

**MINUTES OF A REGULAR MEETING
OF THE PLANNING COMMISSION
CITY OF INDEPENDENCE, OHIO
November 8, 2021
Held Virtually Via Zoom**

Chairman Lytkowski called the meeting to order at 6:08 p.m. November 8, 2021 and the following responded to Roll Call:

PRESENT: Chairman Dale Lytkowski
Mayor Gregory P. Kurtz
Vice Mayor David Grendel
Cheryl Chase
William Gutermuth

OTHERS

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

ABSENT: Jeff Markley, City Planner

Old Business:

Approval of Minutes of the Planning Commission meeting held on October 5, 2021.

New Business:

- 1. Rockside Woods Blvd., PPN 561-25-017, Project Visibility, CBIZ –**
Requesting a
variance to Chapter 1383 to permit encroachment into the steep slope setback.
- 2. 6160 Brecksville Road, Discount Drug Mart, PPN 561-26-004 –** Requesting a
lot split and consolidation.

Chairman Lytkowski stated that they also had the Regular Meeting of the Planning Commission meeting held on October 5, 2021. He asked if there were any additions or corrections to those Minutes. If not, he would entertain a motion.

A motion was made by Vice Mayor Grendel, seconded by William Gutermuth, to approve the Minutes of the Regular Meeting of the Planning Commission meeting held on October 5, 2021.

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

Rockside Woods Blvd., PPN 561-25-017, Project Visibility, CBIZ – Michael Christoff of Vocon was in attendance on behalf of the applicant.

Chairman Lytkowski asked Mr. Christoff to tell the Planning Commission the need for the setback.

Mr. Christoff stated that the site plan that they had for awhile now, it was two weeks ago or a little longer; they were informed that not only was there a steep slope area on the site, which all of their building, parking lot and stormwater management, all of those avoid encroaching past the steep slope area. He stated that what they do not accommodate at the minute was the 25 foot setback. He stated that there were a few pretty insignificant areas of the parking lot that encroach past it a little bit. Then there is a portion of the water quality basin on the east side of the site that does encroach past the 25 foot steep slope setback; and not until recently were they made aware that, not only that you could not have a building in that area, in order to have anything in that area, you need to have a variance to that requirement.

Mr. Christoff stated that furthermore it has been helpful working with Jessica Hyser and Don Ramm and everyone in Independence who has kind of let them know that in order to allow those encroachments, what they need to provide the City was some engineering determination that the soils in those areas can support what is in that setback area. He stated that what he was hoping to have a conversation this evening about if it was possible, was would there be a conditional approval that anyone would be willing to entertain under the condition that over the next few days they would be able to provide the engineering determination from the geotechnical engineer that confirms soil capacity in that area and support within the zone that was highlighted there.

Mr. Christoff stated that was what he was here to talk about tonight.

Chairman Lytkowski asked what would be put on the setback.

Mr. Christoff stated that if they would start from the left of the drawing that was on the screen, there was a little corner of parking that was in the setback area and some grading. If you go to the right you could see where all they were talking about was that little area in red that was parking, and the area that was in green was grading. He stated that if you go to the next one, the little area in red was parking, and then there was a little bit of slope that was being manicured there. He stated that when you go up to the northernmost where most of the impact would be, there was grading; and he thinks that the grading was probably something that if all this was a hole in the ground at all times, they might not

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need anything further to request the variance. He stated that what was communicated to him, and if he has not represented anything correctly, the City Engineer could step in and clarify. He stated that he thinks what the City will want, if they would be willing to grant the variance, it would probably be conditional upon engineering judgment that the water quality pond can be in that location adjacent to the steep slope area and not cause future stability issues related to the area shown beyond the steep slope line that was on the drawing.

Mr. Christoff asked if he had reasonably summarized that.

