

**MINUTES OF A REGULAR MEETING  
OF THE PLANNING COMMISSION  
CITY OF INDEPENDENCE, OHIO  
June 7, 2022  
Council Caucus Room/Via Zoom**

Chairman Vice Mayor Grendel called the meeting to order at 5:30 p.m. June 7, 2022 and the following responded to Roll Call:

**PRESENT:** Mayor Gregory P. Kurtz  
Vice Mayor Dave Grendel, Chairman  
Cheryl Chase  
Joseph Moeller  
William Gutermuth

**OTHERS**

**PRESENT:** Michael Gero, Building Official  
Gregory J. O'Brien, Law Director  
Jessica Hyser, Economic Development Director  
Don Ramm, City Engineer  
Anne Lynch, City Planner

**Old Business:**

**Approval of Minutes of the Planning Commission meeting held on  
May 3, 2022.**

**New Business:**

- 1. 5568 Old Brecksville Road, PPN 561-07-012, 561-08-011, Independence Excavating, Inc.** – Represented by Donald Bohning & Associates requesting alteration of the existing topography and a steep slope variance.

Chairman Vice Mayor Grendel welcomed everyone to June 7, 2022 Planning Commission meeting.

He stated that it's a momentous occasion, all five members of the Planning Commission were in attendance in person. It was great to see that everything is getting back to normal and be able to spend time together in person to discuss these matters, although we only have one matter today.

Chairman Vice Mayor Grendel stated that the only item as Old Business would be the approval of the Minutes of the Planning Commission meeting that was held on May 3, 2022. He asked if there were any changes or corrections to those Minutes.

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**A motion was made by Mayor Kurtz, seconded by William Gutermuth, to approve the Minutes of the Planning Commission Meeting of May 3, 2022.**

**ROLL CALL: Yeas: Kurtz, Gutermuth, Moeller, Chase, Grendel**  
**Nays: None**  
**MOTION CARRIED**

**5568 Old Brecksville, PPN 561-07-012, 561-08-011** – Todd Sciano of Donald G. Bohning & Associates and Matt Gillilan of Independence Excavating were both in attendance.

Chairman Vice Mayor Grendel stated that the item was changed from what was previously given to us. He stated that they were requesting alteration of the existing topography and a steep slope variance. He stated that the members had received revised papers on the matter. He stated that originally it was a request for a lot consolidation of two properties into one lot, along with future rezoning. It has been changed now to alteration of the existing topography and a steep slope variance request. He asked Mr. Sciano to present the request to the Planning Commission.

Mr. Sciano stated that he also had Matt Gillilan on the phone from Independence Excavating. He stated that in 2016 he brought the project in front of the Planning Commission. They did a lot split as they see today. He stated that all the parcels were configured. They were trying to expedite a project to deliver a pad-ready site to an end user. He stated that what they found when they did the geotechnical bores, the underlying soils have a high moisture content, and so they were unable to fill the property at a fast rate to accomplish their timeline, and so they ended up losing the deal.

He stated that they revised the application from the original lot consolidation request because at the time they do not have a true end user yet, but they know that to prep the soils to be able to make it shovel ready, it will take a long time. He stated that the best way that he could equate it was that the soils that were there were like a sponge, and when you start moving dirt around on them it would squeeze the water out of the sponge, and you can only put so much weight on top of the underlying soils until that water in the sponge would get squeezed out. He stated that it would be a strategic fill that could take place over time, and they would probably need two construction seasons to accomplish that fill. He stated that they revised the application to request from the City a commercial alteration of the topography to start that process and get the site pad ready with the anticipation that once it was pad ready, it would be easier to develop at a faster rate.

Mr. Sciano stated that the other issue with doing that was that the property itself was bound pretty much on all four sides by steep slopes as defined by the ordinance. So, the variance request to do that work would be appropriate also in conjunction with the grade change.

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Mayor Kurtz asked the Chairman why were steep slopes a factor in a commercial property? He asked if the Law Director could opine on that. He stated that he was not sure why they had to address steep slopes. He asked if it was something in the ordinances. He stated that he understood the change of grade, but he was just confused as to why a steep slope variance would be a part of the application when the Planning Commission should have the authority to deal with it.

Law Director O'Brien stated that he was going on memory here, and he could certainly find out because there were public meetings, but he thinks that when this was presented, and it went back almost a decade. When the ordinance was presented, and he believed it was Councilperson Wagner at the time who was kind of championing this, and he was going on memory, but he thought there was some discussion about carving out commercial properties at the time. He stated that he didn't believe that it got any traction, at least at that point. He stated that he wasn't asked as the Law Department to segregate what zoning classifications should be applicable to this ordinance versus others that should not be applicable.

