

**NORTH RIDGEVILLE PLANNING COMMISSION
MINUTES OF REGULAR MEETING
TUESDAY, SEPTEMBER 12, 2023**

CALL TO ORDER:

Member Schumann called the Planning Commission meeting to order with the Pledge of Allegiance at 7:00 PM.

ROLL CALL:

Present were members Steve Ali, Paul Graupmann, Paul Schumann and Council Liaison Bruce Abens.

Chairman James Smolik was excused.

Also present were Chief Building Official Guy Fursdon, Assistant Law Director Morgan, City Engineer Christina Eavenson, Planning and Development Director Kimberly Lieber and Deputy Clerk of Council Tina Wieber.

ELECTION OF OFFICER

Temporary Chairperson

Member Schumann stated that he had been asked to open the meeting due to the Chairman's absence and a lack of having a Vice-Chairperson. He explained that the Commission needed to elect a Temporary Chairperson for the meeting.

Moved by Abens and seconded by Graupmann to elect Paul Schumann as Temporary Chairman.

A roll call vote was taken and the motion carried.

Yes – 4 No – 0

MINUTES:

Chairman Schumann asked if the members had a chance to review the minutes of the regular meeting on June 13, 2023. He asked if there were any corrections. Hearing no corrections, the minutes were approved.

CORRESPONDENCE:

Administrative Approvals & Zoning Certificates

1. **PPZ2023-0205: Hope for the Soul Ministries, 34881 Center Ridge Rd**
Approval of a Certificate of Zoning Compliance for change in owner of church.
2. **PPZ2023-0207: Niko's Gyros To Go North Ridgeville, 34167 Center Ridge Rd**
Approval of a Certificate of Zoning Compliance for Carry out restaurant.
3. **PPZ2023-0211: Underdog Training Academy, 32660 Center Ridge Rd**
Approval of a Certificate of Zoning Compliance for dog training facility.

4. PPZ2023-0213: VFW Post 9871, 6805 Lear Nagle Rd

Administrative approval of a Planning Commission application to install a detached pavilion over an existing concrete patio.

5. PPZ2023-0221: KLT Insurance, 6480 Pitts Blvd

Approval of a Certificate of Zoning Compliance for professional offices.

Director Lieber stated that there had been four zoning certificates approved since Planning Commission's last meeting. She welcomed Hope for Soul Ministries, Niko's Gyro's to go, Underdog Training Academy and KLT Insurance to North Ridgeville. She added that also approved administratively was VFW Post 9871, a detached pavilion over their existing concrete patio.

Master Plan Update

Director Lieber stated that the most recent steering committee meeting was August 29th. She stated that they convened and crafted some recommendations given at the last round of public input they had received in July. She discussed that they would be taking all of that information, analysis and input and would be having the next meeting in mid-October. She mentioned that the first half of the draft plan would be discussed with the steering committee to follow the second half, which would be around the November time frame and then they would also be having a final round of public engagement before wrapping up the planning process and going through the adoption phase. She added that there was still a lot of work to do but they were getting into the meaty part, which was exciting.

NEW BUSINESS:

PPZ2023-0214: North Ridge Pointe Subdivision, end of Sophia Lane, PPN 07-00-030-000-008, -179, -075

Proposal consists of amending the preliminary plan for the subdivision regarding the layout of the residential lots and adding an additional 20-acre piece of property. Property zoned R-1 Residence District. Planning Commission granted preliminary approval in 2008 and revised in 2009. Final plat approval of Phase 8 was granted earlier this year.

Application was read.

Chairman Schumann asked the applicant to state his name and address for the record and explain the proposed project.

Dale Haywood, Haywood Civil Engineering & Surveying, 371 Loyola Dr, Elyria, OH 44035.

Mr. Haywood stated that Gary Smitek was unable to attend the meeting, so he was there on his behalf requesting the amended preliminary plan for North Ridge Pointe Subdivision. He discussed that the additional property to be added to the preliminary plan was an additional 20-acre parcel, which would add 23 standard lots and three cluster lots to the development, all within the confines of the agreed upon regulations for the development. He stated that the density proposed would be 2.05 homes per acre, which was less than the 2.3 homes per acre maximum. He explained that the proposed percent of cluster homes was 35, which was the maximum. He stated that 26% of open area would be provided even though only 20% was required. He added that all standard lots would exceed the minimum requirement of 12,800 square feet and all cluster lots would exceed the required width of 55 feet. He added that yet to be

**NORTH RIDGEVILLE PLANNING COMMISSION
REGULAR MEETING – TUESDAY, SEPTEMBER 12, 2023**

PAGE 3

developed with the amended preliminary plan would be a total of 46 standard homes and 50 cluster homes. He discussed that they had met with the Administrative Staff at a pre-application hearing on the 29th and discussed the plans and made some revisions to make them more palatable and provided the revised drawings that were before the Commission.

Chairman Schumann asked Chief Building Official Fursdon if he had any comments.

Chief Building Official commented that to the best of his knowledge they had corrected all of the comments that the Building Department had and the rest was up to Planning Commission.

Chairman Schumann asked City Engineer Eavenson if she had any comments.

City Engineer Eavenson stated that regarding the easements for drainage, that she noticed on the overall plan that it said owned by HOA easement to the City. She asked that when they came forward with the final plat that they strike the “to City” and make the easement to the HOA with the typical language that they usually put on the plat.

Mr. Haywood stated that they would include the standard language that they had been including in all of their plats.

City Engineer Eavenson stated that final engineering needed to be done with the next phase but she did want to also mention that the Engineering Department was asking for a little more definitive engineering plans regarding green space and landscaping, so that when he submitted the final engineering plans, if he could include what those provisions were, as far as seed type and topsoil depth and any plantings that the developer might elect to plant.

Mr. Haywood stated that that was reasonable.

City Engineer Eavenson wasn't sure if it was discussed in the pre-hearing regarding the road that would be stubbed for future development and if they would have a T-type turnaround and asked if they would have one there as well.

Mr. Haywood stated that they would but that their preference would be to put the circular turnaround in. He commented that if it was temporary, it would be a “T” style between phases.

City Engineer Eavenson commented that she wondered if there was enough room for two driveways there for both the subplot drive and then a separate drive because it looked to be more of a smaller lot, a 55-foot lot and then if the road was shortened from the property line.

Mr. Haywood asked if she were talking about on Sophia.

City Engineer Eavenson stated that was correct.

Mr. Haywood said okay.

Chairman Schumann asked Director Lieber if she had any comments.

