

**NORTH RIDGEVILLE PLANNING COMMISSION
MINUTES OF
REGULAR MEETING APRIL 12, 2016**

To Order: Vice Chairman Rothgery called the meeting to order at 7:00 P.M. with the pledge to the flag.

Roll Call: Present were Planning Commission Members Tim Anderson, Jennifer Swallow, Council Liaison Terrence Keenan, Vice Chairman Larry Pierce, and Chairman Jim Rothgery.

Also present was Chief Building Official Guy Fursdon, Assistant Law Director Toni Morgan, City Engineer Scott Wangler, Mayor David Gillock and Deputy Clerk Donna Tjotjos.

Minutes: Chairman Rothgery asked if the members of the Commission had a chance to review the minutes of the regular meeting dated February 9, 2016 and the February 9, 2016 workshop minutes noting cancellation. He stated if there are no changes to those minutes, they will stand approved as presented and will be placed on file.

Correspondence: None

Old Business: None

NEW BUSINESS:

APPLICANT: Gary Smitek, North Ridge Point, LTD, 3320 Stoney Ridge Road, Avon, Ohio 44011

OWNER: Same

REQUEST: Final plat approval for North Ridge Pointe Subdivision, Phase 2

LOCATION: North Ridge Pointe Subdivision to include Navona Lane, Trevi Court and a portion of West Shore Parkway in R-1 District
Permanent Parcel No. 07-00-030-000-178 and 07-00-030-000-094

Application was read along with comments from Chief Building Official Fursdon, Engineer Scott Wangler, Fire Chief Reese, and Police Chief Freeman.

Chairman Rothgery asked the representative to explain the plan to the Commission.

Gary Smitek showed on the drawing where phase one was located and where phase two will be constructed. He showed an area where there will be no lots due to wetlands. They had to change some of the lots to cluster based on the fact that they can't fit. He stated that it has been kind of a hard plan to design because of the constraints of the ditches and wetlands. It won't be an issue with the number of clusters as was pointed out. They are still underneath the density allowable. He spoke with his Engineer today regarding the comments and his comment was that he had no problem with any of the comments made. He asked the Commission to review one of the comments made referring to the radial of the lots on Trevi and based on the curve of the road, it

doesn't appear to be that much off, but there is really nothing they can do based on the wooded area and wetlands he showed on the drawing. It is still pretty close at that 90 degree angle. It isn't a huge difference and the language in the ordinance states shall try or make attempts or make every effort and they have done that. As far as the traffic study and the turn lanes on Route 83, that is being worked on at this time and once that is done, he will hire someone to do the design. He stated that the study said 38 lots is assumed when the turn lanes were being put in and he asked at that point if they could wait until this phase came in because of the high cost of the first couple of phases. It was asked that he put them in with this phase and so he has hired someone to do it and they are proceeding. He didn't anticipate any problems as they have done it at Highland Park on Route 83. It is just a question on which way you move the roads. It isn't a huge deal. That plan will be submitted to the Engineer within the next three or four weeks. Construction will probably take 35 to 40 days and construction of this will probably take 90 to 120 days. He could get the Engineer's approval two months later and still get it all done at the same time and that is what he is anticipating.

Chairman Rothgery addressed Engineer Wangler and asked if there was an issue.

City Engineer Wangler stated that there is no issue. He said all the right things and that the comments made were no issue to address. He stated that the turn lane will be considered part of phase 2. He is concurrent.

Gary Smitek stated he has met with the Engineer and he doesn't think that there is anything here that is insurmountable.

Chairman Rothgery asked if Engineer Wangler had any issues with the points he made regarding Trevi.

City Engineer Wangler stated in terms of the lot lines, he stated it is a code issue and not an engineering issue and would defer that direction of the lot line layout to the Planning Commission. He stated he is making Planning Commission aware of the code issue. It does state substantially in there and so there is some interpretation as to what that means.

Chairman Rothgery asked if the Commission had any questions or comments.

Member Keenan asked for clarification on the applicant's engineer's comments relative to not having a problem in addressing the storm water issues. He didn't know what that meant.

Gary Smitek stated that some of it is just how the engineers design things and how they lay things out and some of the methodologies from Scott and Kathy aren't what he has worked with in the past, but he indicated that is just a matter of working through it. If it was an area issue where they may not have enough land to put a retention basin in then that might change something. However, this issue is just a matter of designing it a certain way.

City Engineer Wangler stated that there is definitely engineering solutions and he is assuming that the applicant's engineer knows what those solutions involve and doesn't have a problem with them.

Gary Smitek stated that he didn't have a problem with them two weeks ago and today he reiterated that he had no problems with the exception of those two lots on Trevi.

Member Keenan stated he wasn't concerned about the radial issue but he is concerned about comments 6, 7, and 8 that all deal with storm water and it didn't sound as trivial as the Engineer said such as things being submerged and surcharged.

Gary Smitek stated that this is his 700th lot he has developed and didn't think this was insurmountable. He has used this Engineer for 450 of them and he trusts his engineer's judgement. It isn't a huge issue. It is just a matter of designing it differently and making some changes to the way that it needs to comply.

Member Keenan stated he understood. He addressed Engineer Wangler and asked if he was comfortable and that there is an engineering solution.

City Engineer Wangler stated that if they have looked at it and they are saying that there is an engineering solution and if they have misspoke and there isn't an engineering solution, then their approval will be compromised.

Chairman Rothgery asked if there were any other comments from the Commission. Hearing none, he opened the floor to the Administration for comments. Hearing none, he opened the floor to the audience explaining if they had any comments to step to the podium and state their name and address before speaking on the project. Seeing none, he moved the discussion back to the Commission for final comments. Hearing none he asked for a motion.

It was moved by Anderson and seconded by Pierce to approve the final plat approval for North Ridge Pointe Subdivision, Phase 2.

