

CITY OF HUDSON
PLANNING COMMISSION
REGULAR MEETING OF MAY 14, 2012
7:30 P.M., TOWN HALL

MINUTES

CALL TO ORDER

The Chair, Mrs. Barone, called to order the Regular Meeting of the month of the Planning Commission of the City of Hudson at 7:30 p.m. in Town Hall, 27 East Main Street, Hudson, Ohio.

ROLL CALL

Present: Mr. Cox, Mr. Drew, Mr. Kagler, Mr. O'Keefe, Mr. Mulligan, Mrs. Barone
Absent: Mr. Dostal

Officials Present: Mark Richardson, Interim Community Development Director, Aimee W. Lane, Assistant City Solicitor, Thomas Sheridan, City Engineer

Minutes were taken by Ms. La Lomia, Planning Commission clerk.

OATH OF TRUTHFULNESS

Mrs. Barone, the Chair, placed everyone under oath who would be giving any testimony during the meeting.

CORRESPONDENCE

Mr. O'Keefe stated he had received a legal notice of the Woodland Estates case because he lived northwest of the subdivision. He said he would not gain financially from this issue and did not think he needed to recuse himself from this case.

CASE NO. 2012-10, REVISED REPLAT, WOODLAND ESTATES

Mr. Richardson reviewed the staff report in detail explaining Lot 10 has been restored to the plat in its former location. He said since the last meeting variances were granted for two properties adjacent to the subdivision that reduced the setback from tank batteries from 200 feet to 175 feet. He said there was now a gas easement for the new location of the tank battery replacing Block A. He said the plat was returning back to more of its original form.

Barry Tancer, Brownstone Construction, was present on behalf of Simon Westbury LLC. He said they went to the Board of Zoning and Building Appeals ("BZBA") and got the variance, reinstated Lot 10 at the request of staff, and took Block A and made it into an easement. He said Lots 9 and 10 were not buildable at this time but would be in the future. When the well is capped, they would be buildable at that point.

Mr. Mulligan asked the status of the variance for the two neighbors and whether the other neighbors wanted to participate, whether the homeowners association was formed and registered, and if the open space was deeded to it.

Mr. Tancer replied the homeowners association had been completed. He said Louise Mazur, attorney for the receiver, did need to get this approval from the Commission in order to transfer receivership properties to the homeowner's association.

Mr. Cox asked whether the applicant saw the recommendations and whether they were all acceptable. Mr. Tancer replied, yes.

Mr. Tancer said the reasons for changes to lots 14 and 15 were to make them larger since the deed restrictions require 2,400 square foot houses be built. He explained because of utility easements on both sides of those lots the square footage was impossible to put in a house. By increasing the depth in the rear they could fit a 2,400 square foot home on the lots.

Mr. Kagler thanked the applicant for going through the extra effort of going to BZBA. He questioned whether comments from the City Engineer to make sure drainage easements were sufficient were addressed. Mr. Richardson believed the City Engineer was satisfied. He said closing data on the lots were needed. Mr. Tancer said the engineer's concern was the gas easement going back to the tank battery. He said at the request of the City Engineer the easement was moved to the east side of the tank to be sure there was plenty of clearance of the storm water basin.

Mr. Kagler inquired whether the easement for the well was designed so that once the well was capped then the tanks would be removed. Mr. Tancer replied, yes. Mr. Kagler asked that once the tanks are removed whether the property would be restored. Mr. Tancer replied the property has to be restored to a better condition and at that time would become part of the open space since it is only an easement to get to the equipment.

Mr. Kagler asked when the well was capped would the easement be revoked. Mrs. Lane responded there was a procedure under state law that when an easement no longer serves its purpose it can be vacated. She believed the easement language coincided with the life of the well and once that well was capped and the land turned back to its original state, she thought the easement went away. Mrs. Lane said the Homeowner's Association would be responsible for making sure the easement holder met its obligations. If it failed to do so, the City would have enforcement power for the open space and ODNR was responsible for the tank removal to be done properly.