City Engineer Ramm stated that it sounded consistent with what they talked about. He stated that just to extend back a little bit for the benefit of the Planning Commission members, this was prepared earlier on, and shows you the significant encumbrance out of a 16.6 acre parcel outlined here, the top of the slope, the plateau, the usable acreage was a fraction of that. He stated that it was not surprising to them that the applicant might need, or anybody might need the small portion, some relief from the code to try to get maximum amount of use out of what was available at the top. He stated that to Mr. Christoff's point, the grading would not be that critical, but the fact that the pond would store maximum amounts of water during the peak flood events, a significant amount of weight with the water storage; and being that it would be located at the top of the ridge, that coupled with their experience and history in that area, slope failures, they felt it would be prudent to request an analysis either before they approved it or subject to and conditional upon approval of the setback.

City Engineer Ramm stated that one last point to make, the other developments that have taken place out there or that have been approved, Topgolf and the Saucy Brew Works, previously were approved for slope impacts, as well as the road when the City extended the roadway; they also needed to provide the City with a steep slope setback, a variance. He stated that there was a history out there in this area of needing relief.

Mayor Kurt stated that he had a question. He asked why does the Planning Commission have to get involved for commercial and industrial areas for a steep slope? He asked why can't Engineering just can't manage it administratively?

Chairman Lytkowski stated that he thought the same thing. He stated that he was not too sure why they were even here on this.

City Engineer Ramm stated that the setback map was prepared for the ordinance that got approved. It was global in nature, and it accounted for every piece of property in the City that had slopes and riparian areas on it; so it did not make any differential between commercial areas, residential areas, built areas and/or undeveloped areas. It was global in nature.

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Mayor Kurtz stated that he wondered if it were prudent if they would change the code to eliminate the need to go through this every time because every time we have a situation in the commercial industrial area, it forces our customers to continually come back for a variance. He asked if that was something that administratively it could be handled. He asked if the City Engineer would do anything different.

City Engineer Ramm stated that they would go through the same exercise and look at the maps and know whether or not to apply the code if it was a modification to the ordinance that gave them some administrative (inaudible).

Vice Mayor Grendel stated that he knows there was a concern when the legislation was passed a few years back, that it might be a deterrent or slow things down with some of these developments and everything; but early on the Planning Commission could always make it subject to the Engineer reviewing, Don getting the proper expert reports and being comfortable with issuing a variance like that. He stated that he has no problem with it as long as it doesn't overburden the applicant; and in this case here, he stated that he thinks the Planning Commission will make it subject to these reports so Don you could review them.

Mayor Kurtz said maybe the Planning Commission should, at least for this evening, look at an approval subject to; but then in the future, they may have to revisit that section of the code.

Vice Mayor Grendel said they could probably put it through the Utilities Committee, he thought that was where the hearings were held in Councilperson Trakas' committee and maybe revisit that to see if they can tweak a little bit the requirements.

Mayor Kurtz asked City Engineer if he could rough it up so the Vice Mayor and he could look at it before they send it out to anybody.

City Engineer Ramm replied sure.

Mayor Kurtz stated that those were his only comments, other than he agrees that a subject to the Engineer's report relative to that east slope would be appropriate. He stated that it sounded like the applicant was already willing to do that. He stated that all the Planning Commission would have to do if the Planning Commission would consider approving it, it would be subject to.

Chairman Lytkowski agreed.

Mr. Gutermuth stated that he has no problem with this. He stated that he didn't want to get into the legislative side, it would be for the Mayor and Vice Mayor to work out there; but in terms of this evening, he doesn't have any issues with it, making it subject to.

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Cheryl Chase stated that she had no problem with making it subject to.

Vice Mayor Grendel stated that he would make the motion, but he had a question for the City Engineer. He asked in the four areas, three of them encroach the parking and the fourth was the retention pond. He asked if the biggest concern was the stormwater management pond because it seemed like it was very minor as far as the parking was concerned.

City Engineer Ramm replied correct. He stated that he has to believe that most of the traffic in through there would be passenger cars, the physical weight of the asphalt in the parking lot construction, it will spread out over thin layers and it should not rise to a level that this will in terms of the load of the water during a storm event. He stated that they thought it was more important to be looking at that area.