Director Lieber thanked the applicant for making some provisions to the preliminary submittal. She explained that they had asked for a little better distinction between lot types, which they provided. She

commented that as the Engineer mentioned, they had provided for a cul-de-sac turnaround on Sardinia but Sophia was a dead end and that lot 13 did look like it was a pretty narrow lot to accommodate a half “T” turnaround. She said that lot 13 might need to be eliminated until a future phase would allow for connectivity at that point. She stated that the Planning Commission was being asked for preliminary approval but that preliminary approval then would result in detailed engineering, going through the engineering department, to get permits to construct the streets and utilities, so they would have a chance to see landscaping and grading in greater detail during a final plan, at which point, a lot more of those details regarding the ponds, landscaping, preservation areas, access points, mailbox locations, street lighting, all those things would be presented. She stated that the Planning Commission was really being asked to approve a layout and then to allow the project to move towards engineering.

Chairman Schumann asked if there were any comments from the Law Department.

Assistant Law Director Morgan stated that she didn’t have any.

Chairman Schumann asked if there were any questions or comments from the Commission.

Member Ali stated that he didn’t have any questions but he just wanted to emphasize that he was all about the landscaping and making it look more presentable.

Chairman Schumann stated that that would be before the Commission in the Future. He then asked if anyone from the public had any questions or comments.

Holly Swenk 36259 Center Ridge Rd, North Ridgeville, OH 44039.

Ms. Swenk stated that they currently had schools busting at the seams. She commented that they had a high school that was way over capacity and in her opinion, they should just shut it down. She added that it was further than the capacity. She asked what was the builder’s plans to help with that.

Chairman Schumann asked if there were any comments regarding that.

None were given.

Chairman Schumann asked if there were any questions or comments from the Commission.

Member Graupmann commented that he echoed Councilwoman Swenk’s concern. He remarked that the growth was exponential and that he had lived in the town since 1986 in Mills Creek. He added that not only were the schools overburdened, the roads were overburdened in certain areas and his concern was that if they continued to build and build and build, without taking into consideration the infrastructure, especially the schools, where did it end. He stated that he was all for growth and had seen the town improve dramatically in the 30-some years that he had been there but he echoed Councilwoman Swenk’s concern that that was a big problem.

Chairman Schumann asked if that was even part of their purview. He commented that the Commission had to look at each of the projects individually and weren’t there to do a study on the whole City, and asked if that was correct.

Assistant Law Director Morgan stated that he was correct. She explained that the role of the Commission

**NORTH RIDGEVILLE PLANNING COMMISSION
REGULAR MEETING – TUESDAY, SEPTEMBER 12, 2023**

PAGE 5

was to look at what was in front of them, evaluate whether it complied with the City's ordinances, whether they had done what was asked of them. She mentioned that she understood the concerns but it was a bigger concern where maybe the Master Plan was being worked on and things that were looking at overall picture, was a better place to address those concerns.

Chairman Schumann stated that the Commission was a recommending body and any decision that they made would go to City Council. He added that it wasn't the final say on anything. He asked if there was anything further from the developer.

Mr. Haywood stated not at that time.

Chairman Schumann asked if they should include the "T" on Sophia as part of the approval or if it was something engineering would do.

City Engineer Eavenson commented that it wouldn't hurt to add it.

Moved by Abens and seconded by Ali to recommend approval with the condition that a "T" turnaround was put in at Sophia.

A roll call vote was taken and the motion carried.

Yes – 4 No – 0

PPZ2023-0215: Hampton Place Subdivision, PPN 07-00-029-000-203, 07-00-029-000-515

Proposal consists amending the preliminary plan regarding the layout of the residential lots and adding an additional 16.9-acre piece of property originally reserved for future commercial use. Property zoned R-1 Residence District. Planning Commission granted preliminary approval in 2009 and amended in 2013.

Application was read.

Chairman Schumann asked the applicant to state his name and address for the record and explain the proposed project.

Jason Fishbach, Valore Properties, 23550 Center Ridge Rd, #101, Westlake, OH 44145.

Mr. Fishbach stated that Phase 8 was the final phase of Hampton Place Subdivision and would consist of 44 single family homes and 11 cluster family homes. He discussed that the total acreage on the whole site would be 28.41 acres total and that the 16.9 that was previously discussed was approved at one point in 2009.

Chairman Schumann asked Chief Building Official Fursdon if he had any questions or comments.

Chief Building Official Fursdon stated that they made the corrections that were discussed in the pre-hearing meeting and it was just a preliminary approval as it was an amendment to the original plan.

Chairman Schumann asked City Engineer Eavenson if she had any questions or comments.

**NORTH RIDGEVILLE PLANNING COMMISSION
REGULAR MEETING – TUESDAY, SEPTEMBER 12, 2023**

PAGE 6

City Engineer Eavenson stated that she wasn't in the pre-hearing meeting and asked if the wetlands mitigation was discussed and if he was currently seeking permitting for that.

Mr. Fishbach stated yes, they did.

City Engineer Eavenson asked if it was complete mitigation.

Mr. Fishbach stated it was.

City Engineer Eavenson asked about abutting neighbors on State Route 83, and commented that it looked like a similar situation to the Stoney Ridge Road phase that was abutting with those houses that had household sewage systems and asked if the surveyor investigated the drainage outlets for all of those systems.

Mr. Fishbach stated that what they did do was that they did have it surveyed across the back and separated the home she was referring to, their property, of which there were some existing structures and things belonging to some of those homeowners on State Route 83, that had encroached onto their property. He commented that as far as septic and those types of things, he didn't have that information at that time.

City Engineer Eavenson asked if any thought had been given to perhaps providing an outlet, a separate storm sewer system for them for potential hookup.

Mr. Fishbach remarked that they discussed that if it was needed and found that it was necessary.

City Engineer Eavenson asked if he was saying that it was still being investigated.

Mr. Fishbach stated that was correct.

City Engineer Eavenson stated that during final engineering review she would want to discuss that a little more to see what the action plan was because she felt like it would be a similar situation.

Chairman Schumann asked who would determine if that was necessary.

City Engineer Eavenson stated that each case ended up being a little unique. She commented that what they found on Stoney Ridge Road was that those systems were failing, a lot of them were failing, and unfortunately the water wasn't deemed clean enough to be connected to a storm sewer system, so then basically those residents had no outlet until they upgraded their sewage system to something meeting current standards before they could connect to a storm sewer system. She stated that the developer in the previous phase, had made an allowance for them to connect should they upgrade their system and meet the county health requirements to connect to a storm drain.

Chairman Schumann stated the ones that had septic systems and asked if a lot of them were failing.

