

PLANNING COMMISSION MEETING

MAY 30, 2013

The meeting was called to order at 7:00 p.m. by Chairman Greg Bade. Commission members present were: Greg Bade, Chris Carry, Byron Choka, Mayor Evans, Tom Forquer, Seth Hudson, and Therese Witt. (7). Also present were: Brody Walters, Planning and Zoning Administrator and Mathew Beredo, Law Director.

APPROVAL OF MINUTES FROM THE APRIL 25, 2013 MEETING

Mr. Carry moved to approve the minutes of the April 25, 2013 meeting as written. Mr. Hudson seconded and they were unanimously approved.

ADMINISTRATOR'S REPORT

Mr. Walters noted that item #7, the Carryout/Alcoholic Special Approval Use for Revolver has been removed from the agenda.

Rezoning Request

649 W. Front Street (former Lemieux property)

S1 (Scenic and Open Space) to R2 (Single Family Residential)

APPLICANT/OWNER/DEVELOPER

Tom and Laurie Foster
649 W. Front Street
Perrysburg, Ohio 43551

REQUEST

Chapter 1285 – Changes and Amendments
Chapter 1220.07(g) – Special Districts (S1)
Chapter 1225.08 – Use Regulations (S1 & R2)

PROPERTY LOCATION & DESCRIPTION

The subject property is located along the westerly extension of Front Street north of the cul-de-sac and is comprised of parcel numbers Q61-100-651401003000 and Q61-100-651401004000 which total 12.328 acres. This property is situated west of S.R. 25 and east - southeast of Rapids Road. The property is accessible from Rapids Road as well as Front Street. The property is entirely zoned S1 (Scenic and Open Space) and the applicant has requested to rezone a portion (3.948 ac) of the property containing the existing residential use to R2 (Single Family Residential) while preserving the remaining 8.38 acres as S1 zoning.

BACKGROUND

The subject property contains a single-family residence which was constructed in 1979 according to the Wood County Auditor's records. Prior to the construction of the residence the property was zoned S1 (Special/Scenic) and residential development in this zoning classification was not prohibited but was "not encouraged". The attached meeting minutes from the Zoning and Annexation Committee of the City of Perrysburg indicate that a special request was made by Mr. and Mrs. Larry Coe for a Conditional Use Permit that would permit the construction of a single-family residence. Council subsequently reviewed and approved the request for the construction of a home on this property zoned S1. It is difficult to ascertain the specific event/time that resulted in the current residence becoming a legal-nonconforming use but according to the current version of the Planning and Zoning Code residential uses are no longer permitted in S1 districts and are not eligible for Special Approval Use (formerly Conditional Use Permit). The result of the code change concerning residential uses in S1 districts has resulted in the current residence becoming a legal non-conforming use and therefore limiting its ability to expand and make other improvements.

RECOMMENDATION

The Planning & Zoning Administrator recommends that the Planning Commission recommend to City Council approval of the zone change from S1 to R2 for the 3.948 acres indicated on the survey drawing dated April 24, 2013.

Further, it is recommended that a public hearing be set before City Council for July 9, 2013 at 6:20 p.m.

Mr. Walters reviewed the above Staff Report and called attention to a letter received from Robert and Catherine Huber, a copy of which is attached to and made a part of these minutes. Mr. Foster was present and stated that he agrees with the Planning and Zoning Administrator's recommendation. Mr. Choka asked how they came up with rezoning 3.948 acres. Mr. Walters said they roughly squared off the current residential uses. Mr. Choka asked if there was any concern with West Front Street being extended to Rapids Road as expressed in the Hubers' letter. Mr. Walters said that is not a part of this plan. Mr. Bade said that it appears from the survey that it does not give access to Rapids Road so this rezoning does not increase or decrease the ability to extend Front Street to Rapids Road. Mr. Walters said that is correct.

Mayor Evans moved to recommend to City Council approval of the zone change from S1 to R2 for the 3.948 acres indicated on the survey drawing dated April 24, 2013, and to recommend that a public hearing be set before City Council for July 9, 2013 at 6:20 p.m. Mr. Carry seconded, and it was unanimously approved.

***Preliminary and Final Site Plan Review
Fort Meigs Elementary School
26431 Ft. Meigs Road***

APPLICANT/OWNER/DEVELOPER

Perrysburg School District
Fort Meigs Elementary School
26431 Ft. Meigs Road
Perrysburg, Ohio

Mr. Thomas Porter
Thomas Porter Architects
8 North St. Clair
Toledo, Ohio 43604

REQUEST

Chapter 1260 – Site Plan Review

PROPERTY LOCATION & DESCRIPTION

The subject property is located at 26431 Fort Meigs Rd., on the east side of Fort Meigs Rd and immediately south of Eckel Junction Road. The subject property is zoned INS (Institutional). The property is bordered by park land (Rivercrest) to the south and to the west and residential land to the north and the east. The subject site consists of approximately 13.08 acres.