Vice Mayor Grendel replied thank you.

A motion was made by Vice Mayor Grendel, seconded by William Gutermuth, to approve an exception to Section 1383.08, and in doing so the Planning Commission finds that the proposed exception substantially complies with all specific requirements, and with the intent of the protected hillside zone and finds the proposed application has no adverse impact upon the site, the surrounding properties, and the health, safety and welfare of the general public, subject to the submission of a geotechnical report and approved by the City Engineer as to water quality pond location and soil composition.

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

6160 Brecksville Road, Discount Drug Mart, PPN 561-26-004 – David Boodjeh of Discount Drug Mart was in attendance.

Chairman Lytkowski asked Mr. Boodjeh to talk about the lot split and consolidation.

Mr. Boodjeh stated that the rendering was showing that the lot split has been removed. The property will be owned by Discount Drug Mart. He stated that he believed they also gave the City the mylar which will need to be signed. He stated that everything as far as he was aware of that needed to be taken care of for the project should be satisfied.

Vice Mayor Grendel asked Mr. Boodjeh if the lot split was the small 90 foot piece there on the screen.

Mr. Boodjeh stated that it was that piece. He stated that they own up to the curb of that

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driveway.

Vice Mayor Grendel stated that he had no problem with this. He stated that this finishes the Planning Commission's work so the applicant can begin their construction.

Chairman Lytkowski asked if the lot split and consolidation would complete the construction.

Mr. Boodjeh replied that was correct.

The Chairman stated that he had no questions.

Mr. Gutermuth asked if the planned addition would be on Drug Mart property. He stated that assuming that was the case, he had no concerns.

Ms. Chase stated that she appreciated Mr. Boodjeh's patience with this process. She knows that he was a little bit antsy several meetings ago to get this going. She stated that she really looks forward to giving him the expansion if the Planning Commission could help him out.

Mr. Boodjeh stated that he would appreciate that.

Vice Mayor Grendel stated that he has no complaints. He would like to get this approved for Mr. Boodjeh.

The Chairman stated that he thinks they all agree.

Mayor Kurtz stated that he would make it easy and make a motion to approve.

City Engineer Ramm stated that he wanted to make one statement. He stated that the City Planner had mentioned that the prior approval was subject to a landscape plan review and approval through the City, and to date he hadn't see that; and he wanted the Engineer to re-iterate that the same subject to could be attached to this or put into the record.

Mr. Boodjeh wanted to say something to address that comment. He stated that Mr. Markley had sent someone out to look at the parcel there; and he asked for the City Planner's recommendation, and he wasn't able to come up with anything at that time. Mr. Boodjeh did tell him that once the building was built, whatever the City would feel would be necessary, they would gladly do.

Mayor Kurtz stated that they are all on the same page.

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Building Official Gero stated that he wanted to add that there was a decision that it was difficult to come up with a landscape plan until the addition was built to determine what would be needed.

Mayor Kurtz stated that it sounded to him like they would do it subject to the City Planner, but the owner has already agreed; so he believes it makes it a lot easier.

Chairman Lytkowski asked if there were any other comments. There were no other comments.

A motion was made by Mayor Kurtz, seconded by Vice Mayor Grendel, to approve the lot split and consolidation, subject to a landscape plan being submitted and approved by the City Planner.

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

Chairman Lytkowski asked if there were any other matters to come before the Planning Commission.

Mayor Kurtz stated not at this moment, but he probably will have more commentary for the December Planning meeting. The Mayor then thanked everyone who serves in a volunteer capacity. He stated it was their community, and he appreciated their effort and contribution. He stated that there were a lot of things to look forward to, but one step at a time.

A motion was made by William Gutermuth, seconded by Vice Mayor Grendel, to adjourn the meeting.

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

There being no further business, the Planning Commission meeting of November 8, 2021 was adjourned at 6:29 p.m.

Chairman Dale Lytkowski

Debi Beal, Planning Commission Clerk
Minutes Unapproved at Time of Release 11/09/21