City Engineer Eavenson stated that she couldn't speak on that side but on Stoney Ridge Road they did have that situation occur where there were failing systems that had no outlet and so it became a situation.

Chairman Schumann asked if it was something that the Commission should include in their potential

approval.

City Engineer Eavenson stated that she thought it would be helpful to include.

Chairman Schumann asked who would deem it necessary and if it would be the Engineer's office.

City Engineer Eavenson stated that each case could be unique and different so if they could make maybe some provisions for drainage along the neighboring abutting property line, that that would be helpful. She added that they would need approval from the health department prior to any connections made by the existing property owners.

Chairman Schumann commented that an allowance had to be made for that to be done.

City Engineer Eavenson stated that it would be beneficial if they had some storm sewer but didn't know that a conduit was necessary, it could be open channel. She commented that perhaps they could do something like that but just providing for an area along that shared property line.

Assistant Law Director Morgan stated that they needed to be careful about asking the developer to do something they're not technically required to do. She asked if there was a separate agreement already on that issue or an easement.

City Engineer Eavenson stated that unfortunately, what happened on Stoney Ridge Road, a lot of those residents had discharge points outside of their property on other properties, usually it was farm fields or ditches and no easements, no contractual agreements, so then they would run into the issue where you would be removing those outlets with no provisions.

Assistant Law Director Morgan asked if the properties that needed drainage, were they part of the development.

City Engineer Eavenson stated they were not. She stated they were the neighbors.

Assistant Law Director Morgan stated that it was a little tricky asking the developer as a condition of approval to do something related to someone else's property but she was sure they would work with them.

Mr. Fishbach stated that they did that on Stoney Ridge to the best of their ability and they wanted to be good neighbors for sure.

City Engineer Eavenson stated that it was appreciated.

Chairman Schumann stated that they didn't doubt his sincerity it was just that if they didn't put it in writing, they didn't have it and then down the road could be an issue.

City Engineer Eavenson asked if the Assistant Law Director was saying that they shouldn't.

Assistant Law Director Morgan stated that she would caution against including it because it was not part of the application and wasn't part of their property.

**NORTH RIDGEVILLE PLANNING COMMISSION
REGULAR MEETING – TUESDAY, SEPTEMBER 12, 2023**

PAGE 8

Chairman Schumann asked if there was a way that they could word it that would be acceptable to her.

Assistant Law Director Morgan commented that Mr. Fishbach indicated that he would work with the City and they had in the past.

Chairman Schumann stated that if that was her recommendation, then okay.

Assistant Law Director Morgan stated that she was comfortable with that.

City Engineer Eavenson stated that she did have concern with some of the grading. She discussed that she knew that the final plans hadn't been developed but she would just ask their engineer to look at that as well. She commented that there were some steep drop-offs on the back of those sublots that abutted the neighboring property. She added that along those same lines, she would caution them to keep storm drainage within the property.

Mr. Fishbach stated that they were already looking into that.

Chairman Schumann asked Director Lieber if she had any questions or comments.

Director Lieber explained that part of the amendment was to repurpose property that was designated as future commercial to residential. She stated that the original preliminary plan showed a new road that would outlet onto State Route 83 through that future commercial area. She discussed that the developer didn't go through a rezoning process and it was currently zoned R-1. She stated that she did ask the developer to speak to the rationale for changing that intended future use to residential and asked if they could address that.

Tony Valore, Valore Properties, 23550 Center Ridge Rd, #101, Westlake, OH 44145.

Mr. Valore explained that when they first started that property in 2007, he was in contact with Giant Eagle, Kroger and Meijer and all three of them showed an interest in trying to come in the middle of North Ridgeville because they saw that corridor as being a commercial corridor ultimately. He stated that they thought because it was 446 or 426 lots that they would mix it in but it never came to pass. He stated that Giant Eagle extended where they were at next to them on Center Ridge and that Kroger never came that way. He mentioned that what started out as an aggressive plan, turned out to be a failed attempt. He explained that it was more because they didn't have a national tenant to take on a project like that and that was what stopped it ultimately. He stated that 13 years or so later there wasn't a commercial need now that Center Ridge Road was now exploding and expanding like it should, so that was why they changed directions regarding it. He added that at that time they asked about it because they envisioned that they could go south into the Stopper property and go all the way up to Center Ridge because there was a lot of banked land there, but it turned out to be an extreme amount of wetlands that they couldn't really go much further than where they were at to the south. He explained that that was why they abandoned that plan and went back to residential, which it was very suited for.

Director Lieber stated that she brought that up because she was aware that there was always concern of additional housing and some of the issues pointed out with the previous application, but in that case, the outlet that would have potentially been constructed on Avon Belden Road, would have been offset from the street across Mildred. She explained that they just had that Barres Road realignment project where traffic issues were created due to an offset and she feared that that would have resulted in another

situation where the City would be spending millions of dollars some years ahead to resolve some traffic situation. She mentioned that from a safety perspective, she wasn't displeased that that exit was now gone from that development. She commented that she thought it would have posed some issues and some safety hazards. She stated that the two lots that fronted State Route 83 were part of the development even though they weren't internally connected. She discussed that it would have added commercial activity in the backyards of residences on State Route 83 that would have traffic on one side of them and commercial activity behind them. She commented that perhaps without acquiring those State Route 83 frontage lots, it was more of just a futuristic idea and less of a well thought out plan. She stated that for that reason, she wasn't opposing that change of the preliminary plan due to the potential neighbor impacts and also the traffic impacts.

Chairman Schuman stated that the Director said that it was already zoned R-1.

Director Lieber stated that it was.

Chairman Schumann commented that there was no zoning change that had to take place.

Director Lieber stated that there wasn't. She discussed that the applicant had responded to other comments to provide additional information and to provide maintenance access to a certain common area and they discussed a bit how to demonstrate the grading and drainage would work to not have a negative impact to those properties on Route 83 and that they would need to continue to work with the property owner on those things. She mentioned that it was a preliminary approval but they eventually would see the final plat that would have a bit more detail, although the developer did include quite a bit in the preliminary plan.

Chairman Schumann asked if the Assistant Law Director Morgan had any questions or comments.

None were given.

Chairman Schumann asked if any of the Commission members had any questions or comments.

Council Liaison Abens asked if the two lots closest to State Route 83 currently had houses on them.

Mr. Fishbach stated that they did not.

Council Liaison Abens asked about the areas where Hampton touched Avon Belden and Stoney Ridge, if there were sidewalks in those areas.

Mr. Fishbach stated that there was.

Chairman Schumann asked if anyone from the public had any questions or comments.

Jason Jacobs, 36121 Atlantic Avenue, North Ridgeville, OH 44039.

