

**NORTH RIDGEVILLE PLANNING COMMISSION
MINUTES OF
REGULAR MEETING APRIL 11, 2017**

To Order: Chairperson Swallow called the Planning Commission meeting to order with the pledge to the flag at 7:00p.m.

Roll Call: Present were members Tim Anderson, Jim Maleski, Council Liason Bernadine Butkowski, Vice Chairman Larry Pierce and Chairperson Jennifer Swallow.

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:

Chairperson Swallow asked if there were any corrections to the minutes dated March 14, 2017. She stated if there are no objections, those minutes will stand approved as presented and will be placed on file.

Correspondence:

Old Business:

Chairperson Swallow noted there was no correspondence or old business for this meeting. She asked the Clerk to read the first application.

NEW BUSINESS:

APPLICATION:

APPLICANT: Abby Rainieri, Then Design Architecture (TDA), 4135 Erie Street, Willoughby, OH 44094

OWNER: North Ridgeville City Schools, 5490 Mills Creek Lane

REQUEST: Approval to construct a 5,700 square foot addition onto an existing building

LOCATION: 5490 Mills Creek Lane in a B-3 District
Permanent Parcel No. 07-00-008-106-011

Application was read along with comments received from Chief Building Official Guy Fursdon, Police Chief Mike Freeman, City Engineer Scott Wangler, Fire Chief John Reese, and Safety-Service Director Jeffrey Armbruster.

Chairperson Swallow asked if there was a representative and if so, could they step forward and give the description of the project.

Abby Rainieri from Thendesign Architecture, 4135 Erie Street, Willoughby, OH 44094 introduced herself. She showed the site plan noting where Mills Creek Lane was located and

where Center Ridge Road was located. She showed the 5700 square foot building addition on the plan. She stated that the Board Offices were located in this facility, however, they are now going to be moved to the new 3-8 building that is under construction and is adjacent to the high school. They plan to renovate 3700 feet of the building being shown on the plan. The new addition of 5700 square feet will gain them 8 additional classrooms within the building. Prekindergarten and kindergarten will be located, now all in one location and it will become the early child learning community. They are not proposing any other changes to the site. The vehicular circulation will be the same. The number of parking spaces will remain unchanged. They are building out about 28 to 30 feet of lawn area that is currently on the north side of the building. They will be redoing the curb out front and the sidewalk, but really those are the only changes to the site that will be proposed as part of this building addition. She addressed the comment regarding the sprinklers being part of the plans which have been submitted to the city for plan review as well. This addition will be fully sprinklered. She noted the colored drawing on the plan which showed the yellow area being the addition on the plan and the blue area being the area that will be renovated. In view one and view two it shows the addition into the lawn area. The canopy over to the left side is the existing canopy. The center shows the existing main entrance and parent drop off which will remain the same function.

Jim Powell, Superintendent, 5490 Mills Creek Lane added that they are always concerned about the safety of the students. In the older entries there aren't the securities like modern day schools. This will add a secured entry to that side of the building. Two offices will be right there up front so when people come in the secured entry and lock box. He believes that is a critical update to their building.

Chairperson Swallow asked if there were any comments from any of the Commission members.

Chairman Swallow addressed the Chief Building Official and asked if this addition would require any additional parking spaces.

Chief Building Official Fursdon stated that the parking lot was originally sized for a retail grocery store and so, no, there is plenty of parking already on site.

Chairperson Swallow asked if there were any further comments from the Administration. She addressed the audience and asked if there was anyone in the audience that would like to make a comment regarding this application. Hearing none she entertained a motion.

It was moved by Anderson and seconded by Maleski to approve the construction of a 5,700 square foot addition onto an existing building.

Chairperson Swallow asked if there were any comments on the motion. Hearing none, she asked the Clerk to call the roll.

Yes, 5 No, 0

Madam Chair, the motion was approved by a vote of five yes and zero no.

APPLICANT: Steven Hermiller, P.E., The Mannik & Smith Group, 1160 Dublin Road, Columbus, OH 43215
OWNER: Lorain Gateway Development, LLC, 23706 Russel Road, Bay Village, OH 44140
REQUEST: Site plan approval to construct a Burger King drive thru restaurant to include parking, detention and utilities
LOCATION: Southeast corner of Lorain Road and Victory Lane
Permanent Parcel No. 07-00-003-102-080

Application was read along with comments received from Chief Building Official Guy Fursdon, Police Chief Mike Freeman, City Engineer Scott Wangler, Fire Chief John Reese, Safety-Service Director Jeffrey Armbruster and Mayor David Gillock.

