



**Planning and Zoning - Minutes
Wednesday, August 01, 2012**

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

MEETING MINUTES
WEDNESDAY, AUGUST 1, 2012

MEMBERS PRESENT

Bill Mosher
Mike Combs
John Ankrom
David Moss
Al Sedlak
Valerie Goeller, Clerk

VISITORS PRESENT

Shane Thompson
Misti Roese
Ike Wampler

Chairman Bill Mosher called the meeting to order at 7:00 p.m.

The first item on the agenda was a public hearing, as requested by Berry Leaf Holdings, LLC, to rezone property located north of the corporation limit, south of Town Street, east of Starkey Drive, and west of Norfolk Avenue, from AR, Apartment Residential District to GE, General Employment District.

Bill Mosher stated we have discussed this at the past two meetings.

John Ankrom stated Kevin Steward is the property owner. I am speaking on behalf of the City of Circleville. We made an agreement with Kevin Steward to help him rezone a portion of his property in exchange for granting the City of Circleville right-of-way through his property. His property is split zoning. The reason for this was to facilitate a road going down the middle of it, with different zoning designations on each side. Now the road is being shifted eastward so the remainder of the property to the west of the planned road will all be the same zoning designation. It makes sense to have it zoned the same way. Instead of being part General Employment and Apartment Residential now it will be all General Employment. Everyone has been given a sketch of the property and legal description of what is being rezoned. Neither Kevin Steward nor Craig Stevenson of Michael E. Clark's Office was available to come tonight and I told them I was willing to present the

information.

Bill Mosher stated Crites Road will go back and tie into Town Street. Hopefully, someday it will go beyond that.

David Moss stated is there a sound barrier proposed for the residents.

John Ankrom replied yes, that will be in the landscape design phase. The cross section of that road is shifted 30' to the west, which allows for a wider landscaped area on the one side. The buffer was the reason for the offset.

Bill Mosher asked if the developer will have to appear before the commission again.

John Ankrom stated there will be a final plat that will be generated when the improvements are in place. We will operate from an owner/developer agreement until all the improvements are in place. Then a final plat will be presented back to the commission and then to council for approval.

David Moss stated at the last P3 Executive Meeting, Commissioner Glen Reeser said he thought by State Law the Commissioners have the authority to name the street.

Al Sedlak stated at one time there was discussion to extend it all the way to the south to Tarlton Road and meet up with Owens Road.

The public hearing was closed.

The first item on the regular agenda was to vote to approve July meeting minutes.

Al Sedlak motioned to approve the minutes as submitted, seconded by David Moss. All in favor, motion carried.

The next item on the agenda was to vote on a recommendation to forward to City Council on the Berry Leaf Holdings, LLC rezoning request.

Bill Mosher stated we can vote to approve the rezoning request as submitted, recommend that it not be approved, or modify the request.

Al Sedlak motioned to approve the rezoning request as submitted, seconded by Mike Combs. VOTE ON MOTION: BILL MOSHER, YEA; MIKE COMBS, YEA; JOHN ANKROM, YEA; DAVID MOSS, YEA; AL SEDLAK, YEA. 5 YEAS, 0 NAYS, MOTION CARRIED.

The next item on the agenda was to determine permitted zoning use for Great American Vending, 161 West Main Street, to be used for gaming, in an area zoned DB, Downtown Business District.

Shane Thompson was sworn in.

Bill Mosher stated you have been down on West Main Street for some time now. You have a request for Zoning Compliance to determine if this facility is authorized to operate in the Downtown Business District.

John Ankrom stated this started last year. Mr. Thompson had a water softening company in

the same facility. At some point he went in and did some renovation work and converted it into a Skilled Gaming Facility. The way he explained it to me is that you have a phone card system that entice people to play and get some type of reward out of a game card. The City of Circleville filed a violation, said it wasn't in a use consistent with the Downtown Business District. We sought Shane to come in to apply for a Zoning Permit, which never happened. Because of that the city took this through the court process. Shane and I had a pretrial meeting where we discussed the issue and I encouraged Shane to come in and make application for the Zoning Certificate. We also encourage him to respond to the fact any type of sign needs a Sign Permit and Certificate of Appropriateness that would go through the Historic District Review Board. He also has an issue with the Pickaway County Building Department.

Bill Mosher stated have any of those issues been addressed?

John Ankrom stated the zoning issue is the first thing being addressed. This is the start of trying to get him in compliance.