Mr. Jacobs stated that he wanted to echo some of the comments made by the City Engineer regarding drainage on the property. He explained that as a Councilperson for the City, he could tell the Commission that he had already been contacted by homeowners that lived along State Route 83, whose properties would abut those phase 8 properties, who had already stated that with the expansion of phases 6 and 7 in the development, had caused additional storm water to end up on their properties. He

**NORTH RIDGEVILLE PLANNING COMMISSION
REGULAR MEETING – TUESDAY, SEPTEMBER 12, 2023**

PAGE 10

stated that he was pleased to hear that the developer was looking to work through those issues but just wanted to point out that it had already been stated by some of those homeowners that the problem existed currently as a result of phases 6 and 7.

Holly Swenk, 36259 Center Ridge Road, North Ridgeville, OH 44039.

Ms. Swenk stated that her question to the subdivisions was, what were they going to do to help alleviate the over abundance of kids in the school systems that were busting at the seams. She asked if he had any ideas.

Mr. Valore stated that he had no idea what the school system was doing but he stated that it did add tax dollars to support the school system. He stated that no matter where they were at, currently in Westlake it was pretty much the same as what was going on in North Ridgeville, that the town was growing and growing and that was an ongoing concern for the whole community.

Ms. Swenk said, yes that won't pass a levy. She commented that it was 140 more homes.

Gary and Georgia Misener, 6068 Avon Belden Road, North Ridgeville, OH 44039.

Mr. Misener asked regarding Hampton Place Subdivision, how soon it was it going to happen.

Mr. Valore stated that as they went through the preliminary plan and engineering, that process would take about three months and once they get through that process and were in full agreement and came up with water and sanitary storm, that timing was based on their engineers getting it back and Christina taking a good hard look at it. He commented that from his perspective, if they were all ready to go and start sometime in November or December, that would be pretty aggressive, but hopefully January or February at the latest, and pavement sometime in the Spring.

Mr. Misener stated that he viewed the plot that day in particular, subplot 388, and commented that it was tight. He discussed that the two main concerns he and his wife had was probable loss of their peace and privacy that they had some right to as tax payers in good standing and the potential for stormwater and runoff coming onto their property. He asked how the developer would accommodate them in that respect.

Mr. Valore stated that from the perspective of drainage, that would all have to go through the Engineer to make sure that they kept the water on their side of the property. He discussed that when they came in with a subdivision like that, they ended up picking some of their water and in the reality of that property, if they looked to the top of the drawing, the little line on the top and discussed how the drainage would work (inaudible due to stepping away from podium to approach the drawing). He pointed to Mr. Misener's home on the drawing and he stated that they would have drainage so that water that was running off of Mr. Valore's property and going towards Mr. Misener's property, would keep it off of his property. He stated that the City of North Ridgeville was a blessing because they were very conscious of not letting that happen. He stated that he had the same commitment to doing what was right, which would be good for all of them and it would be good for the City. He stated that his goal was always to put no water on their property. He stated that regarding privacy, the good news was that there was only one house that would be behind him.

Mrs. Misener stated that there currently weren't any houses behind them, that it was just a field.

Mr. Valore said that he was talking about when it was done.

Mr. Misener stated that he was curious about the lines on the drawing and asked if those were elevation markers.

Mr. Valore stated that was correct.

Mr. Misener commented that it looked like it was descending in a slope towards his property.

Mr. Valore explained that they would pick up the drainage behind him and asked if he saw the distance there on the drawing and stated that it was guaranteed.

Mr. Misener remarked that he appreciated it.

Georgia Misener, 6068 Avon Belden Rd, North Ridgeville, OH 44039.

Mrs. Misener stated that they had lived there for 10 years and part of the reason why they bought their property was because of the privacy and peace that the field afforded them. She stated that now they found out that the development was going in. She asked if there was anyway Mr. Valore could put in a buffer or natural screening of trees and bushes between her back yard and the development.

Chairman Schumann explained that the project would be back before the Commission again and at that time they would be dealing with buffering and the landscaping on the buffering and asked if that was correct.

Director Lieber stated that the Commission would do the reviewing but they didn't have buffering requirements between residential and other residential developments. She explained that the buffering requirement existed where there was commercial or non-residential development adjacent to residential. She stated that providing for drainage was generally not conducive to a tree in that spot because they would be collecting water and carrying that away and there were underground utilities. She mentioned that there might be some potential landscaping but it might be that property owners would have to think about some screening on their own property.

Chairman Schumann asked if the residents would be made aware of the next time the Commission met on that subdivision.

Director Lieber said, yes.

Chairman Schumann stated that they could come and comment on that at that time, too.

Director Lieber stated the grading and drainage plan would have to be approved by Engineering and that first and foremost the concern was making sure the storm water stayed out of people's backyards.
Gerald Hansen, 6192 Avon Belden, North Ridgeville, OH 44039.

Mr. Hansen stated that he was one of the people the Engineer was talking about regarding the water and the septic tanks. He commented that he did have some issue with the water. He stated that regarding the grading, that the grading ran back to his property from behind him. He stated that that wasn't true.

Mr. Valore stated that he didn't say that. He explained that the natural lay of the land said, his property was higher than Mr. Hansens.

Mr. Hansen stated that that would mean, the water wouldn't be running into his yard but it was.

Mr. Valore stated that they had not touched the property yet, but when they went to develop it, they would be picking up any water on their side.

Mr. Hansen said that they were going to raise that area and the water would be going the other way.

Mr. Valore said that was correct.

Mr. Hansen stated that his understanding was the front yards would be raised and the backyards would still be draining towards him and towards all the sumps, all the gutters and stuff would be running back towards him. He discussed that there was a drain tile that was put in and that he discussed it with the City Engineer and Mr. Jacobs about the drain tile that was put in on the property and that it wasn't working. He stated that it was holding water at the sump, at the crock, and that there was a sink hole from his front yard to storm sewers that were already existing because it was blocked up. He added that there was water running out of those drains. He mentioned that his concern was what was going to happen with all of that water. He stated that he didn't have any problem with the development coming in and that he had been there longer than Mills Creek had been and had seen it as a farmer's field. He stated that he was worried that he was on septic and he didn't have an outlet that went anywhere. He discussed that it was a leech field that ended in his yard and drained through there. He said he hoped it was up to code because he didn't want to put money into it. He stated that his concern was the water coming in and that his neighbor to his south had flooded twice already in the Spring because of the unfinished grading from the tile that was put in and was trapped between her house and that hump and the ditch. He commented that she flooded twice and had to have people come in and take care of that. He stated that it wasn't draining and if they drove by that section between the street that was dropped and Mr. Misener's house, they would see that it was flooded all the time. He stated that he just wanted to make sure that it was taken care of.