Yes, 5 No, 0

The motion was approved by a vote of five yes and zero no.

APPLICANT: James A. Yorks, James A. Yorks Architect, 7525 Leavitt Road, Amherst, OH 44001

OWNER: North Ridge Health Center Embassy Healthcare, 35990 Westminster Avenue

REQUEST: Approval to construct a 216 square foot addition onto each side of existing structure and to replace pavilion and sheds

LOCATION: 35990 Westminster Avenue; corner of Route 83 and Mills Road in a B-3 District

Permanent Parcel No. 07-00-019-000-218

Application was read along with comments from Chief Building Official Fursdon, Engineer

Scott Wangler, Fire Chief Reese, and Police Chief Freeman.

Chairman Rothgery asked if the applicant could explain what they plan to do with the facility.

James Yorks, local architect who has been working in this area for years, reiterated what he had stated to the BZA back on March 24, where they received unanimous approval for the variances mentioned in the comments. He stated everyone and everybody in every department in this City has been great to work with. He wanted to let the Commission know that everyone worked toward helping them instead of standing in their way and these individuals should be commended for that. He continued on to explain that their client, who owns a lot of nursing homes acquired North Ridge and requested that they put a plan together showing how they could expand their physical therapy suite. He showed the location of this addition and stated that it would be 12 feet out and 18 feet wide and in order to create symmetry in the project, they wanted to add an administrative wing to the right hand side so that the elevation was in balance and symmetrical. While they were out there, the owner asked if there were any other suggestions they could come up with to help with the overall esthetic as he wanted to update the look and create a new interior feel where it is more receptive. They came up with a three page list and they agreed to it all. A lot of the work will be all new roofs, all new siding, all new trims, windows, shutters with just a complete redo of the exterior and complete redo of the front entry or foyer. The physical additions will be the two additions that are 216 square feet each on either side of the main entrance and then there are existing two storage sheds that were permitted back in 1984 and 1999. He showed where they are located on the drawing and noted they were unsightly. One is an 8 by 10 and the other is 8 by 12. They thought it would work much better to create a singular storage building in its place and make it match esthetically. He showed the two small additions near the front and the consolidation of the two sheds near the rear entrance off of Mills. He showed the pavilion and noted that the pavilion will take the place of the previously permitted and constructed open air type trellis with a makeshift clear roof over it. It doesn't seem to match the overall quality of the building and so, they approved a natural 20 by 24 outdoor pavilion for the people to enjoy. It is located on the corner of Route 83 and Mills but it actually fronts Westminster. They have a unique lot and the city has a unique ordinance whereby front yard setback is 50 feet and side yard setback is 25 and rear yard setback is 40. When the sheds and pavilion were built they were permitted to be built but being that they are on a corner lot which faces three major road right-of-ways, the 50 foot front yard setback controls all three sides. What they requested from BZA and was granted approval on was to replace the sheds and pavilion within their current setback and not encroaching any further than what they currently are which was a 25 foot variance. He stated that the code ordinance also spoke of 25 percent lot coverage and they have about 3.15 acres of land, with the building currently about 35,000 square feet. It is zoned B-3 and there are 99 beds in this skilled care unit. What they were asking for and received a variance on was the percentage of increase that was approved previously at two percent and what they had asked for was an additional four-tenths of one percent. It was rounded off to five percent and went with 30 foot variance. They felt that with the spirit of the job and the fact that they are improving all the conditions, that they aren't affecting any sightlines, any safety issues, no additional traffic impact, no changes in driveways or traffic patterns and not extending beyond any existing setbacks or buildings that are there

currently, that it is the best and most favorable use of the project and property. They did become aware of the partner program between the City of Avon and the City of North Ridgeville regarding the turnabout scheduled to be installed at the intersection of 83 and Mills. They are excited to work together with that. They haven't submitted any signage changes as they did want to improve the signage as well, but until such time as those plans become available and they can work with the roundabout plans to see how they may affect their sightlines, they will submit the signage under a separate cover. They also agreed to take a look at landscaping and whoever is going to be doing the installation and maintenance of the landscaping within the turnabout, they were going to work with as well.

Chairman Rothgery asked if they were going to make exterior changes to the building including the roof line or were they just going to redo the existing roof.

James York responded it would just be the roofing with a new dimensional shingle. The siding will remain. All the soffits and fascia will remain in their same locations but will be new. They will be adding a little bit of cultured stone work on the new areas of the front. He explained colors and materials of items that will be changed. He noted that any fencing that is on the site currently will be removed and replaced with new privacy fencing. No major changes with huge constructs will be made to this site.

Chairman Rothgery opened it up for questions and comments from the Commission.

Member Keenan stated he felt this plan to be fantastic. He likes what he sees. He stated he visits this place often and so, he is very familiar with it. He explained that on Mills going westbound, there are trash dumpsters currently visible even with the fence. He stated there is no enclosure, no screening going westbound. There is screening if you are traveling eastbound. He asked his thoughts about that as it is bothersome to him as he drives by and catches those exposed dumpsters like that.

James York agreed and stated that the solution was such that no rear yard. They are exposed on all sides except for the small common area adjoin the apartment complex. Somewhere they have to have those containers and being that it is an existing condition, the containers also have to be conveniently located adjacent to the kitchen and delivery area in order to be serviceable. They took a look at how they could get the dumpsters serviced by the trucks and there was no easy way. They felt that by creating new fencing to replace the old and screen them the best way possible was really the only way out of it. They could enclose them in some type of gated situation so in the nonuse times they would be enclosed, but they actually found that way would become more of a deterrent and a problem. He stated that there was no easy cure and if someone had an easy solution, they would be glad to entertain it. He also would love to hear thoughts about additional parking on site because he personally felt they could always use more parking over there. Circulation in the way they get around and the dumpster screening was something that they did not have a good answer for.