BACKGROUND

On June 28, 2012, Superintendent Tom Hosler provided the Planning Commission with a “State of the Schools Address” during which he explained current and future student population concerns. Mr. Hosler provided current and projected class size numbers which demonstrated both a current and future need for more classroom space. One situation Mr. Hosler informed the Planning Commission about is the fact that Ft. Meigs Elementary has recently resorted to turning a custodial storage area and a staff break room into a classroom. Currently, the Perrysburg School district is utilizing 15 temporary classrooms which do include modular units like those proposed. Fort Meigs Elementary School was constructed in 1990 and has experienced significant growth since this time.

ANALYSIS

The applicant proposes to install two 14’ tall, 1,440 square foot modular classroom units near the southwest corner of the existing Fort Meigs School building. The proposed units are proposed to be located where a portion of the existing driveway and playground are currently located. The addition of two modular units would provide the

school with four additional classrooms that would be approximately 172' from the main building.

- **Zoning:** The existing zoning is INS (Institutional). The existing and proposed use is consistent with the current zoning and use. Past requests for the installation of modular classrooms has required Board of Zoning Appeals (BZA) action concerning the placement of more than one main building on a lot. This request shall not require action by the BZA due to the interpretation that modular classrooms are an accessory use to the current elementary building (these units are not self supporting and could not function without the use of the existing building).
- **Site Layout:** The applicant proposes the modular classroom units be located between the western parking lot and the current playground. According to the site plan drawings that have been provided the proper setbacks would be met and the view of the units from the street would be as limited as possible. The proposed location of the units utilizes the existing building as a screening element due to the proposed units strategic placement "behind" the building.
- **General Engineering (Storm, Water, and Sanitary Sewer):** The subject site is within the City of Perrysburg's water and sanitary sewer service area. The applicant does not intend to provide water or sanitary sewer service to the units. Only gas and electrical services from existing private services will be provided.
- **Building Design:** The provided elevations as well as the actual photos indicate the exterior building material to be T1-11 wood siding. According to Ch. 1250.48 wood siding is permitted for up to 100% building coverage. Although the building materials are compliant, based on the provided photos, additional work such as painting or replacing some sheets of T1-11 may be necessary to avoid property maintenance violations and correct deterioration the units may have suffered . From grade to the top of the roofline is approximately 14'. Any and all roof-top and/or at-ground mechanical equipment shall be concealed from public view per Chapter 1250.481(e) and screened from public view.
- **Landscaping:** Additional landscaping is shown on the provided landscape plan. The units would be adequately screened from the west by existing trees as well as the proposed six 8' Colorado Spruces. Smaller foundation type plantings and planter boxes are shown to the north of the units that will help provide screening and help transition the parking lot use up to the building. An area of concern regarding the proposed plan is the fencing section shown on the Floor Plan and Exterior Elevations page of the submission. The southeast side of the units would be visible from Fort Meigs Road and adequate landscaping/screening has not been provided. Instead of landscape the applicant has proposed a 9' tall fence (8' panel elevated 1' off the ground). According to Ch. 1250.42 fencing is limited to 6' unless the BZA specifically permits fencing to be 8' high. Fencing is likely proposed because of the units placement overtop of existing pavement. Without removing sections of existing asphalt, fencing is an easier, more cost effective option than providing landscaping. T1-11 fencing that is 9' high and more than 60' in length pose an aesthetic concern that landscaping would not. If fencing is necessary to partition the playground area

from the classrooms, it would be recommended to provide landscaping beyond the fencing. Additionally, for aesthetic reasons, foundation plantings of 5' width are recommended to prevent the building from directly contacting visible asphalt.

- **Signage:** There appears to be no new signage as part of the proposed classroom units.

RECOMMENDATION

The Planning and Zoning Administrator recommends that the Planning Commission approve the Preliminary and Final Site Plan as submitted for the proposed modular classroom units at Fort Meigs Elementary School located at 26431 Fort Meigs Road subject to the following comments and recommendations:

1. Any deteriorated buildings materials to be replaced or repaired (T1-11).
2. Any utility units such as HVAC components or meters to be screened from view.
3. T1-11 fencing to be removed, or if retained, screened with additional landscape (additional Colorado Spruces).
4. Modular units to have foundation plantings along the northeastern and southeastern sides to prevent asphalt from continuing up to the units.

Mr. Walters reviewed the above Staff Report. Tom Porter was present and said that the fence will be removed; its purpose was a sound barrier. He said that they will add the additional landscaping as recommended. Mr. Carry asked who will make the determination on deterioration of the units. Mr. Walters said that the Schools will make that decision but the Planning and Zoning office will follow-up to make sure no issues exist. Mayor Evans said that he appreciates the work the Schools did as he knows the site location was complicated. Mr. Choka asked if the foundational plantings will go in right away as there were issues with past projects. Mr. Porter said the classrooms have to be in by August 1st and the plantings will go in close to that time.

Mr. Carry moved to approve the Preliminary and Final Site Plan as submitted for the modular classroom units at Fort Meigs Elementary School located at 26431 Fort Meigs Road subject to the comments and recommendations in the Planning and Zoning Administrator's Staff Report. Mayor Evans seconded and it was unanimously approved.