Mr. Kagler questioned if the state took away protection would having a condition help protect the association rights. He said there have been a number of entities involved in this project. Mr. Tancer replied the group who initially owned the lots was Ohio Valley Energy ("OVE"). A different group, Simon Westbury LLC, a development company, is the developer and builder who owns the land. Mr. Kagler asked whether Brownstone and OVE are owned by the same entity as Simon Westbury, and whether the Smith

Family Trust, who was the original applicant, was responsible. Mr. Richardson explained most of these easements would be transferred to the property owner of record when the action occurs. Mr. Kagler questioned whether the entity who appeared before the Commission would be the one obligated to the conditions of the approval. Mr. Richardson said the responsible party would be whoever was the controller of the easement area. He said under the terms Mr. Tancer described when the well was not producing any more then they would transfer the responsibility and it would be the homeowner's association responsibility once that easement was vacated. Mr. Kagler asked whether the other entities needed to be named. Mrs. Lane did not think so. She said it is one of the state regulations to post on every well who is responsible for that well.

Mr. Drew asked the status of the homeowners association. Mr. Richardson replied it has been incorporated by the State of Ohio. Mr. Drew asked when the plat was recorded would it transfer to the homeowners association. Mr. Tancer replied it was part of the court order that the Receiver not transfer receivership properties to the homeowner's association until final approval from the City of Hudson. Mr. Drew said there were several different entities involved and asked whether the homeowners association was ready to accept ownership. Mr. Tancer replied yes that was correct.

Mr. Cox said to add a clause related to restoration of the easement area made it too complicated for a non-problem and thought it should be left out. Mr. Drew presumed such a clause was to protect the homeowners association from a future expense to restore. Mr. Cox said the easement might have an automatic expiration on it. Mr. Kagler wanted to clarify he would argue that this is not a non-problem. He said he dealt with this problem in the former Township and the State has taken away all local control and almost any ability for a community to protect itself. He said a property in 10 or 20 years could still have the tanks there and it would be a nuisance and a safety hazard for the future owners of the property to then get capped. He said whoever is responsible is going to have to restore that property and it could be a potential problem in the future since the State can change the law or not enforce its own laws.

The Chair, Mrs. Barone, opened the public hearing.

Robert Evans, 7543 Woodland Avenue, said he has worked with Barry Tancer and recommended approval of the replat as drawn. Mr. O'Keefe questioned what the setback on the plat was now. Mr. Evans thought it was 175 feet. Mr. Tancer said the 175 feet touches the back corner of his home.

Joseph Hensel, 2433 Woodacre Drive, said the entire subdivision has been a twisted mess since it began. He said there were more homes than were allowed, they put in the oil well and there were a number of other problems. He thought more homes than zoning allows and having the setback reduced from the well reduced home values.

Mrs. Barone closed the public hearing.

Mr. Richardson said he did not bring all the old records to this meeting but he knew the developer did not exceed the density requirements of this district. He said the number of homes resulting from this replat would be the same as in 2004 and 2005. Mr. Richardson said the tank battery setback coincides with the rear setbacks on the adjacent lots.

Mr. Kagler asked whether lots 9 and 10 would be developable. Mr. Richardson said they would not be until the wellhead was capped. Mrs. Lane did not think any conditions related to this were necessary since the applicant acknowledges those lots are not buildable.

Mr. Kagler moved to approve the application for the revised replat of an approved final plat for Woodland Estates Subdivision Replat of Lot No's. 13-15 and Parcels A and B according to the plat dated as received March 28, 2012 with the following conditions.