Chief Building Official Fursdon suggested additional landscaping in the lawn area in front of the parking lot so that when traffic is coming down Mills Road, that landscaping would help screen off that dumpster.

James York agreed and stated that when they work with the landscaping company, they thought that they could do some natural vegetation along there and create a visual screen all the way along that back service area so that it would visually obscure the view line. Westbound is still going to be a little tough, but their thought was to take a look at the entry apron as it abuts the privacy screen fence and plant some really nice landscaping right there.

Member Keenan asked if the dumpsters get serviced between the parking lot and screened fence.

James York stated they do. The only way to rectify the west bound visual acuity is to relocate the apron further to the east in order to get landscaping on the one side of the dumpsters. It isn't part of the scope of the project, but his thought was if nothing else to bring landscaping around to screen it off.

Member Keenan suggested more landscaping up against Mills to the east.

James York stated he sees his point and would be glad to implement with no problem.

Chairman Rothgery asked if there were any other comments from the Commission. Hearing none, he opened the floor for comments from the Administration. Hearing none, he opened the floor for comments from the audience. No comments were made and the Chair moved the discussion back to the Commission and entertained a motion.

It was moved by Pierce and seconded by Keenan to approve the construction of a 216 square foot addition onto each side of existing structure and to replace pavilion and sheds.

Yes, 5 No, 0

Motion was approved by a vote of five to zero.

APPLICANT: Greg Alber, Alber & Rice, Inc., 17138 Lorain Avenue, Cleveland, OH 44111
OWNER: Lake Bella Investments, LLC/Tim Cochrane, 132 Heather Hedge Drive,
Medina, OH 44215
REQUEST: Approval to construct a 12,000 square foot office building with paved
parking.
LOCATION: 31975 Cook Road in an I-2 District.
Permanent Parcel No. 07-00-003-102-058

Application was read along with comments from Chief Building Official Fursdon, Engineer Scott Wangler, Fire Chief Reese, and Police Chief Freeman.

Greg Alber, one of the owners of Alber and Rice, consulting engineering firm who is currently

located in Cleveland. He introduced his partner, Bob Rice and Tim Cochrane, who is the owner of the land. He explained that they waterski at the lake that is immediately east of Victory Park. It's a 68 acre parcel. There is approximately two acres of land located in the front that is a wooded area that isn't being used. He indicated that he likes to waterski and want to get closer to the lake. He convinced his partner that it would be nice to have their office located there. They currently have 3,000 square feet of space. There are twelve engineers located at that facility. The plan is to take half of the space for their engineering offices, which will be 5,000 of the 12,000 square feet. There is 2,000 square feet in the middle that will consist of the reception and bathrooms. They are thinking of putting in a garage so these plans are preliminary. The 5,000 square feet on the other side of the building, Tim has a company that is also an engineering company that isn't quite ready to move in yet. He can explain what his company does a little further. The plan is to lease that space out and they currently do not know at this point who would be in there at this time. They would build a shell and that portion of the building would be unoccupied at this time. They are currently trying to find a tenant for that space to help fund the project. They have made allowances for parking once they know what the other half of the building's use will be and they can accommodate that parking at that time. The parcel is cut out to be 68 acres, but 65 of it is water. They show 14 additional spots to the west. They could also turn and go south toward the lake and if they do a full buildout it would come to 35 spots if needed. They show 24 but they could easily show 25. They put the parking in to make it symmetrical to the building right now. They could forego the BZA request and put 25 spots in without a problem.

Tim Cochrane explained that three of them have a product development company that does mechanical, electrical and software development which contract with various different places over the years and currently their focus is developing products in the aviation industry.

Greg Alber continued to explain the design of the parcel and stated they are proposing a new entrance on the east side of the property. There is an existing entrance to the ski lake. He showed the area of where the dumpster is located and stated it would be screened. He continued on to explain their confusion from one of the comments made referencing the zoning of the parcel adjacent to them as they believed it was zoned R2 because of the home currently existing but the comment was that it was zoned I2. He showed the side yard setback on the east side where the comment was made that it needed to be 40 feet. They show it being 25 feet within the I2. He didn't know if they were misinterpreting that there. They did increase that setback so that could install an apron to the 65 acre lake and they also wanted to install an emergency overall swale there and they needed more space to do that, which is why they didn't place the building any further east. He stated that they are excited to come to North Ridgeville. They have been talking to the Mayor and the Law Director off and on for a couple of years.

Chairman Rothgery asked if that is a residence next to the proposed location.

Greg Alber stated that it is currently a residence but it is zoned I2. The parcel to the west is a residence but it is in residential zoning.

Chairman Rothgery opened the floor for questions or comments from the Commission.

Member Swallow stated that she was looking at the parking requirements and it indicates that there is one parking space for each 200 square feet of floor area plus one parking space for each employee. She asked if the number of employees were taken into account when the parking requirements were calculated.

Chief Building Official Fursdon stated no.

Member Swallow asked if that meant they would need a larger variance for the number of spaces once the other use is established.

Chief Building Official Fursdon stated he didn't anticipate them having more people than the employees there. It is an engineering firm and it isn't a retail concern where you have customers going in and out.

Member Swallow stated that the code states under 1284.02 (g) (16), Medical or dental clinics, banks and business or professional offices required parking space is one parking space for each two hundred square feet of floor area plus one parking space for each employee.

Chief Building Official Fursdon stated he didn't anticipate them having that many clients in there. It will be mostly the staff working there and the 25 spaces should be adequate for that based on that interpretation.

Greg Alber stated they typically have one or two customers.

Member Swallow stated she realized that it isn't going to be a retail store, she was just pointing out what the code says.