Mr. Valore stated that it would be addressed in their design plans for engineering to take any water off of his property and to not go onto Mr. Hansen's. He explained that it most likely was going to pick up some of his water that would run toward the development.

Mr. Hansen said that that would be fine and that it was just his concern that it was taken care of because the infrastructure up front, the storm sewer, was completely failing.

Mr. Valore asked if he was talking about the one on State Route 83.

Mr. Hansen said the one on State Route 83. He stated that there was a sinkhole in his front yard and that he could see water bubbling out of his neighbor's drain instead of it draining, which was coming from that six-inch tile that was dropped into the eight-inch tile. He commented that it wasn't the developer's fault but it was a failure of that infrastructure and it wasn't going to get better. He stated that he was worried about what was going to happen with that water.

Mr. Valore stated that all of the water coming off of the property would be collected on the property and

hopefully it would pick up some of his as well.

Mr. Hansen commented that it was a lot of extra water coming off of that because of the sumps and the roofs and the lawns and the hardscapes.

Mr. Valore stated that that was what drains were for. He added that engineering wouldn't let them and what they wouldn't do was to dump water onto others properties. He explained that the one concern that they always had when they backed up to septic system was that their septic systems weren't failing and the secondary leech fields aren't on their property and all of the things that could come from sanitary. He stated that that was more important to him than stormwater because stormwater, they could collect.

Mr. Hansen stated that he was already worried about his septic system and that already when they got a really heavy rain, some of it did fail. He stated that his leech field fills from the water coming off of there already.

Mr. Valore asked if he had it inspected every couple of years.

Mr. Hansen stated that he did. He asked that the Commission just make sure it was taken care of, the water addressed in the plan and not just say, we'll work it out. He mentioned that he would like to see it in black and white.

Mr. Valore stated that Christina wouldn't let him do it unless it was right.

Chairman Schumann asked if there were any other questions or comments from the public.

None were given.

Chairman Schumann asked if there were any other questions or concerns from the Commission members.

None were given.

Moved by Abens and seconded by Ali to recommend approval with the provision that extra attention be paid to drainage.

A roll call vote was taken and the motion carried.

Yes – 4 No – 0

PPZ2023-0219: Ridgeville Farms Senior Housing, PPN 07-00-022-101-013, -015, -065, -086

Proposal consists of final development plan approval and lot consolidation for a proposed senior citizen planned residential development. Property zoned R-1 Residence District.

BZBA approved variance request and conditional use restricted to 55 and older and no more than 58 total units. on August 26, 2021 and Planning Commission approved with condition of constructing a sound barrier.

Application was read.

**NORTH RIDGEVILLE PLANNING COMMISSION
REGULAR MEETING – TUESDAY, SEPTEMBER 12, 2023**

PAGE 14

Chairman Smolik asked the applicant to state his name and address for the record and explain the proposed project.

Aaron Appell, Bramhall Engineering, 801 Moore Rd, Avon, OH 44011.

Mr. Appell stated he was representing SLK Capital because Ryan Kozak was not able to make it to the meeting. He discussed that he had several other members of the development team with him, including the architect, the owner's rep and the legal side. He stated that before them was a planned senior citizen community. He added that they came in with 58 units two years ago but have reduced the density down to 52 units. He explained that they had done quite a bit of due diligence including wetland studies, noise studies, traffic impact studies and site distance studies. He stated that the only difference in the plan versus their pre-application plan was that they did add a project sign off of State Route 83, just off the property.

Chairman Schumann asked if the Building Department had any questions or concerns.

Chief Building Official Fursdon stated that he didn't have any comments.

Chairman Schumann asked the City Engineer if she had any questions or comments.

City Engineer Eavenson stated that she did want to make one note, and that an early conversation they had regarding the water line, she knew it wasn't going to be dedicated public right-of-way street but rather a private street, and they had talked about dedicating the water line but after further review of the ordinance and the language, the language that had recently been added was really intended for single family homes and stated that they would move forward with maintaining that line as private and that they could talk about that during the full engineering review.

Mr. Appell said okay.

City Engineer Eavenson asked if there had been any decision made regarding the sanitary sewer connection as to what alternate was going to be proposed.

Mr. Appell explained that they had looked at multiple sanitary outlets and they understood that there was some concern from the City on capacity. He stated that they were willing to still consider those alternate outlets as opposed to State Route 83 but State Route 83 was still their number one alternative. He added that they would appreciate the opportunity to continue to work her on coming up with an economical solution and a solution that made sense from the City's side and the developer's side.

Director Lieber stated that the project had a preliminary approval phase in 2021 and then after that preliminary approval by Planning Commission, the developer went out to obtain financing to build the project. She discussed that in 2022 they applied for low-income tax credits and were not successful and then this year applied again and were successful. She stated that that was now considered their final approval and that there had been a few changes that were made as mentioned for example, they reduced the number of units, the street that was to be public was going to be private and they provided additional detail that they didn't have that first time around in terms of landscaping, lighting and flushing out some of the amenities for the site. She commented that she wanted to draw the Commission's attention to the detailed landscape plan. She discussed that the code did require a 20-foot buffer for adjacent neighboring residential properties where landscaping or screening to minimum height of six feet was required. She

stated that shown in the drawing on the screen that along the northern property line, it kind of jogged and the proposed screening really was kind of the limits of where those dwellings were located and she would like the Commission to determine the sufficiency of limiting that perimeter buffer to the area with the dwellings only. She added that the minutes had recorded a condition of approval by Planning Commission that a sound barrier be provided for the development and there wasn't a detailed recommendation of the type of sound barrier. She stated that the applicant was proposing a vegetative and earth and mound sound barrier, a six-foot mound with plantings, and they submitted a sound study to show the effect of sound reduction from that barrier, but she also wanted the Commission to weigh in on whether that met the requirement that they placed on the preliminary plan. She mentioned that the applicant did provide color elevations as well as other information that was requested through the detailed review. She added that regarding the entrance sign, the architecture looked fine to her but staff would review the placement to make sure it met the requirements for setbacks and stayed out of sight lines. She stated that before the Commission was not only the development plan approval but there was a lot consolidation as part of the approval as well.

Assistant Law Director Morgan stated that when they had the pre-planning meeting, her concerns were mainly about parking. She discussed that they had received a variance for that and so that issue was settled but it didn't meet the ordinance requirements.

Chairman Schumann asked if there was anyone from the public who wished to speak on the matter.