Mayor Kurtz stated that he was confused as to why, unless he was in a minority position on this, he doesn't know why they wouldn't consider having the ordinance deal with residential properties and exclude the commercial components of it. He asked if that was something they could look at.

Chairman Vice Mayor Grendel stated that he thought this happened back within a year or two after the Mayor getting out of office. He stated that he thought the Law Director was correct, it was Councilperson Wagner. He stated that he knew at that time that Councilperson Asseff was pretty much against it, especially in commercial areas. He didn't feel that it was needed, especially with Pleasant Valley and some of the terrain that was there. He asked the City Engineer if there was legislation that passed on that because he knows they have had to bring in the City Engineer on a number of occasions.

Mayor Kurtz asked if anybody had any thoughts one way or another? He stated that if it was just him, he would stand down. He stated that if there was a consensus, and if the Engineer could present an argument, then they could talk to the Vice Mayor and see if it would make sense to re-modify that ordinance to allow the Planning Commission to address the commercial areas.

Chairman Vice Mayor Grendel stated that they have addressed these on the newest project on Rockside Woods on the parking lot.

City Engineer Ramm replied correct. It was here, and a number of them on East Pleasant Valley where variances needed to be granted.

Mr. Gutermuth stated it was Topgolf as well if he was not mistaken.

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Chairman Vice Mayor Grendel asked if they had many residential situations with this, maybe a few. He thought that most of them had been commercial.

Mr. Gutermuth stated that the ones they have had were related to existing properties that were already built on steep slopes, like building a deck off the back where there was a ravine like over on Brookside.

Chairman Vice Mayor Grendel replied correct. He stated that maybe they could talk to Councilperson Trakas because it went through his committee, the Utilities Committee. That was where they had all the hearings and everything.

Mayor Kurtz stated that if the Chairman would want to talk to him, and if there was interest to talk to Council, and see if there were no objections. He stated if there was an objection on the Planning Commission, he would not pursue it; but if there was not, then they could talk to the Chairman's colleagues and see if they would consider that.

Chairman Vice Mayor Grendel stated that they should be able to handle that on a case-by-case basis with the Planning Commission, depending on the circumstances. He stated that maybe what they could do was talk to Councilperson Trakas and get this back on as a topic to discuss and see if they could modify it as far as with commercial and maybe keep it with the residential because there was not that much room for residential.

Mr. Gutermuth stated that he had one question, and he guessed it would be for Mr. O'Brien, would be the need for would this be before Planning at all if it was not for the steep slope variance. He asked if the alteration of the topography still require Planning Commission approval?

Law Director O'Brien replied yes. He stated that the grade was a separate code section, and it would actually carry the same, coincidentally it would carry the same kind of scrutiny that this ordinance, the steep slope, you would need a recommendation from the Engineer as to the assuring of the Planning Commission or the City that there would not be any water runoff or nuisance to adjoining property, and the Planning Commission would weigh in on it as well. He stated that it was similar.

Chairman Vice Mayor Grendel stated that as far as the application goes, he doesn't see any problem. He stated that as a matter of fact, they talked about the northwest quadrant being able to get it shovel ready and do some things there from the City's standpoint. He stated that it would make good common sense, good planning to get this property ready so that if in a year or two years from now somebody would come forward and approaches Independence Excavating, they would be able to say they were ready to go. He stated that he thought the City had looked at potential alterations to Old Brecksville Road also since the City owns the property on the peninsula, the tip there between Brecksville and Old Brecksville Road.

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Mayor Kurtz stated that was exactly right Mr. Chairman. He stated that there were two issues that he saw long term in the development process that would need to be taken into consideration. He stated that the adjoining property, the Hilltop Garage storage area, he was not sure, but he had communication probably a year or so ago with Joe Novak after Ken Piechowiak passed away, recognizing that the entire area would be re-purposed. He stated that if there was a way to incorporate additional elevation changes, he thinks the area on the south end of the property, if you could talk to them about changing the grade on their property, you could come back in here, and the Commission could address that on a timely basis if that would be a possibility. If Mr. Sciano would want to consider that.

Mayor Kurtz stated that the second thing was what the Vice Mayor eluded to was the triangle that the City owned. He stated that he believes they were still open to an expanded development at the appropriate time, redirecting some of the infrastructure to make a more comprehensive approach to the development. He stated that he for one would encourage a larger footprint if it would mean cleaning things up and offering an opportunity that would be spectacular.

He stated that his last question would be will ODOT work with the applicant to address the hump back between the Broglio site and the State of Ohio?