Greg Alber stated they would love a dental office to go in next door to them and if that was the case, the parking requirements that are in your code make sense.

Chief Building Official Fursdon stated that they are trying to make a reasonable interpretation as the more hard surface you put down, the more drainage concerns we have.

Member Swallow stated she understood, but was just asking if they would have to go for a larger parking variance. She isn't saying that it shouldn't be granted or that she would be opposed to it.

Chairman Rothgery stated that they will have to go for a variance.

Greg Alber stated they would just put the 25 spots in and they wouldn't need a variance. He stated they do have 14 land parking spots and can show up to 35 additional parking spots for the

next phase once they know what is going to go in there.

Member Keenan stated he understood the confusion on this and if you do the pure square footage calculation without any regard to employees, the requirement is 25 based on a favorable interpretation of their plan of 5,000 square feet and only the immediate build out space; not including toilets, reception, etc. and not including your garage and they indicated that the garage isn't going to be a garage, it is going to be something else and so, the Commission is going to need to hear what that is, but in addition to that the code in full says the requirement is one space per 200 square feet plus one space per employee. So the idea of building 25 is still short the code requirement.

Greg Alber stated they would apply for the code variance.

Member Keenan stated that they would be required 25 plus the number of employees that will be located at that facility.

Greg Alber stated they want to put in the number of spots that make sense and obviously don't want to park on that busy road.

Member Keenan stated frankly, he didn't want to see them overbuild in parking, but at the same time, if we are going to go for a variance, we have to go for a correct variance. Then it should be understood that if they don't designate half of the building, it is not occupy able. What he really meant to do was address the Chief Building Official and ask if they could occupy the buildout or could they buildout and not occupy if they don't have the proper parking addressed up front.

Chief Building Official Fursdon asked what he was referring to when stating buildout, the engineering office or the undetermined space.

Member Keenan responded the undetermined space located on the left side of the entry. Because the Chief Building Official did not include that undetermined space in the calculation for parking and so, if they went to build it out.

Greg Alber stated that they do have that area designated on the site for when it is determined what will go in to that space. He stated that they have allowed for that parking on the other side of the building. They just aren't going to put it in now. They will be resubmitting plans on the parking. When they do all of the drainage calculations, etc., they will include that as if it were paved and built out so that the storm sewers and everything are sized accordingly for future use. They just don't want to physically put the concrete in right now from a budgeting stand point and also a use standpoint that may change slightly.

Member Keenan stated he understood but it would keep them from occupying that space.

Greg Alber stated they have no intent of occupying that side until either they grow or someone

would lease that space.

Member Keenan stated that his phone could ring tomorrow.

Chairman Rothgery asked if there were any other comments. Hearing none he opened the floor to the Administration.

Mayor Gillock stated that they have met with the applicants and they certainly support this application. A professional office building will be a real nice addition at that location.

Chairman Rothgery asked if there were any other comments from the Administration. Hearing none, he opened the floor to the audience for comments and questions.

Chief Building Official Fursdon addressed the applicant and stated to answer the confusion in the zoning of the property to the east, yes it is zoned I-2, but by our ordinance and because there is a residential structure on there, it is still considered a residential district. We will still need that setback or the application would have to apply for a variance for what they are proposing and the ordinance also requires a buffer strip down that side to soften the impact on that residential dwelling.

Chairman Rothgery opened the floor to the audience for questions and comments.

Steve Michael of 31819 Cook Road adjacent property owner to the east of this project indicated that this is the first time he has actually seen these plans. He has no problem with them building next to him, but he would like to talk with them. He explained when he bought the house; he did not plan on having a dentist office or an engineering office next door to him. He was actually enjoying the treed buffer zone between his house and the other house and with clearing out that lot to put in that building and all that parking, he loses a lot of his privacy on the west side of his house. It puts him in a spot in determining whether to keep the house and if he went to sell, would it be worth what he is paying for it.

Chairman Rothgery stated that he is sure that the applicant would speak to him after the meeting. He asked if there was anyone else that had anything to say on this project.

Jill Zuk of 32055 Cook Road expressed her concerns in regard to the screening to their property line, the increased traffic and if there will lights on the outside of the building and is there going to be a sign and how will that affect them being able to enjoy their home.

Greg Alber stated that they didn't propose a sign as they aren't sure if there will just be a sign on the building. If they did put a sign up it would be a small low sign.

Jill Zuk asked if there would be a sign on the structure and if they could explain the lights on the structure.

Greg Alber stated their intent was to put down lighting in the soffits. He showed where the lights would be located. The light will shine down from the building.

Bob Rice added that they have normal business hours and wouldn't need to light the whole parking lot when they aren't there. Everyone is gone by five o'clock or six at night. They do plan on bringing out a professional company to do a study on what lighting may be needed.

Jill Zuk stated that her next question is if a dentist office is put there, what would that do to the traffic. She also asked where the additional parking would go.

Greg Alber showed the area where the parking would go.

Jill Zuk asked if the existing parking will be more toward the front of the building, which would be the 25 and then the additional parking would be from where they are to the right of the existing paved driveway.

Greg Alber stated yes. They won't be putting in the additional parking now.

Bob Rice stated that they don't want to overbuild the parking.

Greg Alber stated currently, there is usually about ten cars in their parking lot for employees.

Jill Zuk asked about the landscaping that would be placed around the building or parking.

Greg Alber stated he doesn't have a landscaped plan as of yet, but they are going to try and keep some of the trees that are there now between the asphalt drive and where the building is going to go. On the east side they are going to try and keep a row down the property line.

Jill Zuk asked if there would be trees on their side too.

Greg Albert stated where they are now. The lot will actually be split and showed the new lot split. There is 90 feet between the property line.

Chairman Rothgery asked if these are all questions that could be asked outside in the lobby. He asked if there was anything else the Commission would like to add.