Mark Owens, Grubb & Associates LPA, 437 W. Lafayette Rd, Suite 260-A, Medina, OH 44256.

Mr. Owens stated that he had been retained to represent the property owners at parcel number 07-00-022-101-046 & -064. He stated that those two parcels had the address of 7667 Avon Belden Road and was owned by Richard J. Stirzaker, Trustee and Beth Galvez and her husband Isaac Galvez resided there with their children. He explained that he went out to the property prior to the meeting and what struck him was how compact everything was. He stated that they lived right at the curve of the common right-of-way where it curved and started to head north. He commented that they would urge the Commission not to provide final approval for that development until several issues were resolved. He stated that the first issue was pertaining to his clients and that was that they had a driveway, a mailbox and a light post that were on the Ware parcel, which was the parcel that Karen Ware was selling to the developer. He added that it had been there for well over 21 years and had been open, notorious and was actually built and put in the Thibos, who owned all of that property at one time. He stated that Beatrice Thibo then sold the property to the Stirzakers in 1977 and the driveway was there, the mailbox was there and the locations had never changed. He mentioned that one thing they wanted the developer to address was whether an easement was going to be provided that would cover that driveway, mailbox and light post because his review of the plans indicated that those items had absolutely no impact on the development whatsoever. He stated that he was hopeful that the developer would work with them and provide assurances that they were going to provide easements for that. He discussed that there were drainage pipes on both sides of the existing driveway that drained water away from their property into the ditch that was across from the common right-of-way. He stated that the drainage systems were the only things kept their basement from flooding. He added that their sump pump would be overwhelmed if they didn't have that drainage there. He explained that they needed assurances that the easements would be provided to keep those drainage pipes working where they were and that the drainage would not be interrupted. He stated that they were all put in pursuant to permit many, many years ago and that had never been an issue just as the driveway, mailbox and light post had not been an issue until the Ware's decided to sell the property to the developer.

Chairman Schumann asked where exactly the driveway and mailbox were that he was referring to. He asked if it was the one that came off of the house and went south.

Mr. Owens stated that was correct. He discussed that it went straight south from the garage to the common right-of-way. He stated that at least 80% of that driveway was on the adjacent property that was owned by the Ware Trust, that at one time it was all owned by the Thibo's. He mentioned that there had been discussion that years ago there was an easement but they didn't see that recorded anywhere in the records. He stated that his client did recall seeing the document at one time, but why it was never recorded they didn't know. He mentioned that those features had existed since at least the 1970's and maybe earlier than that.

Chairman Schumann stated that the driveway showed up on the plans before them.

Mr. Owens stated that was correct that it was there, they just wanted to make sure that the developer had no plans to, other than any road widening that got approved for that common easement, had no plans to try to make them remove that. He commented that most of that driveway was on property that the developer would then own, including the mailbox location and the light post and most of the drainage pipes. He added that there was also a water shut-off that was right on the property line between theirs and the Ware property. He stated that that needed to be there and stay there as well. He explained that the second issue was the common right-of-way. He stated that the last time the developer was there, their proposal was that they were going to widen it 26 feet according to City standards and they would then give the right-of-way to the City, so that the City could go through the process and they would have a dedicated public road. He commented that it was his understanding that now it was going to be a private road. He stated that they were still proposing to widen that little 12 to 14 feet to 26 feet, however no one had approached his clients to sell their property and no one had made an offer to purchase property from them. He mentioned that he did hear the developer address that last time and it was very clear that they were going to have to go to all of the abutting owners and purchase the property they needed for that street widening. He stated that to his knowledge that had not occurred other than the Wares. He added that he was curious how they would widen that road and take property without any compensation.

Chairman Schumann asked if the Assistant Law Director could address that.

Assistant Law Director Morgan commented that when she heard Mr. Owens say open and notorious, was he suggesting that there was some sort of adverse possession at work there.

Mr. Owens stated that technically there wouldn't be adverse possession because there was a break in ownership within that 21 years. He remarked that he was using those terms to emphasize the fact it had been there, it had been out in the open, the features had never been questioned or a problem until the development came along.

Assistant Law Director Morgan stated that it would be between the owners now and the developer and she was sure the developer could speak to their intentions. She discussed that as far as indicating to them what kind of legal action they had to take, that was outside of the parameters of what they did. She added that at that point to wait and see what they had to say and take it from there because the developers usually tried to be good neighbors and they usually tried to work with everyone. She commented that he said there wasn't a recorded easement for that.

Mr. Owens said that there was not a recorded easement that they had been able to locate. He commented that regarding the driveway, that it was their access to the common right-of-way and that was how they get to the road.

Assistant Law Director Morgan stated that sometimes there were easements of necessity and those sorts of things but to see what the developer had to say first.

Mr. Owens stated that the only other thing with the road widening was that his clients had some very mature trees on both sides of that right-of-way and they wanted to make sure that those trees were going to be preserved. He remarked that it was his understanding from the October 2021 meeting that they were trying to skew things as far to the left as possible, so that they would only go possibly a maximum of seven feet onto the side of the property where the homeowners' houses are located but they wanted to make sure that that was still the case and that they're going to preserve the trees that are there and obviously that they are going to compensate or purchase this land from the abutting home owners. He stated that they had not done so, to his knowledge.

Mr. Appell stated that as far as the drainage, they were going to maintain drainage and what was out there currently would be able to drain into a new system with storm water management. He commented that on the legal side, he invited the legal rep for the team to speak.

Brian Bonham 35765 Chester Road, Avon, OH 44011.

Mr. Bonham explained that he was counsel for the applicant. He stated that it wasn't an issue of adverse possession. He stated that there were encroachments and yes, they had been there but that was a private matter and was something for them to work out. He said that they had indicated that they would discuss it with them.

Chairman Schumann asked where the driveway and the road were going, if that was owned by his client.

Mr. Bonham stated that there was a recorded easement from the 1950's. He explained that when the turnpike was constructed and came across the slope that came up, everybody that was basically south would have been landlocked because of the slope that came through. He stated that an easement was granted and the shaded area shown on the combination plat was constructed by the Ohio Turnpike at that time to provide everybody their access, ingress and egress from their respective properties to Route 83 and all of those properties went to the center line of Route 83.

Chairman Schumann asked if the road or driveway coming in was going to be within that easement.

Mr. Bonham stated that was correct.

Chairman Schumann asked if it would be totally within that easement, even if it was 26 feet, it would still be within that easement.

Mr. Bonham stated that Aaron could speak to the dimensions.

Chairman Schumann commented that it didn't seem like it should be something that the Commission would deal with.