1. All Open Space parcels (Private Open Space Parcel A and Public Open Space Parcel B) and part of former Block A in the subdivision currently held in fee simple title by the Smith Family Trust shall be deeded in fee simple to a properly created nonprofit corporation homeowner's association before or at the same time that the revised plat is recorded with Summit County.
2. The City Engineer and the City Solicitor must approve the plat, including, but not limited to ensuring perpetual responsibility to restore the site to its natural state following closure of the well and removal of the tanks.
3. The conditions of the Board of Zoning and Buildings Appeals from its decision of March 15, 2012 must be added to the plat.
4. The landscape plan must be revised to the new location for the tank battery. A bond in the amount of 110% of the cost to install 20 evergreen trees must be submitted.
5. The replat may not be recorded until the above comments have been addressed. The landscaping must be installed within six months of the relocation of the tank battery.

Mr. Mulligan seconded the motion.

Mr. Tancer stated there was going to be a recorded easement. He said they could add language to the easement agreement regarding the responsibility of the easement holder to restore the land in the easement area to its original status at the point the well is abandoned and tank battery removed and no longer functioning. Mr. Mulligan and Mrs. Lane agreed.

Mr. Kagler questioned whether successors and assigns shall be responsible for complying with all requirements pertaining to restoration of the property following the State of Ohio regulations of the gas easement on open space parcel A.

Mr. Tancer said they already have five or six things to do and could add onto one of the things as a condition to the final approval.

Roll Call:

Aye: Mr. Cox, Mr. Kagler, Mr. O'Keefe, Mr. Mulligan, Mrs. Barone

Nay: Mr. Drew

Motion carried.

OTHER BUSINESS

CASE NO. 2012-11, SITE PLAN DESIGN APPROVAL, 5555 DARROW ROAD

Mr. Richardson reviewed the staff report in detail. He said the City Engineer was present to answer questions about the City part of the project if needed.

Matt LaScala, GPD Group, 520 S. Main Street, Akron, explained there were two parts to the project, the part the City is doing as well as the private driveway part of the project which JoAnn will be responsible for.

Mrs. Barone asked whether any entrances were going to be removed. Mr. LaScala responded there was a southern entrance at Corporate Drive and that median would be left in place.

Mrs. Barone asked about the timing of this project and the City's portion. Mr. LaScala responded they would work in tandem with each other. He said both the City and Joann would each go out for bid and expect construction this summer. He hoped for the project to be completed by late August.

Thom Sheridan, City Engineer, said they were working in conjunction with GPD and Joann on this design. He said the project was fast-tracked and includes two lanes, a left turn lane and a deceleration lane. He said a signal pole was being added and the lead time was about six months. He said the project would be going out to bid in the next few weeks and hoped to construct in August or September.

Mr. Mulligan asked about a monument sign at Joann. Mr. LaScala believed a new sign would be applied for at the new entrance.

Mrs. Barone asked whether there were any comments from the public. There were none.

Mr. Mulligan moved to approve the site plan for a new drive access opposite Corporate Drive for JoAnn Stores located at 5555 Darrow Road according to plans and details dated as received May 7, 2012. Further, Planning Commission accepts the recommendation of the Design Subcommittee for Development in Districts 6 and 8 and approves the design of the light poles and fixtures. Mr. Cox seconded the motion.

Roll Call:

Aye: Mr. Cox, Mr. Drew, Mr. Kagler, Mr. O'Keefe, Mr. Mulligan,
Mrs. Barone

Nay: None

Motion carried.

CASE NO. 2012-09, ORDINANCE 12-51

Mr. Richardson explained this matter was a continuation from the last meeting and the ordinance has been revised based on that meeting's discussion. He said Mr. King wrote a memo including those proposed revisions. Staff recommended the Commission recommend Council to adopt this ordinance as revised.

Mr. Mulligan agreed with Mr. King's memo but said the timing issue was not addressed. He was still concerned someone would have to show special circumstances. He asked what was the length of the average rental. Mr. Richardson replied he did not know. Mr. Mulligan thought if a house project was big enough to require a POD it could take more than a month to complete. Mr. Richardson said whatever time limit is established the legislation authorizes the City Manager to extend that time limit under extenuating circumstances.

Mr. Mulligan did not share Mr. King's concern with the advertising issue, i.e. signs painted on the storage units.

Mr. O'Keefe did not have a problem with a 60 day period.