Shane Thompson stated I have been a downtown business owner for 18 years. Originally we were located on East Main Street by where Bill's Bike Shop used to be. When the economy went bad, financing got bad and I had to do something else to survive. That's how we got into the game of skill arcade. It is regulated by HB 177 that Strickland passed in 2008. It's not an internet café or sweepstakes which are illegal. It is skills of games which are classified in the State of Ohio as a Category 3, redemption machines. It falls in the same category as Chucky Cheese and Dave and Busters, the same affiliation. We are members of the Ohio Coin Association. I'm taking Mr. Ankrom's advice and following the appropriate steps to make sure we come into compliance.

Bill Mosher stated we need to determine if this business is an approved or acceptable business in the Downtown Business District.

David Moss stated have you reviewed our code?

Mr. Thompson replied yes.

David Moss stated can you point to me in the code where you think your business would fall in terms of permitted use?

Mr. Thompson stated when I first started it; I read the codes and couldn't find anything where it said it wasn't permitted. I would have to reread it to familiarize myself with it.

David Moss stated there are permitted uses and conditional uses. It doesn't say what isn't permitted, it tells what is permitted.

John Ankrom stated there is nowhere in the Downtown Business District that tells me that it is permitted or as a conditional use. Under permitted uses it talks about going back to Section 22.02 A-D which is General Business. There it cites personal services, restaurants and taverns. Under Permitted Uses in the DB District, which has a use group F which is similar uses. Similar uses are determined by the P&Z Commission under the provisions of Section 12. Section 12 does give guidance of what you can do with a similar use. Once we grant it, it does become a permitted use in that district. Once you open the door you open it up to similar facilities in that zoning district.

There was a brief discussion that there are similar businesses around in the county.

Mr. Thompson stated there are machines in the gas station on east Main Street, Eagles, Mary's Bar and Circle D. They are all over town; I just have more in one spot and do it very nice. It's not a dirty place, it's very clean. The police have never been called.

Al Sedlak stated I thought the closest similar use would be restaurants and taverns. Obviously it's a different kind of businesses. I would think as for foot traffic, it would be similar to that. The other thing I saw which is subjective, under Section 23.01, A. it reads: The downtown should contain a healthy mix of land uses. The marketplace – not regulations – should be the primary force driving the mix of downtown uses. That tells me if a business is lawful and can thrive, then that is a good business. B. reads: The downtown should be particularly receptive to small local-based entrepreneurship and start-up businesses. I am a little concerned as why we are expected to make this decision as opposed to the City Law Director or the Judge. To me this is more of a legal issue than a land use issue. I am interested in some type of feedback from the law director.

John Ankrom stated the Law Director is the one who initiated the action based on the violation notice. He has been involved in it.

Al Sedlak stated I am leaning strongly on finding it is a similar use. But, I don't want to do something that will undercut the Law Director or be at odds with court proceedings.

John Ankrom stated I don't know that we have a Legal Opinion.

Valerie Goeller replied yes, we have one. Every time we have addressed this issue, it has been provided. We have nothing current.

Bill Mosher stated last time we discussed it we were waiting to see what happened on the state level.

Bill Mosher stated I agree with Al. Step one is the legality of it. At this point I don't see where it is not. There is other legality issues stemming that exist around it.

Al Sedlak stated I would like to have an updated opinion from our Law Director on the current status of the State Law on Skilled Gaming Facilities. Do you know the status of the legal proceeding?

Shane Thompson stated HB 177 is what we fall under. We are not an internet café or sweepstake machines. We are skilled games.

Al Sedlak stated has the City filed an injunction?

John Ankrom stated we had a pretrial hearing the end of June at Municipal Court. I think they were seeing if we can get this settled before going to court. That is when Shane and I agreed that if he came in and filled out a permit that we could hear and sort through it.

Al Sedlak stated are there any hearing dates scheduled in Municipal Court?

John Ankrom stated I think they mentioned a date.

Al Sedlak stated this is a criminal misdemeanor case.

John Ankrom stated I will be glad to solicit Gary for a legal opinion. The legal grounds are

not that it is an illegal business just that the business did not follow the proper process in obtaining permits.

John Ankrom stated do you have a liquor permit?

Mr. Thompson replied no, we give away pop and water. There is no food. We are open from noon to 10:00 pm, Monday through Friday; noon to 11:00 pm on Saturday, and noon to 7:00 pm on Sunday.

John Ankrom stated do you have off street parking?

Mr. Thompson stated I rent the lot off Mr. Wampler right next to the building.

John Ankrom stated the corner lot where the Smith block was?

Mr. Thomson replied correct.