James York stood from the audience and stated he happened to know Greg and he is actually excited that they are coming to North Ridgeville. He stated that North Ridgeville is dealing with some good people in that they will do what they say they are going to do.

Member Keenan stated that he is concerned about the parking count and again, it isn't because he wants them to overbuild parking, but he isn't sure what the Planning Commission is doing if

they go and approve a plan that we know doesn't meet the parking count for the building square footage. Basically, the Planning Commission could end up approving a plan that has far too few parking spaces. They sell the building to someone else in three years, where does that leave the City depending upon the use.

Bob Rice stated that they have a land banked area to provide for parking. So, if the use changes, he would assume that they would have to come before this Commission again for the change in use. At that time when you would need additional parking, then you would build the parking.

Member Keenan stated that this may be a legal question that he was struggling with.

Assistant Law Director Morgan stated no, the applicant is correct. If they get a tenant for the other part of the building, then they will be back here talking to the Commission and at that time, parking and everything else will be addressed.

Chief Building Official Fursdon stated that what they would have to come back to Planning Commission for is when they put that additional parking in. Depending upon who goes in there will determine what is actually needed. If the applicant wanted to take the high road and take the worst case scenario and get a variance now for the whole structure, then we are good.

Chairman Rothgery recognized Mayor Gillock.

Mayor Gillock stated as an option he believes the applicant could go ahead and draw in proposed parking. Then they would get approval for that proposed parking. They don't have to build it, but if they ever did, then that would be what they would have to build based on the approval.

Gary Alber stated that they are showing the additional 14 or they can show the 25 plus the 24 that they have now.

Mayor Gillock stated that they could just draw it in and get approved for that then they are good to go, but they don't have to build them.

Chief Building Official Fursdon stated that they aren't anticipating a restaurant where your parking count will rise up. They could establish a worst case scenario and get the variance and they are done. As been said, the city doesn't want them to over pave and cause drainage problems and create something that is truly not needed.

Member Keenan stated he agreed but by going ahead and giving approval to somebody who is in a use group but on the low end of the parking count requirement, then things change, someone else comes in, they will max out that parking. That is a scenario that is very realistic.

Chief Building Official Fursdon stated that the change is based on the zoning. There are very few things in that zoning that will have a higher parking count than what they are proposing. An

industrial complex has much less parking requirements than an office requirement and a warehouse is even farther less. When you get into things like restaurants and theatres then the parking count will go up, but that is not something that would be permitted in that zoning district.

Chairman Rothgery addressed Member Keenan and asked if he had an issue with them drawing in the additional proposed parking.

Member Keenan stated no, he liked that idea to show for future expansion. To him that would make a lot of sense to plan for it.

Gary Alber stated that is why they showed the 14 land banked parking spots. It was an educated guess to extend the parking across the front. If they need to go even further, because the code may require that, then they could show up to 35 more in addition to the 24 that are currently shown. That is not a problem and they would be happy to do that and it would be land banked future parking.

Member Keenan stated that he felt that was a good idea.

Chairman Rothgery agreed. He asked for a motion.

It was moved by Swallow and seconded by Anderson to approve the construction of a 12,000 square foot office building with paved parking.

Member Keenan asked if in the motion, did it get approved with the parking count and what parking count requirement.

Chairman Rothgery stated it is being approved as presented. We've already discussed additional parking so that would have to be shown on any future drawings.

Member Keenan asked if the motion would include the future parking requirements.

Member Swallow addressed Assistant Law Director Morgan and asked if Planning Commission had the ability to approve it conditionally upon this use only and then if and when an additional use comes into that building, require that they come back for additional review at that time.

Assistant Law Director Morgan stated that we are talking about use. She asked what Member Swallow is talking about specifically, because obviously the uses will be controlled by the zoning.

Member Swallow stated that the Planning Commission is being asked to approve this plan as submitted with the assumption that they are going to go to the Board of Zoning Appeals for the one space variance.

Assistant Law Director Morgan addressed the applicant and asked if they were going to use the proposed parking when they go in front of the BZA.

Member Swallow thought there would be a better way to do this and she didn't know if it was within the authority of the Planning Commission to do this or not, which is why she is asking. If the Planning Commission can approve this as submitted, then they go to the Board of Zoning and Building Appeals to get their one space variance, but then this other side of the building comes in with use that requires more parking then the Planning Commission could require as a condition that they come back at that time to review the parking to ensure that it meets code. They don't have to design parking that they aren't going to build.

Assistant Law Director Morgan stated that they don't have to decide if they can just indicate that this area is proposed for parking for future use and that would be sufficient.

Chief Building Official Fursdon stated that they already have to go to the BZA for their side yard setback, unless they want to move that to 75 feet but he didn't feel that would be in their plan. So they have to apply to the BZA and they can at that time take the worst case parking scenario and get a variance for that and we can move on.

Assistant Law Director Morgan stated that they have to be there anyhow and since they are going there and we are talking about once space and the land banked area, than that will be fine.

Member Swallow addressed Member Keenan and asked if it would satisfy his question, she would modify her motion to approve to include a motion to approve condition upon resubmittal of a plan with a maximum parking requiring and the appropriate BZA variance being granted.

Member Keenan replied yes it would because that parking requirement is not just one space. If they only looked at 5,000 square feet it is one per 200 square feet plus the number of employees that weren't factored in before and so it is more substantial variance than what we had suggested or thought. Either way, he likes this project and wants to support it, but he would like to work with them on what it is that the Planning Commission is actually approving and making sure that it works its way all the way through the system. The answer is yes, that modification would be fine.

Chairman Rothgery addressed Member Anderson and asked if he agreed with that modification in reference to him seconding the original motion.

Member Anderson stated yes.