Mr. Sciano stated that he would answer the second part first. He stated that they were currently going through the ODOT process to eliminate that hump that exists between that quadrant and try to open up the sight lines. They had that permit in 2016, but once they lost the end user it also expired. He stated that they didn't think it would be a cumbersome process. He stated that they would have to wait until after November to remove some of the work scope, but that was in process and should give another great sight line to the City of Independence development.

He stated that the second part, he would say that collectively he agrees, it had been discussed with the owner about re-aligning that angle. He stated that there was an acute angle. It was great when you would be heading northbound to swing down on Old Brecksville, but if you would try to make that hard left to go north coming out of the development, it was tough. He thinks it is a safety issue.

Chairman Vice Mayor Grendel stated that way they could square it off.

Mayor Kurtz asked the Economic Development Director to look at the City's history. There may be some drawings where they had someone look at redirecting Old Brecksville Road adjacent to the first building on the west side of Brecksville Road where it became a 90 degree turn but with a red light with signalization, that entire triangle and the infrastructure or the right-of-way, and then incorporate it into a larger footprint.

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Mr. Gutermuth asked which building would that be.

Mayor Kurtz stated that print shop was there. It would be adjacent to the print shop. The road would be reconfigured to be adjacent to the print shop because the elevations were still pretty reasonable in that area. He stated that might be something to look at long term, especially if it will take some time to get the soil manageable and the change of grade in place.

Mr. Sciano replied absolutely. He stated that he could work with the City Engineer, and he could lead him in the right direction. He stated that there might be a bigger, better play rather than looking at it in the short term, and he thinks with the time they have that ability.

Chairman Vice Mayor Grendel stated that the best case scenario if Mr. Sciano was able to get the soil and the treatment, it would be 2024.

Mr. Sciano stated that what he thinks is they will capture a fall movement here, or late summer into the fall, and then depending on the readings from the geotech, they could capture either a right before Christmas second movement, and then potentially a spring movement. He stated that he thinks they would see activity through the winter if the site would start to take shape. He stated that he thinks it could be sooner, and he thinks it could be a 2023 development project if the Commission was willing to allow them to move forward this year.

Chairman Vice Mayor Grendel stated that to him it would make perfect sense to make it more usable, shovel ready and make it more enticing to potential customers to have a project here. He stated that he was excited about it because as the Mayor referred to it as an uncut gem. He stated that this would be the doorstep to the City and everything. He stated that right now it was not very enticing. There was a bowling alley and a Mexican restaurant on one side. It would be much nicer to see a nice project over there.

Mayor Kurtz stated that the hump back, they were looking at some elevations. It would be pretty dramatic.

Mr. Gutermuth stated that it was real steep when you drive over there. He stated that he drove past after he saw the application, and he thought there would be some serious grading that would occur here.

Chairman Vice Mayor Grendel stated it would be visible from two freeways. He stated that was what they had told Saucy Brew Works, the site if they had their signs and everything, it would be very enticing for someone to have their headquarters or development there.

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Mr. Sciano stated that the nice part about it too was the applicant would be capable of doing the work, and for them it would be small potatoes.

Chairman Vice Mayor Grendel stated that for them they probably have had a lot of experience.

Ms. Chase stated that she had only one thought, and she was thinking about the sponge property there serving a purpose in terms of the water down there. She stated that there was pretty prominent flooding, especially down on the Strong Style side, but the City Engineer would be looking at that element.

Mayor Kurtz stated that when they built the freeway, the first contractor went broke with the I-480 and I-77 interchange, and they imported material. It was clay, and it was so soggy, that they ended up importing a lot of it from the Lombardo Drive area. They cut that all down. The second contractor came into it because the first one underestimated the type of soils that he was dealing with.

Chairman Vice Mayor Grendel asked any other comments.

Mr. Moeller stated that would be his only comment too, just the water and everything, and from an engineering standpoint, if they would be comfortable with that, then he thinks it would make complete sense.

Chairman Vice Mayor Grendel asked City Engineer Ramm if he had experts in his office that would be able to work with the excavating on the project to make sure everything was done properly.

City Engineer Ramm replied yes, absolutely.

Law Director O'Brien stated that to be fair, the City Engineer would need to put into the record his opinion, and then the Commission would have to determine that the proposed application complies with all the specific requirements and with the intent of the protected hillside zone areas, and except as proposed, shall not adversely impact upon on the subject site or properties, unless the applicant would wait to see if Council would amend this. He stated that is what they would need into the record.

Mayor Kurtz stated that he wouldn't suggest that they wait for anything.

Law Director O'Brien stated he was saying that a little tongue in cheek there.

Mr. Gutermuth stated that he had no comments as long as they get the City Engineer's opinion on this that it would be okay. He stated that as far as the steep slope would go,

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he doesn't foresee this as being an issue. He stated that he felt it would reduce the slope oddly enough, so there was no problem for him.