**NORTH RIDGEVILLE PLANNING COMMISSION
REGULAR MEETING – TUESDAY, SEPTEMBER 12, 2023**

PAGE 18

Assistant Law Director Morgan stated that she agreed. She explained that it wasn't the sort of thing that they could make a judgement call on because they didn't have all the information. She stated that they were looking at the application before them and how well it met the parameters that the City required. She stated that that was the obligation there and that the developer and home owners could work on easements and other issues.

Mr. Bonham stated that they had communicated with Mr. Owens and they have indicated a willingness to do so.

Zane Havemann, 7625 Avon Belden Road, North Ridgeville, OH 44039.

Mr. Havemann stated that he was the neighbor of the Galvez family. He commented that the question to the developer would be the same and that they claimed that there was an easement but he hadn't seen it. He said he had copies of all of the easements and there was a single shared driveway, single lane. He commented that they now wanted to build a double lane and he wanted to see the easement.

Mr. Appell stated that the exhibit that was before them had the easement that was shaded on there.

Mr. Havemann stated that it was a drawing, he wanted to see the easement.

Tom Thibo, 7609 Avon Belden Road, North Ridgeville, OH 44039.

Mr. Thibo explained that he grew up on the property that was being sold. He stated that according to the attorney, the light pole they erected just a couple months ago, they knew it was on his property when they erected it. He commented that as far as their mailbox, over the years he had asked them several times to move it. He added that one time they were replacing it and he asked them to move it onto their property and they wouldn't. He stated that they had been encroaching. He discussed that regarding their drain lines, they dug up his property. He said that one day he came home from work and there were trenches and they had dug lines through his property to the ditch and he didn't know if they got permits to do such a thing. He added that his driveway was blocked for weeks and that there was a big hump in the road and they wouldn't repair it. He stated that they hadn't exactly been the best neighbors to him over the years.

Holly Swenk, 36259 Center Ridge Road, North Ridgeville, OH 44039.

Ms. Swenk asked if there had been a title search with location surveys done on it.

Mr. Appell stated that there had.

Ms. Swenk asked if they would make that available.

Mr. Appell said he would.

Ms. Swenk remarked that as being the Ward 1 Council Rep, she would like to see those. She stated that those would list any easements, any encroachments and any filed or not filed deeds.

Mr. Appell stated that when they were in front of the Planning Commission two years ago there was a 350-page title report that was submitted to the City and was currently on record.

Ms. Swenk asked if it was correct that it was over two years old.

Mr. Appell stated that they had a new one as well.

Ms. Swenk asked if they had redone that with the surveys.

Mr. Appell stated that they had.

Chairman Schumann commented that no kids would be going into the schools.

Mr. Owens stated that he was still trying to figure out the common right-of-way expansion to 26 feet. He commented that when they were there before, they didn't argue that the 26 feet was within an existing easement. He explained that they were going to have to go outside of the existing right-of-way and were going to have to acquire property from all the abutting owners. He asked why now were they not having to purchase any property to expand the road.

Mr. Appell stated that from a surveying side, there were rights to that access, there were rights to each property owner he believed to improve that roadway. He commented that it was much wider than 26 feet and believed it was nearly 60 feet wide on average from one end to the other across all of those properties.

Chairman Schumann commented that the easement was.

Mr. Appell stated that was correct.

Chairman Schumann asked if anyone from the Commission had any questions or comments.

Council Liaison Abens asked about the property that was between State Route 83 and the Thibo Trail, he asked whose property that was, where the trees were. He said that it was the section between the roadway and State Route 83.

Mr. Appell stated that there were trees within the existing right-of-way and within the existing easement as well.

Council Liaison Abens asked if that was Mr. Thibo's and now their property.

Chairman Schumann stated or it was in the easement. He remarked that he wanted to ask about the buffering that they were proposing. He asked what plantings were on the landscape plan and how tall would they be and what were they. He asked how big of a buffer they were talking about.

Mr. Appell stated that the buffering on the northern property line that abutted the existing residential, he believed they were at about 10 to 12 feet wide with the buffer. He stated that he didn't have the plantings memorized but that they did have a variety of plantings proposed.

Chairman Schumann asked what the height would start out at.

Mr. Appell stated that he believed they started out at about five feet tall.

Chairman Schumann asked if there would be pines there.

Mr. Appell stated that he wasn't sure but along the turnpike there was definitely some pines.

Chairman Schumann asked if the Planning Director had already looked at that buffering and asked if she was comfortable with it.

Director Lieber stated that she was hoping the Commission would weigh in on what their thoughts were regarding that screening but a 20-foot-wide strip was required and they did show that 20-foot setback and then a minimum of six feet. She commented that it didn't say "at planting" but she assumed that they had fast growing varieties that would get there quickly. She explained that what they didn't want was plants that were a foot off the ground and would take 20 years to provide a screen. She discussed they would have their plant people do a review, if need be, to ensure that those plants chosen would provide for an adequate screen within the first two to three years of development.

Chairman Schumann asked if it would be appropriate for the Commission to ask for the screening to be approved in the future by the Administration.

Assistant Law Director Morgan asked what had already been approved.

Director Lieber stated that there was not a landscape plan previously provided.

Assistant Law Director Morgan asked about the buffering and if that was approved already.

Director Lieber stated that it had not. She mentioned that it was part of the final approval. She stated that if the Commission was looking for staff to weigh in, she believed someone on staff had an arborist or some kind of plant certification they could request a review.

Chairman Schumann commented that it sounded pretty thin to him because if it was supposed to be 20 and then got as skinny as six feet, it seemed kind of light.

Director Lieber stated that the height was six feet and the applicant just indicated that the planting area was going to be 12 feet.

Chairman Schumann asked if that was spelled out on the plans.

Assistant Law Director Morgan explained that whatever the ordinance required, they could require them to do that. She added that that was never an issue and that they always had to do what the ordinance required. She stated that if they wanted to do something additional that was reasonable, that was allowed. She commented that if they wanted to specify for example, evergreens would be there.

Chairman Schumann remarked that what he was saying was that if they approved it, would that give them a variance on it.

Assistant Law Director Morgan stated that it did not. She explained that they would have to follow the ordinance, just like on the drainage issues, there were requirements that they would still have to follow each and every ordinance, whether it was for buffering or drainage, all of those still had to be followed.

Director Lieber stated that she did find some notes regarding the two big plants along the buffer that were Wichita Juniper planted at six feet and then there was also Giant Arborvitae planted at six feet and those were staggered in a combination. She discussed that the width of the overall setback was 20 feet and then the plants would be staggered and they would grow starting at six feet and they didn't want to space them too close together on day one because otherwise they would just choke each other out. She mentioned that it seemed appropriate that at least on day one there should be a six-foot screen.