Chairperson Swallow asked if there was a representative and if so, could they step to the microphone and state their name and address for the record.

Steve Hermiller with Mannik and Smith, Civil Engineer for the project and located at 1160 Dublin Road, Suite 100, Columbus, OH 43215.

Chairperson Swallow asked if they could provide a brief explanation of the application.

Steve Hermiller explained they have a new tenant and obviously it is Burger King. They did study the area further and both the franchise and the developer feel this is a great location for the site. He understands that there are questions about the previous operations. They did look at different options for the layout at this particular site. They have no problems answering any of the questions Planning Commission may have. They fully expect to satisfy and fulfill all the comments that were made with no problem.

Chairperson Swallow asked if the representative was ready to provide all the items mentioned in the comments.

Steve Hermiller stated that they are still in the due diligence stage; the conceptual side of things.

Chairperson Swallow asked who the developer is and if it is Burger King Corporation.

Craig Agree from Agree Development, Vice President of Development, 70 East Long Lake, Blumfield Hills, MI. Burger King is here and if there are any concerns they will be addressed. He explained they will own the Burger King real estate that is on Lorain and then in turn rent or lease that to Burger King.

Chairperson Swallow asked for clarification that once this is approved; eventually it will be leased back to Burger King Corporation.

Craig Agree stated no, to the franchisee. The land owner owns the land. Agree will buy from

the current seller. Agree will own the land and lease it to a Burger King Franchisee. The Center Ridge location is owned by Burger King Corporation.

Chairperson Swallow asked if there was a representative present from Burger King Corporation.

Craig Agree stated yes.

Chandra DeRisaria, Franchise Lead for Burger King Corporation, 5505 Blue Lagoon Drive, Miami, Florida 33126 explained that the property on Center Ridge Road is owned by them. They own a number of properties across the country known as BKLs where Burger King is the landlord and they are leased to a franchisee or sometimes they operate the property. There are only a few of those, approximately 50 some in Miami. This property did close and they are in current negotiations with a buyer who is looking to buy the property as is. Brian Facozio who has not been responsive to communications has been in discussions with Paul within the last week and they do have contractors out there today looking at all of the open items and code violations. She did drive the site today and they are addressing all of that; with no argument it is definitely in disrepair and needs to be corrected. Her role here is mostly to communicate that. This is completely separate from the franchisee that would be operating at the proposed property and is one of the best that they have in the country. This franchisee has 19 in the Cleveland market; they are also in Dayton, Chicago, Washington D.C. and expanding. So she wants to make sure they will make it right because it is them that own the property on Center Ridge Road and she would be happy to clarify for those who are uncertain. The community and customers don't know the difference between a Burger King that is operated by one franchisee or owned by Burger King. They all share the same logo. She would be happy to abate any concerns.

Chairperson Swallow asked if there were any other comments from the Commission.

Mayor Gillock stated that Paul Blanchette was out there today and they reviewed the site. They identified all the items that need addressed and the contractor will submit those to Burger King with a cost estimate to get their approval. He told Paul to let Burger King know that they have two weeks. They are not looking to drag this out in any length of time.

Chandra DeRisaria agreed and confirmed that they want to address this as soon as possible to prevent any delay. It has already been delayed based on the lack of communication that has already been noted with unsuccessful response.

Chairperson Swallow stated that as a resident, driving by that existing site and seeing it in disrepair and watching it fall into further disrepair over the past couple of years, it clearly is not being maintained properly. It is disappointing to see the outstanding code violations that are there and then all of a sudden because there is a matter before the Planning Commission to build a new one, all of a sudden Burger King is willing to come in and fix it. It doesn't seem very sincere. She is glad it is moving things along, but the point is that it needs to continue to happen.

Chandra DeRisaria agreed and at 100 miles an hour. The prospective franchisee reached out to her last weekend to make her aware that this was an issue and she was unaware that they had that property on Center Ridge Road as its closure was prior to her being in her role. She regrets that it came to this, but she can absolutely commit that it will be addressed immediately and will meet that timeline.

Chairperson Swallow asked if our Building Department had the proper contact information now for someone who is going to be responsive moving forward if this property does not sell.

Chief Building Official Fursdon stated he believed so.

Chairperson Swallow asked if there were any further comments from the Commission.

Member Butkowski stated that for the protection of our city because that site is just really a crappy hole up there and she hears complaints all the time about it. She doesn't trust Burger King because they don't seem to be very responsive and she has no reason to trust them. If these people want to build a new one here, it is her belief that Burger King Corp should, in good faith, give us a \$200,000 bond. If Burger King doesn't fix it, the city will. Then we can let this new proposed facility build. If Burger King doesn't want to give the bond and we don't put this in the legislation, she will not support them building it. She stated that if Burger King is in good faith, they will agree to give us that \$200,000 bond and then it will be approved, but it will have to be included in the legislation for her to approve it.

