leasure. VOTE ON MOTION: DON MCILROY, YEA; MIKE COMBS, YEA; TERRY LEASURE, YEA; JOHN ANKROM,

YEA; MARSHA GRIEBEL GRAHAM, YEA; BOB MCCRADY, YEA; AL SEDLAK, YEA. 7 YEAS, 0 NAYS, MOTION CARRIED.

The next item heard was also a Lot Split, as requested by Norm Wilson, 4507 St. Rt. 361, Circleville, for Circleville Oil Company, P.O. Box 189, Circleville to divide property located on the northwest corner of North Court and High Streets, in an area zoned DB, Downtown Business District.

Craig Stevenson, Harral and Stephenson, 120 East Main Street was sworn in and stated I represent Circleville Oil. The property in question is bounded by North Court Street, Water Street and High Street. It was most recently used by Circleville Oil as their refueling station. Their request tonight is to re-subdivide what was originally platted as four lots. Since that time it had been broken into several pieces. We want to re-subdivide it into quarters.

Don McIlroy stated the way I understand it we are not talking usage tonight, only the lot split.

Craig Stevenson stated correct. It's located in the Downtown Business District, but not within the Historic District Overlay. We aren't proposing a use other than a lot split.

Al Sedlak stated this will simplify and clean it up from a planning standpoint. The request is straight forward.

John Ankrom stated in the ultimate build-out of this property we are going to be very sensitive to the frontage along Court Street and traffic access in and out. I won't be in favor of having entries out onto Court Street. I would rather see the traffic going in and out on High and Water Streets. The owners need to be sensitive to the fact that the frontage along Court Street will be restrictive as ingress and egress goes.

Bob McCrady motioned to approve, seconded by Terry Leasure. VOTE ON MOTION: MIKE COMBS, YEA; TERRY LEASURE, YEA; JOHN ANKROM, YEA; MARSHA GRIEBEL GRAHAM, YEA; BOB MCCRADY, YEA; AL SEDLAK, YEA; DON MCILROY, YEA. 7 YEAS, 0 NAYS, MOTION CARRIED.

The last item heard was a tabled item.

John Ankrom motioned to remove Variance #17-14 from the table, seconded by Bob McCrady. All in favor, motion carried.

Variance #17-14, as requested by Lance Gibson, 19390 London Road, for the Pickaway Country Club, 1399 Stoutsville Pike, to install a 4' x 8', two-sided, freestanding, off premises sign next to the existing Cardo's sign, located at 505 Lancaster Pike, and to vary the setback for a freestanding sign (structure) from 40' to 5', in an area zoned GB, General Business District.

Lance Gibson was sworn in.

Al Sedlak stated the way we left this last time was that we asked that you, the Cardo's Owner and the property owner get together and try to resolve this matter. I received a phone call today from Cheryl Conrad the property owner and she confirmed she is in agreement with this request. Just as Mr. Gibson stated before she has no opposition against it. She wasn't speaking for the people of Cardo's only for herself as the property owner. Have you had any further discussion with the owner of Cardo's?

Mr. Gibson stated at the previous meeting we discussed putting the sign below Cardo's existing sign. The obstruction of traffic is what I felt was the major concern of the business owner. I spoke to her after the meeting and she seemed very cooperative. I was pleasantly surprised how cooperative she was and wanted to work something out. I gave her my cell phone number and told her I would wait to hear from her. I waited a couple weeks and didn't hear from her. I stopped by the business and left my name and number at the desk. I didn't hear back from her so I called Cheryl Conrad to give her an update. She informed me that as far as her lease the tenant doesn't have any say as far as a sign going on that property. I called Cardo's and left my name again. Last Friday I typed something off and dropped it off. There were a couple different options I proposed. One being we will advertise for her at the Country Club. It would advertise Cardo's for large traveling groups that come from out of town. Since we don't serve Pizza or subs to come to her establishment. I heard nothing back and then called Ms. Conrad back. She was a bit frustrated since she was the property owner of why things couldn't be hashed out between the two of us and this commission. I gave her the names of the members of this commission and she contacted Mr. Sedlak. I am here to ask that this sign be approved.

John Ankrom stated where do you want to put the sign?

Mr. Gibson stated directly underneath hers on the same pole. The sign will be the same size as theirs.

Don McIlroy stated when we discussed this last time the property owner thought they had the right to allow this. Have you seen the lease?

Mr. Gibson replied no. When I brought that up to Ms. Conrad whether she has looked at the lease or not, she said she has the say and the person leasing the building does not. I have talked to Ms. Conrad probably a half a dozen times about this issue.

Al Sedlak stated that is between them. The record should reflect no one from Cardo's was here to represent them.

Terry Leasure stated I wasn't at the last meeting. What was her concern?

Mr. Gibson stated I felt it was obstruction.

John Ankrom stated I thought it was competition. The signs would be competing and detract from her sign.

Al Sedlak stated I would think by putting them on the same pole would lessen her concerns.

Lance Gibson stated I am offering to advertise her business in our clubhouse. We aren't selling pizza or subs, there is no competition.

Don McIlroy stated if we pass this and there is something in the lease where Ms. Conrad does not have the authority is my concern.

John Ankrom stated she showed me the lease. I saw a paragraph that seemed to give the right to maintain signage exclusively to the tenant. As if she has the control and not Cheryl Conrad. I would caution you to go in to it with your eyes wide open. If you put a sign up you might have a heated tenant.

Al Sedlak stated that is not our problem. That is for them to work it out.

John Ankrom stated did Sonja call or anyone else about this matter.

Valerie Goeller replied I had no calls.

Al Sedlak stated this will be a modification from the original proposal. It will need to be modified from a second freestanding sign to an additional sign on the existing pole.

Don McIlroy motioned to approve with the modification that they will use the existing pole, seconded by Bob McCrady. VOTE ON MOTION: TERRY LEASURE, YEA; JOHN ANKROM, YEA; MARSHA GRIEBEL GRAHAM, YEA; BOB MCCRADY, YEA; AL SEDLAK, YEA; DON MCILROY, YEA; MIKE COMBS, YEA. 7 YEAS, 0 NAYS, MOTION CARRIED.

John Ankrom motioned to adjourn, seconded by Bob McCrady. All in favor, meeting adjourned.