Chairman Rothgery stated it has been moved and seconded. He asked the Secretary to call the roll.

Chief Building Official Fursdon asked if they then would have to come back to Planning Commission again as he isn't clear on the approval.

Member Swallow stated no, what she is saying is that they would have to go to BZA and get the variance based on the number of parking spaces that are required by the code based on their use.

Assistant Law Director Morgan asked if the approval from Planning Commission requiring them to go to BZA, which they are going to do anyhow, she didn't feel that made any sense.

Member Swallow stated that the comments made from the Chief Building Official stated that they needed a variance of one parking space and so....

Assistant Law Director Morgan stated that is correct and it will be taken care of at the BZA, which they have already indicated they would show additional land banked property for additional parking and that will go in front of the BZA. It would be untraditional and unusual for the Planning Commission to approve them contingent on doing something at the BZA. That is really the BZA's area.

Member Swallow stated that when the Planning Commission makes an approval it is conditional upon the comments that are submitted by the administration. So the comment that was submitted is for a once space variance.

Chief Building Official Fursdon stated that there is more than that if you read farther down. The second space was undetermined and additional parking may be required. They may need a variance for that as well and that is why he said, they will take the worst case scenario and go to the BZA and request a variance based on what is being proposed.

Mayor Gillock stated that Planning Commission is just approving the professional office building; they aren't giving them approval to build less parking spaces. They still have to meet the requirement and they will still have to go to BZA. BZA will have to figure out if they want to grant the variance.

Member Keenan added that he believes the motion should correctly state what it is that they are going to BZA for because this report isn't quite there.

Member Swallow stated even for the existing use that is proposed. It isn't that she is not in favor of approval based on this number of spaces. She didn't believe that parking should be over built either. She just wants to make sure that it is in compliance with what the code said.

Mayor Gillock stated that is up to the Chief Building Official and BZA and not Planning. That isn't Planning Commission's call.

Assistant Law Director Morgan stated that she believes the original motion was sufficient as this

applicant is going to the BZA. They will deal with these issues there.

Chairman Rothgery agreed and read the application where it states all approvals are conditional until applicant fully meets the requirements applicable ordinances enforced by the Chief Building Official, City Engineer, Fire Department and Police Department with respect to safety and design.

Member Keenan stated that the current motion was the amended motion.

Chairman Rothgery stated he didn't feel they should be voting on the amended motion.

Assistant Law Director Morgan stated she agreed.

Deputy Clerk stated that per Roberts Rules, the motion is on the floor and it has to be voted on whether or not the Members choose to deny or approve.

Chairman Rothgery asked for the roll.

Member Swallow clarified that the vote is being taken on the amended motion to require the conditional approval.

Yes, 1 No, 4

Motion failed by a vote of four no votes and one yes.

Chairman Rothgery asked for a motion to approve the project as it has been presented.

It was moved by Pierce and seconded by Anderson to approve the construction of a 12,000 square foot office building with paved parking.

Yes, 5 No, 0

Motion was approved by a vote of five to zero.

APPLICANT: Elizabeth Eaken, DS Architecture, 136 N. Water Street, Kent, OH 44240
OWNER: Jerry and Barbara Slabaugh, 3280 Fairhill Drive, Rocky River, OH 44116
REQUEST: Approval to construct a building for Dunkin Donuts with a drive through.
LOCATION: 32323 Lorain Road in a B-3 District.
Permanent Parcel No. 07-00-004-110-039

Application was read along with comments from Chief Building Official Fursdon, Engineer Scott Wangler, Fire Chief Reese, and Police Chief Freeman.

Chairman Rothgery asked the applicant to give an overview of the project.

Elizabeth Eaken, DS Architecture asked if the Commission was familiar with the location of where this is located.

Member Keenan stated no.

Elizabeth Eaken showed the location and explained it is between BP and Panera Bread. She showed the site plan and explained it is a typical Dunkin Donuts with a drive thru. There are approximately 20 seats inside the building. It is located on Lorain Road. There is a driveway on the south end of the property. She showed the location of the drive thru window and where the order board and speaker tower is proposed. She explained the traffic pattern in and out of the facility. She showed the exterior elevations with the typical Dunkin Donut corporate design stating it is pretty contemporary looking with a flat roof and a lot of glass. This type of a structure in this location was felt to be more appropriate as to the Western Reserve look with more natural materials including stone, siding, asphalt shingles and brick. She explained that this project did go to the BZA and received all variance approvals and they are willing and able to comply with all the comments that have been made here tonight.

Chairman Rothgery asked the applicant if the signage that was mentioned in the comments referred to the coffee cup on the building.

Elizabeth Eaken stated that the signage that had to receive a variance was the signage on the front because the way the code reads, you can only have signage on the frontage and you can't have it on the side, but the entrance of their building is on the side. She showed that sign and the front of the building on the drawing. She believes that the Board of Zoning looked at the building as a whole from a design standpoint and felt that it was not over signed and the signs that are on there were appropriately sized.

Chairman Rothgery asked if there was any type of preliminary traffic study done.

Elizabeth Eaken stated that they did not at this specific location. They have done them at other locations and also, this franchise has twenty current locations open right now. There are two under construction and this will be the third. His anticipation would be typically, daily average throughout the week; average per day for sale transactions is 700 to 900 total per day. Their peak time is between 7:00a.m. and 8:00a.m. and they typically see 120 transactions and that is on Thursday and Friday morning from 7:00 to 8:00. That is the number of transactions so it is probably less vehicles than that. They have done studies at other locations and it has been right around that same number. Peak in the morning of about 117 vehicles is what they had at another location that they did and so, based on his experience with 20 other locations, that is what he would anticipate. They have not hired a traffic engineer to do that work. They would hope that from the knowledge of the other stores, which they can provide that information if needed, to relieve the franchisee the burden of paying for a traffic study.