Chairperson Swallow asked if there were any other comments from the Administration.

Mayor Gillock provided a background. He was wrong when he said it was closed approximately in 2015. It was actually closed in 2011. Starting last August, they got a new realtor. At that time, he contacted Paul and asked him to get a hold of the realtor because the realtor is someone that he knew and is responsive. I asked Paul to reach out to him and get this place cleaned up. Paul did that and issued a list of violations which were turned over to Brian Focazio from Burger King Corporation. In September of last year, Brian responded and said he would take care of the violations ASAP. Some things were done. Cosmetic things were done but a lot of the major things such as the fence and so forth were not touched. After that Paul contacted Brian again in September and we then stopped getting response. The city contacted Brian Focazio in September, three times in October, three times in November, twice in December, January and February and we weren't getting anywhere. When this new application came in and he recognized that there are two different entities, Center Ridge Road is currently owned by Burger King Corporation. These guys own land and they want to build a franchise Burger King. They are separate but as Chandra said they have the same logo and I knew there was a connection. So I contacted Melissa Williams, the Project Manager and he told her his concerns. The next call was from Craig and he responded to his concerns and then Mr. Focazio became back involved. He was again shown what was to be done and he believes that Mr. Focazio will be responsive and will correct those items that are visible, which include the broken fence, the broken glass in the

drive through window, the trees, the ditch and some other items. As far as the interior, it is in pretty poor shape. We have recommended that the building be demolished because there is some water, rust and there could be some other issues that are there. If they have a buyer that is willing to do something with it, that is their right. His opinion is that Burger King Corporation, at this point, is committed to cleaning this site up and he didn't believe that should jeopardize their approval. They are kind of caught in the middle here and he believes that they have a good project with an excellent location for Burger King. This is kind of an odd lot and they will fit on it very well. He recommended that they be approved and he assured the Commission that if Burger King doesn't start within a couple of weeks correcting these violations, which he believes they will, the city will start enforcing it with citations and proceeding further. We can do and haven't to date, but the city is willing to take that next step. They really are two separate entities. He wanted to use the connection to get this Burger King on Center Ridge Road cleaned up. He didn't feel that the Commission should hold these gentlemen up to develop as time is money. He recommended again proceeding with approval and the city will continue to discuss the issues with Burger King.

Chairperson Swallow addressed the audience and asked if there was anyone in the audience that would like to make a comment regarding this application and if so, could they please step to the microphone and give their name and address for the record.

Pearl Hrush of 36090 Jason Drive, Grafton, Ohio asked where the entrance and exits were going to be placed as her concern is getting out onto Lorain Road.

Craig Agree showed the three exit points; one off of Lorain and two off of Victory Lane. He stated that in the future there will be a light at Victory Lane and Lorain Road. He showed on the drawing the vehicular traffic design for the drive through.

Pearl Hrush asked if there were sidewalks.

Craig Agree stated yes.

Chairperson Swallow asked if there was anyone else that would like to make a comment. Hearing no further comments, she entertained a motion.

Member Butkowski moved to approve this application with a \$200,000 bond from Burger King.

Assistant Law Director Morgan stated that you cannot hold this application hostage for another owner's inability. Legally, this would not be enforceable.

Member Butkowski stated that she could not in good conscience vote yes for the approval of this application as she does not trust Burger King.

Chairperson Swallow clarified with the Assistant Law Directors comments that the motion is not

legally enforceable.

Assistant Law Director Morgan stated yes, however there has yet to be a second on that motion.

Chairperson Swallow asked if there was a second on the motion. Hearing none, the motion dies due to the lack of a second. She asked if there were any Commission Members who would like to present a motion for the floor.

It was moved by Anderson and seconded by Pierce to approve the site plan for the construction of Burger King.

Chairperson Swallow asked the Clerk to call the roll.

Yes, 4 No, 1

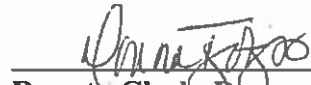
Madam Chair, the motion was approved by a vote of four yes and one no.

ADJOURNMENT:

Chairperson Swallow announced the next regular meeting being May 9, 2017. She then adjourned the meeting.

Meeting adjourned at 7:42 p.m.


Chairperson


Deputy Clerk, Donna Tjotjos

6/13/17
Date Approved