Chairman Schumann stated that regarding the water line going to the other house, the drainage coming from that house, that would have to be made right if they disturbed it, and asked if that was correct.

Assistant Law Director Morgan stated that there seemed to be some disagreement as to the drainage pipe that went from one property to another and that was an issue that they would have to settle but they would have to settle it among themselves. She explained that they didn't have the kind of information needed to make that decision.

Chairman Schumann remarked that it wasn't anything the Commission would weigh in on.

Assistant Law Director Morgan said, no.

Chairman Schumann commented that they wouldn't be allowed to cut off someone's utilities.

Assistant Law Director Morgan commented absolutely not and they wouldn't let them do that.

Chairman Schumann asked if there were any further questions or comments.

Council Liaison Abens stated that as far as the buffering zone, he believed he was the one who brought that point up at the original Planning meeting and what they were doing was preferable over a wall. He stated that walls didn't work very well and that all they did was push noise to somebody else. He stated that the proposed buffering actually absorbed the sound and held it there.

Chairman Schumann asked if he was talking about along the highway.

Council Liaison Abens commented that he was. He stated that he was very happy that they were putting that in and that Councilwoman Swenk would not be hearing too many complaints about noise once the residents started occupying.

Chairman Schumann asked if anyone else had any questions or comments.

Isaac Galvez, 7667 Avon Belden Road, North Ridgeville, OH 44039.

Mr. Galvez stated that he had one point regarding the sound barrier wall, he stated that two years ago in the notes it was voted as a wall.

Council Liaison Abens stated that wasn't correct.

Mr. Galvez commented that he specifically said that he did not want vegetation.

Council Liaison Abens stated that was not correct. He said a wall was never considered.

Mr. Galvez stated that he would review the notes and get back with him. He stated that two years ago Chairman Smolik stated at Planning Commission that the entire project hinged on four purchase agreements and he wanted to ask if they could schedule another meeting to discuss this easement that gives those folks the right to take away their private property before the Commission approves of the plan. He added that he was spending a thousand dollars for legal counsel because two years ago they didn't resolve it. He stated that here they were once again addressing an issue that should have been taken care of prior to that meeting.

Chairman Schumann explained that the Commission had their own legal representative and she advised that they had a legitimate easement.

Mr. Galvez asked if she had seen the easement.

Assistant Law Director Morgan explained that what she indicated was that there was a legal disagreement there and that he sought representation and the developer had representation and that was exactly the appropriate way to resolve that issue. She stated that it wasn't an issue for the Planning Commission and wasn't in their purview to do. She commented that when they resolved it, they would respect the resolution of that.

Mr. Galvez stated that they would be willingly allowing a developer to take private property from four private owners based off of what the developer was saying even though Zane had a survey, he had a survey with their easements stating that that was a right-of-way.

Assistant Law Director Morgan stated that they would look at their easements in the Law Department but again, it was not something that Planning Commission would do. She commented that they would look at those if he wanted them to but she believed the steps he had taken already, with representation, was the best way to get that resolved. She added that they would not allow a development to be built on property if they didn't own it or have rights to it. She added that it was not the purpose of the Planning Commission. She stated that the Planning Commission looked at the plans and whether it met the ordinances and those sorts of requirements, but as far as making a legal determination of who owns what property or who has all kinds of rights to it, that just was not something that the Planning Commission would do.

Mr. Galvez stated that it was his understanding that they were going to approve of a final plan without understanding the property rights of four parcels.

Assistant Law Director Morgan stated that they approved the plans, they presented it to them and they looked at it and then made a determination that it looked like a good idea and they wanted to go forward with it. She explained that they still had to comply with all the Ordinances. She added that they didn't just say to people to do whatever they wanted. She stated that the same thing would be with the ownership of the land or rights over certain properties. She discussed that they could say that it was a good plan and that they were interested in it and would like to see them do it, but they still would have to comply with the law. She explained that no one was allowed to take property from somebody else.

Mr. Galvez asked if they could schedule another meeting.

Assistant Law Director Morgan said not for the Planning Commission, no.

Chairman Schumann stated that the Commission was a recommending body.

Mr. Galvez stated that he understood and that he was there two years ago.

Chairman Schumann explained that it would go to City Council. He stated that the Commission had to deal with what was before them and it wasn't part of their job and they were limited on what they were able to do. He discussed that he needed to work with his attorney and work with their attorney and work it out.

Mr. Galvez stated that he was disappointed that no one had a clue of the easements or the purchase agreements and to him it was something that should have been a high priority considering it was in the notes and there was a recorded YouTube video where it actually stated by Smolik that it was an issue. He asked that they please be more diligent when reviewing their notes and video so that they could avoid all of that. He commented that property rights were very important and felt that it should have been taken a little bit more seriously.

Director Lieber stated that she just wanted to add that Planning approval was not a permit to construct and that Planning Commission was looking for conformance with the zoning code and subdivision regulations and that often all of those details regarding utilities and roadways and access and easements and drainage and sewer and water are worked out during the permitting process. She went on to say that if the developer obtained approval that evening, they couldn't start work tomorrow because there was still a long and detailed review process through building and engineering that would occur.

Council Liaison Abens stated that it did not give anyone unnecessary rights as far as easements were concerned. He commented that that was totally between the developer and the landowners and whatever documents that existed at that point. He added that the Commission did not give them permission to just take their property and that it still had to be negotiated between the developer and the owner of the property and was beyond the Commission's purview.

Chairman Schumann asked if there were any other questions or comments.

None were given.

Moved by Graupmann and seconded by Ali to recommend approval of the application as presented.

A roll call vote was taken and the motion carried.

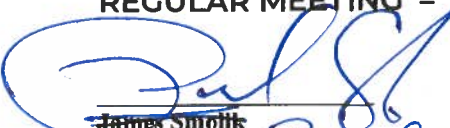
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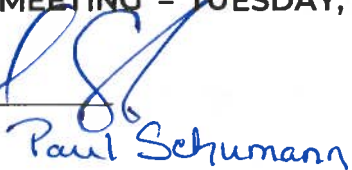
ADJOURNMENT:

The meeting was adjourned at 8:23 PM.

**NORTH RIDGEVILLE PLANNING COMMISSION
REGULAR MEETING – TUESDAY, SEPTEMBER 12, 2023**

PAGE 24


James Smolik
Chairman


Paul Schumann


Tina Wieber
Deputy Clerk of Council

 Temporary
Tuesday, October 10, 2023

Date Approved