Chairman Rothgery asked if this location would front Cook Road at all.

Elizabeth Eaken stated no.

Chairman Rothgery opened the floor to the Commission for questions and comments.

Member Swallow stated that she google mapped this today to figure out where this was in relation to everything else on Lorain Road and it looks like there is an access drive that goes behind Panera and Chipotle there and asked if this facility would have access to that as well.

Elizabeth Eaken stated not at this time.

Member Swallow asked if all the traffic would go out onto Lorain.

Elizabeth Eaken responded yes.

Chairman Rothgery stated that he didn't think they could access that drive through Panera without messing with their parking.

Chief Building Official Fursdon stated there might be a possibility there.

Chairman Rothgery asked if there were any other questions from the Commission. Hearing none, he opened the floor to the Administration.

Mayor Gillock stated that they met with the applicant and they liked the project and hope that it gets approved. They did discuss the ingress and egress. Obviously going east toward I480, they have a convenient road going out. The other way is a little more problematic however, you have BP west of there that has the same issue. It is not uncommon being on a corner or near a corner that you would have this issue and so, we don't think that should hold up approval of the project and they support it wholeheartedly and they have good donuts.

Chairman Rothgery opened the floor to the audience and asked if anyone had anything they would like to say.

Bill Gardner of 5045 North Barton Road spoke regarding the outlet for the two roads as he understood showing the one outlet on the drawing which is across the street. By having all areas he showed on the drawing opens three outlets that are approximately 60 feet of each other. Part of the problem he noted was that there are future barricades that will be extended to the west on Lorain Road. The reason for those barricades going up is due to safety. It would appear to him with all of those outlets onto Lorain Road, that they would be more of a safety issue. The logic would be to put the entrance across the way from the other entrance so you diminish the traffic problems.

Mayor Gillock stated that the median and barrier will block that access that Mr. Gardner is referring to. The median barrier will start east of that ingress and egress where they would go to turn left. It will start a little bit east of there but it will block the Sheetz and Taco Bell turns. So,

you wouldn't have that traffic problem from across the street.

Chief Building Official Fursdon explained that the driveway across the street will not be able to get over that way. Their driveway could if they choose to go west.

Bill Gardner stated that it is his belief that the barrier is there for safety and asked if that wasn't correct.

Mayor Gillock stated that accidents come out of Sheetz which is why that road is blocked.

Bill Gardner showed the area where the barrier stops and one would assume that the barrier would start at the intersection.

Mayor Gillock stated he wouldn't make any assumptions.

Bill Gardner asked why they would then put the barrier in.

Mayor Gillock stated ODOT is putting the barrier in. They are not putting it in front of the BP and he didn't think it would be an issue with it being placed where it is.

Bill Gardner stated it is.

Duane Jackson representing Covelli Enterprises, Panera Bread, 3900 East Market Street, Warren, Ohio spoke regarding the barrier and asked if the barrier will stop in the area he showed on the map.

Chief Building Official Fursdon responded yes.

Duane Jackson explained the west bound traffic will be able to make a left hand turn into this facility.

Chief Building Official Fursdon stated yes.

Duane Jackson stated that Dunkin Donuts will be closer to the intersection than Panera and Chipotle but yet for safety concerns, that barrier is going to limit left hand traffic turning into Panera and Chipotle. Unless there is something he is missing.

Mayor Gillock stated the difference is that Dunkin Donuts does not have access to Cook Road and Panera and Chipotle do. They have an alternate way to get in and out of their property where Dunkin Donuts does not.

Duane Jackson stated yes, they have an alternate way in but it is a big deterrent for customers the further they have to go out of their way. They do have access, but that doesn't mean they won't

lose 90% of the customers. He stated he didn't understand because the whole idea for the barrier was for safety concerns so the closer you get to the intersection would be the likelihood of accidents increasing and so he didn't understand why that barrier is going to stop short of at least BP. He understood there has to be some kind of room for a turning lane in there. He didn't follow the reasoning and it seems there are mixed signals.

Kevin Blum, operator of Dunkin Donuts stated that they reached out to Panera and Chipotle's landlord of the possibility of doing a cross access easement so that their customers would be able to get in. He talked to the landlord about the opportunity to do a cross access easement so they could access the back road and it was made abundantly clear that was not an option to them. They are open minded to allowing Panera to come in through their entrance and their customers can reach their lot and Dunkin Donut's customers can stay in their lot and to share it. But they can't force them to do that.

It was asked where that could be possible.

Kevin Blum stated that they could tie into the front; they could tie into the back. There are plenty of places to tie in. That is the easy part.

Duane Jackson asked if it could be worked out to where they could tie into the front section.

Kevin Blum stated he would have to talk to his landlord. He stated they are more than open minded and believes that would be a win-win for everyone.

Bill Gardner stated he represents the landlord. He has talked to him and it was brought up that it was abundantly clear that it would first have to go through them because they have the lease on the property. Secondly, they would have to decide what the compensation would be for it based on the fact that Dunkin Donuts will also be using Panera and Chipotle's entrance and there would be liability for accidents and wear and tear on the main driveway going in and out to Cook Road. That is why he didn't get any answer because he didn't come up with a suggestion and to say to this board that he did is incorrect. He did not.

Chairman Rothgery asked if there were any other comments from the audience. Hearing none he moved the discussion back to the Commission and asked if there were any further comments. Hearing none he entertained a motion.

Member Keenan stated because the median that is impacting Sheetz and everything on the south side of Lorain isn't shown on the plan, he wasn't even aware of it and so, he is being caught unprepared to have a meaningful comment because he hasn't studied it or thought about it and quite frankly, he was just not made aware of it. He addressed the Mayor and asked if he could learn more about the median as he doesn't know where it goes as it's not shown on the plans. He asked if they could talk more about the median and the alignment to the north because it is not shown on this plan.