John Ankrom stated the whole lot and is that your intent to use it as a parking lot?

Mr. Thompson replied correct.

David Moss stated is that parking lot gravel?

Mr. Thompson replied yes.

John Ankrom stated based on that and Ike is in the audience, do you have plans to pave this lot?

Mr. Thompson stated maybe in the future. Who knows what will happen with it.

Ike Wampler stated I explained to you that we have that lot build to suit.

John Ankrom stated Shane is telling us he is using it for parking for his clientele.

Ike Wampler stated I left that up to him.

Mr. Thompson stated that is correct, if I want to pave it, I can pave it. We see no reason to do that.

John Ankrom stated from our prospective, part of our Zoning Code says if that is a parking lot it has to be paved. It's going to have to be a parking lot or a building.

Ike Wampler stated wouldn't you consider grindings enough?

John Ankrom replied no, it has to be a hard surface.

Mr. Wampler replied it is hard.

Al Sedlak motioned to table in order to obtain additional information including input and updated legal status of establishment such as this under State Law from the Law Director, seconded by Dave Moss. VOTE ON MOTION: MIKE COMBS, YEA; JOHN ANKROM, YEA; DAVID MOSS, YEA; AL SEDLAK, YEA; BILL MOSHER, YEA. 5 YEAS, 0 NAYS, MOTION CARRIED.

The next item on the agenda was a Lot Split, as requested by the City of Circleville; to split .048 acres from a 1.408 acre tract, in an area zoned R-2, Single Family Residential District.

John Ankrom stated this is in the Clifton Subdivision on State Route 188. It backs up to Hawthorne Drive in Northwood Park, Section One. Between Clifton Subdivision and Northwood Park there is a strip of land that was meant to facilitate a drainage ditch. Starting at Clifton Subdivision extending out State Route 188 toward the park is a sidewalk. Many people take advantage of it for access to the MVCH Park. There is a grassroots movement lead by Richard Gerhardt to build a bridge, built per ODNR Standards, to cross the ditch line and connect in from Hawthorne Drive to the sidewalk. The property is located in Reserve "A" owned by the Clifton Family. A portion of that will be deeded to the city and the Clifton's have agreed to do that. The .048 acres will provide that access from the current sidewalk to McHenry Ditch area and then further there is another property owned by the Frerick's Family. They have also agreed to deed the remainder of the property over to Hawthorne Drive to the city. That deed didn't require a lot split. This was some type of reserve and not part of anyone's lot. The intent is to put in a bridge structure to connect the asphalt of Hawthorne Drive to the sidewalk for a multi use (bike and pedestrian) path. Right now people come down and loop around the ditch. This will allow them to go straight across. Mr. Gerhardt provided us with a bridge design that has already been stamped by a structural engineer. He will need to provide us the information on how the bridge will be anchored to our satisfaction. The City is excited about being able to move this project forward.

Bill Mosher stated once it is deeded over to the city, it will be the city's responsibility to maintain it.

Al Sedlak stated at a P3 meeting there was discussion about the bike paths from the new Circleville City Schools Campus to the YMCA and to OCU being tied together and ultimately having a bike path come out to the park. Is there any other frontage for Reserve "A" or point of access other than State Route 188? Are we land locked?

John Ankrom stated we would own it as the city and that is our path in from State Route 188. It probably empty's up into the rest of the land they own.

Bill Mosher stated there is an original plan that goes to Dunkle Road. We as a Commission insisted they save a reserve at the end of Hawthorne Drive for a connector road.

Al Sedlak stated it appears there is also a reserve between Northwood Park #1 and #2 for a future street.

David Moss motioned to approve as submitted, seconded by Mike Combs. VOTE ON MOTION: JOHN ANKROM, YEA; DAVID MOSS, YEA; AL SEDLAK, YEA; BILL MOSHER, YEA; MIKE COMBS, YEA. 5 YEAS, 0 NAYS, MOTION CARRIED.

Bill Mosher stated going back to the skilled gaming facility. We probably have been remiss about not directly addressing that. It has been teetering for so long that we never felt compelled to do it. A lot of Cities have done it and some make income from it. It was suggested at one point in time the City should address it by making it a permitted use in specific areas and develop a fee structure for those types of businesses. They would pay a fee or a tax based on income. A lot of cities are taking advantage of that and we have never done that. Council would have the authority.

Al Sedlak stated if it is a lawful business and not gambling then as a land use matter it fits in as well as anything else.

John Ankrom stated Mr. Thompson came up with a good point. There are other businesses that are already doing this.