Ms. Chase stated nothing for here.

Chairman Vice Mayor Grendel asked Law Director O'Brien about crafting the motion here to make sure that they cover any contingencies.

Law Director O'Brien stated that he wanted to ask the City Engineer a few questions just so the record would be clear. He asked the City Engineer if he had sufficient plans, drawings and reports relative to the applicant's desire to regrade and affect the steep slope to make a decision that his recommendation would be that it would not create a nuisance on the applicant's site or adjoining properties?

City Engineer Ramm stated to Law Director O'Brien that he was very comfortable making that statement. He stated to put into the record as well that the code for the steep slope was enacted at the end of 2017. He stated that the applicant did get a clearing permit issued in 2016, that in essence impacted the entire property from a vegetation standpoint. He stated that there were no longer any slopes to protect per se. He stated that the impact occurred in 2016, and the site was stable. He stated that it has been that way for a number of years. He stated that there was good growth on it. He stated that the applicant would be required to submit stormwater prevention plans that will ensure that during construction the earth moving operations that erosion sediment controls would be in accordance with the City's ordinances, and that no nuisances will be created from muddy waters coming out onto the City's rights-of-ways or roadways or the adjacent parcel to the north. He stated that those were all things that would be required as the condition of a permit.

Law Director O'Brien stated that based upon that Chairman, it would be a motion that the Planning Commission has determined that the proposed application substantially complies with Chapter 1383.10, and based upon the recommendation of the City Engineer, will if approved, have no adverse impact on the subject site or the surrounding properties and therefore it would be a motion to approve.

**A motion was made by William Gutermuth, seconded by Joseph Moeller, to approve the request as stated above.**

**ROLL CALL:           Yeas: Gutermuth, Moeller, Chase, Grendel, Kurtz**  
**Nays: None**  
**MOTION CARRIED**

Chairman Vice Mayor Grendel stated that we have that approved. He stated that the Commission was excited, and he was sure that the applicant would like to see something



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happen here. He wished the applicant the best of luck in working with the City departments to make this happen.

Mr. Sciano thanked everyone.

Chairman Vice Mayor Grendel stated that was the only piece of business that was on the agenda to come before the Commission this evening. He stated that he called the Secretary yesterday, and everyone should let her know any Tuesday or Thursday in June or July for the Commission to have the get-together and review. He stated that he was also talking the Law Director, City Engineer, Economic Development Director and the City Planner to get everybody up to speed on what our jobs are since we still continue to learn. They could have a nice workshop and maybe a dinner afterwards. Please let the Secretary know our availability on Tuesdays and Thursdays, especially Thursday as Tuesdays are usually for Council, but Thursdays would be fine.

Mayor Kurtz stated that Tuesday could be the third or fourth week.

Several people began speaking at once again.

Chairman Vice Mayor Grendel stated that they were probably looking at beginning at 4:00 p.m. and then go a couple of hours and then have dinner.

Ms. Chase asked if there will be a meeting July 5<sup>th</sup>.

Chairman Vice Mayor Grendel stated that the Commission would have to vote to change that meeting.

Several people began speaking at once again.

Law Director O'Brien asked Chairman Vice Mayor Grendel to give him a call. He stated that other than the Charter requirement of what the Planning Commission must do, and other than the entire code of ordinances regarding what the Planning Commission may be called upon to opine on and vote on, he was a little unclear on what his expectations of the Law Department would be. He asked the Chairman to let him know.

Chairman Vice Mayor Grendel stated he would discuss it with the Mayor, and let the Law Director know.

Chairman Vice Mayor Grendel thanked the City Planner for the summary that both her and the Economic Development Director has been putting together. He stated that it really helps the Commission to focus on the issue at hand. He stated that also contributions from Don Ramm from an engineering standpoint, as well as the safety forces. He stated that it helps give some background information. He stated that in years

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past they would have to check with the safety forces, and then another month would go by. He stated that it helps the Planning Commission expedite the process.

He stated to get ahold of the Secretary with dates, and they will plan something as soon as possible.

**A motion was made by William Gutermuth, seconded by Joseph Moeller, to adjourn the June 7, 2022 Planning Commission meeting.**

**ROLL CALL:           Yeas: Kurtz, Moeller, Grendel, Chase, Gutermuth**  
**Nays: None**  
**MOTION CARRIED**

**There being no further business, the Planning Commission meeting of June 7, 2022. was adjourned at 5:57 p.m.**

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**Chairman Vice Mayor Dave Grendel**

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**Debi Beal, Planning Commission Clerk**  
Minutes Unapproved at Time of Release 06/08/22