City Engineer Wangler explained that sheet C10 shows that median with the apron across the street. He did bring with him some Lear Road improvement plans that show where the median will stop at the west edge of the shared drive that Sheetz and Taco Bell use. Even though the median is not shown, from perspective you could assume that it will go to the western edge of that shared drive.

Member Keenan stated that it starts at the west edge of the concrete Sheetz driveway and extends to the east and it is in the center line.

City Engineer Wangler stated yes. It was then shown on the drawing with Sheet C10 being shown. He showed the drive to the north with the dashed lines.

Bill Gardner stated as a point of clarification the road in front of here starts basically in Oberlin and goes all the way to Progressive Field. He stated this is the only section of the road that you can't make a left turn on. For safety sake the State says we need to put that barrier in but Great Northern Blvd that goes into five lanes in both directions does not have a barrier. There isn't any other location that has a barrier. He didn't know if that is because everyone in North Olmsted are safer drivers, but he doesn't believe it. The barrier will want to make people go around it which will make it more dangerous and if they try to make left turns in the left turn lanes, crossing the street prior to the intersections will make it more difficult. His belief is that the intersection starts where the barrier ends.

Chairman Rothgery addressed Mr. Gardner and asked if he understood that the Commission is being asked to approve this application. The Commission has no control or say over what is going on Lorain Road.

Bill Gardner spoke but it was inaudible.

Mayor Gillock stated while the City doesn't like the median and he agrees with everything Mr. Gardner is saying, they have had many discussions with ODOT and this is their final decision.

Member Keenan stated back to the point that was just raised and what he is thinking about is that what is in front of him to cast a vote on is this a safe and appropriate location and design for Dunkin Donuts and now that he understood that there is a median there, would that influence his decision for the safety and the appropriateness of Dunkin Donuts and he finds that there are right turns in and right turns out. There is a left turn out. He didn't like the median there and he certainly can understand the disappointment and frustration from the other businesses that along there. He would be in here yipping too, but the question before him is Dunkin Donuts and he is personally satisfied that the median doesn't make the Dunkin Donuts not a safe and attractive site even though it has that median. He has the answer that he asked from the Administration regarding the median.

Duane Jackson asked how can it be okay and safe the closer you get to that intersection to be able to make a left hand turn into that facility, where just a couple feet before that it is not okay.

Chairman Rothgery stated he understood his frustration.

Duane Jackson stated he understood this is a State decision.

Mayor Gillock stated the only response he can give is that the State has indicated their concerns and it is primarily with the Sheetz driveway coming out onto Lorain Road and making a left hand turn. Unfortunately, that impacts both sides of the road. He stated that he agrees with what has been said, but it has been argued and argued.

Chairman Rothgery asked for a motion.

It was moved by Keenan and seconded by Swallow to approve the construction of a building for Dunkin Donuts with a drive through.

Yes, 5 No, 0

Motion was approved by a vote of five to zero.

COUNCIL REFERRAL:

APPLICANT: Michael Tully, Guardian of Estate of Timothy Tesmer, Michael D. Tully, Co.,
6061 S. Broadway, Lorain, OH 44052

OWNER: Timothy Tesmer, 36068 Lorain Road

REQUEST: Approval of petition to rezone parcel from R-1 zoning district to B-3 zoning district under temporary legislation T 17-2016.

LOCATION: 36068 Lorain Road in an R-1 District
Permanent Parcel No. 07-00-025-106-060

Application was read along with comments from Chief Building Official Fursdon, Engineer Scott Wangler, Fire Chief Reese, and Police Chief Freeman.

Chairman Rothgery addressed Member Keenan and asked if he could explain Council's referral.

Member Keenan stated that this referral was brought before Building and Lands. Council referred this to Building and Lands and Planning. Building and Lands Committee reviewed this same basic information and voted to recommend approval to Council without any dissention. All the reasoning behind this is essentially this is a very appropriate parcel for the suggested rezoning according to Building and Lands. Council hasn't acted on it of course, yet. The nuance inside of this issue is simply that there is a residential home on Lorain Road and a large garage structure and it seems appropriate for its proposed use to Building and Lands.

Chairman Rothgery addressed the applicant and asked if he would like to add something to that comment.

Josh Funkhouser of 9077 Franklin Drive, Attorney representing Michael Tully who is the guardian of the estate of Tim Tesmer. Tim Tesmer is the owner of the property. He stated he has been asked to assist Mr. Tully in bringing this property into compliance. The large garage structure was originally used as a monster truck repair for personal use and enjoyment of Mr. Tesmer and some point in 2007 or 2008 Mr. Tesmer suffered a traumatic brain injury which left us with pieces of the puzzle before them today. At some point it was used as individual rental units and it is has come to their attention that it is zoned improperly for such use, but Mr. Tesmer does rely on that income from the property to make his bills and this is one step in the process in bringing this property into compliance. They believe that it would be appropriately zoned as the B-3 Highway Commercial with realistic uses for the property under such designation. He has spoken with the property owner to the east who owns several properties in the area and that property is B-3 Highway Commercial and Mr. Ryan Gaydosh has indicated that he fully supports this application although he is not present this evening. He expressed his appreciation of the Commission's time.

Chairman Rothgery asked if there were any questions or comments regarding this project. Hearing none he asked for a recommendation to Council.

It was moved by Anderson and seconded by Rothgery to recommend to Council to approve the petition to rezone parcel from R-1 zoning district to B-3 zoning district under temporary legislation T 17-2016.

Yes, 5 No, 0

Motion was approved by a vote of five to zero.

ADJOURNMENT:

Meeting adjourned at 8:50 p.m.


Chairman


Secretary


Date Approved