Another informal topic was signage in the downtown.

John Ankrom stated Valerie and I took a tour of the downtown photographing every building in the Historic District Area. We are starting to try to get our thoughts around how we are going to deal with the businesses and the excessive signage. There are too many violations to address. If people aren't willing to live with some type of standard then we will have to abandon something or become everyone's worst nightmare. We don't know which way to go. I think this mayor would like to be friendly to businesses and promote the downtown area as much as possible. The problem is the vinyl graphics and multiple signs and lack of participation in the permitting process. It's very frustrating. By my count, we have 70 property owners in the Historic District area. It's not a large group of owners. Probably if we went through and identified the individual owners maybe we are talking 50 people. Some own multiple properties.

Bill Mosher stated on the same token you are talking about the Downtown Business District, but the problem exist city wide and it is ramped. It always has been and we have never been able or willing to enforce it.

Valerie Goeller stated the city used to do a sign roundup at least once a year where we would go out and collect signs in the rights-of-way. Typically they were real estate signs. We would take them to the garage and sure enough the realtors would start to call. We would direct them to the garage to retrieve their signs and remind them they aren't allowed in the rights-of-ways. That would straighten them up for a while. The guys are very busy now and picking up illegal signs are not a priority, but it would get people's attention.

John Ankrom stated we had Jim Hartzler in our office to address signage in the downtown area to be accommodating, but also make people respect the process to a certain degree. Jim Hartzler's comments were don't try to add to your regulations, enforce what you have. I'm saying we might want to think about altering the signs for the downtown area to allow for vinyl graphics. Instead of restricting what they do, we might modify what we allow.

Bill Mosher stated that is in the hands of the HDRB.

Another informal topic was Mound Street School. John Ankrom stated that the school recently changed hands to Pickaway Ross. It is Zoned R4 not Special Use. They will have to come in for a Continuation of a Nonconforming Use. They will be doing mostly adult education which conveys a whole separate set of issues compared to an elementary school, in terms of traffic, parking and hours of operations. They are planning to attend the next meeting. They also want to take the playground area out that faces Franklin Street and put in a paved parking lot. The east west alley that runs behind the school was vacated to provide safe passage from the school to the playground. They intend to open it back up and that's where people will enter to get into their parking. They won't exit on Franklin Street or the north south alley. I have not seen a plan and the parking lot have already been sent out to bid.

Bill Mosher stated that is not a good idea to have entrance and exits into alleys next to residential area.

John Ankrom stated we are planning on taking down our school speed signs. They seem to be willing to work with us. Everything being done in this building is health care related.

The last informal issue was a zoning condition in Heritage Ponds. John Ankrom stated that subdivision has lots zoned R2, R3 and R3 Restrictive. I approved a permit in the R2 area for a house that was intended to be 1,422 square feet. Overall square footage including the garage was 1,827 square feet. The Zoning Code reads the minimum building area for a one story in an R-2 District is 1,500 square feet. My initial reaction was this house isn't large enough at 1,422 square feet of living area. Jim Hartzler's interpretation is that it was. The reason being is the garage is part of the building area. The inconsistency comes in the fact that in our zoning code we define floor area that excludes the garage. We also define building, as anything that houses people, animals or property. Our Zoning Permit references living area and building area. The code has three different definitions, Building Area, Floor Area and Living Area, with each having different standards. Living area is not defined.

Al Sedlak stated in the chart it specifically says building area and breaks it down to one story and one and half and two story. I think that makes ground floor area irrelevant.

John Ankrom stated I am suggesting we change our Zoning Permit Forms to say floor area, which is defined by code and excludes garages. I think that was the intent of the table. Rockford got challenged by the owners in the area. They are building a small home next to a 3,000 square foot home. In doing so, they have agreed to up the square footage of the living area of the house to an excess of 1,500 square feet. There is an inconsistency that I am not comfortable with. I got the opinion from Jim Hartzler that you can include the garage in the building area. I was okay signing the permit. If that got challenged by the home owners in Heritage Ponds, I think they would have a leg to stand on. This inconsistency needs cleaned up. The next amendment to the code I would like to change it to minimum floor area, which is defined. Then we will change the permit. On our application we have a line for building size and on the other side it says living area. When I filled out permits I would put dimensions on the building size and the heated square footage under living area, not including garages. We should change that to building area and include garages and porches in that. When you are assigning a value it is based on heated square feet. There is a lesser value on garages and porches.

Al Sedlak motioned to adjourn, seconded by David Moss. All in favor, motion carried.