Mrs. Barone said she researched a few other communities and some were as short as 70 days and some were 5 years. She said there were a number of them that were 30 or 90 days. She suggested 60 days with a possible 30 day extension.

Mr. Cox thought an ordinance may not be needed at all. He said Mr. King had suggested no one was really complaining about this in Hudson. He said his concern was not the number of pages in the Code but that this issue was something that was a nonproblem. He questioned who was asking this to be in the Code. He said many towns do not have this type of ordinance.

Mr. Kagler thought registration was unnecessary although he understood it would make enforcement more convenient. He said it would make the vast number of people who comply go through more hoops. He considered the units as a temporary loading and unloading situation and would support a lower time period. He understood the reason for a unit to be placed on a gravel or paved surface.

Mr. Drew supported this ordinance. He thought 60 days was more appropriate than 30 days. He said garage sale signs have to register which makes it easier for the City staff to enforce. He supported the ordinance as it had been rewritten with the time period being 60 days and one 30 day extension and would keep the requirement for registration.

Mr. O'Keefe did not have a problem with this ordinance. He thought PODS were getting more popular and it was better to control the situation before it became a problem.

Mr. Mulligan said this issue came up at a Council Workshop where four out of seven members were present. He said there was not a groundswell from a lot of people and there has not been any additional input since then.

Mrs. Barone questioned residential or commercial use. Mr. Richardson replied this particular legislation was based on the residential districts. Mr. Cox asked whether this would prohibit a company from using a POD. Mr. Richardson replied yes, unless it was a home occupation. Mr. Cox thought a company should be able to have a POD if a resident could have one no matter what district they were located in.

There was further discussion regarding whether this use should be allowed in districts other than residential. Mr. Richardson stated that once there is regulation any new use would have to abide by the regulation. He suggested if the desire was to permit PODS throughout the City then the legislation should remove all references to residential districts.

Mr. Mulligan moved to recommend City Council adopt Ordinance No. 12-51, An Ordinance Amending Section 1206.04, "Temporary Uses," of the Land Development Code to Add New Subsection 1206.04(d) Establishing Restrictions on the Use of Portable Storage Units in Residential Districts as amended as follows:

In the Ordinance title, change "1205.04(d)" on the third line to "1206.04(d)"

(d) *Portable Storage Units may be permitted by the City Manager as follows:*

Delete "Permitted in Residential Districts." on the first line of the clause.

Line 6, add the word "or" after "property" and before "to"

Delete "at a residence" at end of line 5/line 6, in the second sentence

2. Term and cost of permit. Upon registration, portable storage units shall be allowed for **no more than two (2) periods in any twelve (12) month period, one (1) period no more than sixty (60) days in length and another period no more than thirty (30) days in length**, except that the City Manager may extend **either of the periods** upon a showing of extenuating circumstances, such as repair for fire damage. No fee shall be charged for the application or issuance of this temporary use permit.

3. Site requirements.

Line 1, change "temporary" to "portable"

Line 2, after the word "paved" add the words "or graveled". At the end of the sentence add the following language: "and must be placed within a rear yard area if accessible by an existing driveway. The number of portable storage units shall not exceed two and each shall be no larger than ten (10) by eighteen (18) feet."

Mr. O'Keefe seconded the motion.

Roll Call:

Aye: Mr. Cox, Mr. Drew, Mr. O'Keefe, Mr. Mulligan, Mrs. Barone

Nay: Mr. Kagler

Motion carried.

APPROVAL OF MINUTES

Mr. Kagler moved to approve the minutes of the April 9, 2012 Regular Meeting, as amended. Mr. Drew seconded the motion.

Roll Call:

Aye: Mr. Cox, Mr. Drew, Mr. Kagler, Mr. Mulligan, Mr. O'Keefe,

Nay: None

Abstain: Mrs. Barone

Motion carried.

The Chair, Mrs. Barone, adjourned the meeting at 8:45 p.m.

Jennifer Barone, Chair

Nora La Lomia, PC Clerk