Preliminary and Final Site Plan Review Frank Elementary School 401 West South Boundary

APPLICANT/OWNER/DEVELOPER

Perrysburg School District
Fort Meigs Elementary School
26431 Ft. Meigs Road
Perrysburg, Ohio

Mr. Thomas Porter
Thomas Porter Architects
8 North St. Clair
Toledo, Ohio 43604

REQUEST

Chapter 1260 – Site Plan Review

PROPERTY LOCATION & DESCRIPTION

The subject property is located at 401 W. South Boundary, on the north side of W. South Boundary Street and between Mulberry Street and Pine Street. The subject property is zoned INS (Institutional). The property is bordered by (R3) single family residential zoning in all four directions. The subject site consists of approximately 8.9 acres.

BACKGROUND

On June 28, 2012, Superintendent Tom Hosler provided the Planning Commission with a “State of the Schools Address” during which he explained current and future student population concerns. Mr. Hosler provided current and projected class size numbers which demonstrated both a current and future need for more classroom space. Currently, the Perrysburg School district is utilizing 15 temporary classrooms which do include modular units like those proposed. Frank Elementary School was constructed in 1957, and underwent an addition in 1989. Since this time each school including Frank has experienced significant growth.

ANALYSIS

The applicant proposes to install two 14’ tall, 1,440 square foot modular classroom units and one 14’ tall, 2,030 square foot modular classroom near the rear (opposite of W. South Boundary) of Frank school. The units are proposed to be located within the outfield of the existing western-side baseball diamond and next to the existing playground area. The addition of three modular units would provide the school with six additional classrooms and they would be within 90’ of the main building at the furthest point.

- **Zoning:** The existing zoning is INS (Institutional). The existing and proposed use is consistent with the current zoning and use. Past requests for the installation of modular classrooms has required Board of Zoning Appeals (BZA) action concerning the placement of more than one main building on a lot. This request shall not require action by the BZA due to the interpretation that modular classrooms are an accessory use to the current elementary building (these units are not self supporting and could not function without the use of the existing building). It is also important to

note that the cluster of units is outside of the required front yard setback and by definition they are located in the rear yard of this parcel.

- **Site Layout:** The applicant proposes the modular classroom units be located immediately north of the existing building, just slightly closer to Mulberry Street than Pine Street. According to the site plan drawings that have been provided the proper setbacks would be met and the view of the units from the W. South Boundary would be very limited. The proposed location of the units utilizes the existing building as a screening element due to the proposed units' strategic placement "behind" the building. Visibility of the units from Mulberry Street and Pine Street would be possible and the proposed landscape plan compensates for this.
- **General Engineering (Storm, Water, and Sanitary Sewer):** The subject site is within the City of Perrysburg's water and sanitary sewer service area. The applicant does not intend to provide water or sanitary sewer service to the units. Only gas and electrical services from existing private services will be provided.
- **Building Design:** The provided elevations as well as the actual photos indicate the exterior building material to be T1-11 wood siding. According to Ch. 1250.48 wood siding is permitted for up to 100% building coverage. Although the building materials are compliant, based on the provided photos, additional work such as painting or replacing some sheets of T1-11 may be necessary to avoid property maintenance violations and correct deterioration the units may have suffered. From grade to the top of the roofline is approximately 14'. Any and all roof-top and/or at-ground mechanical equipment shall be screened from public view per Chapter 1250.481(e).
- **Landscaping:** Additional landscaping is shown on the provided landscape plan. The units would be adequately screened from the west by several trees (5 proposed, 1 existing) and foundation plantings which include yews, viburnum and forsythia. Smaller foundation type plantings (yews) and an additional 5 trees will provide a visual barrier to viewers looking west from Pine Street. The proposed classroom units are oriented in a way which will not cause any viewable portion of the units to be visible without foundation plantings.
- **Signage:** There appears to be no new signage as part of the proposed classroom units.

RECOMMENDATION

The Planning and Zoning Administrator recommends that the Planning Commission approve the Preliminary and Final Site Plan as submitted for the proposed modular classroom units at Frank Elementary School located at 401 W. South Boundary.

Mr. Walters reviewed the above Staff Report. Mr. Porter said that only electrical is being extended to the units. Mr. Forquer asked about repairs to these units. Mr. Walters stated that the comments about any deteriorated buildings would apply to all units for both schools. Mr. Carry asked about any additional landscaping requirements. Mr. Walters said that their landscape plan covered it.

Mr. Carry moved to recommend approval of the Preliminary and Final Site Plan for the modular classroom units at Frank Elementary School located at 401 W. South Boundary subject to the comments in the Planning and Zoning Administrators report and with the conditions that deterioration of building materials on any of the units be fixed and all utility units and meters such as HVAC be screened from view. Mr. Choka seconded, and it was unanimously approved.

***Special Approval Use: Outdoor Café
5th Street Pub
109 West Fifth Street***

APPLICANT/OWNER/DEVELOPER

Geoff & Melissa Kies
5th Street Pub
109 W. Fifth Street
Perrysburg, Ohio

Jim Delph
Property Owner
436 E. Boundary St.
Perrysburg, Ohio

Paul A. Skaff
Attorney
Leatherman & Witzler Law
353 Elm Street
Perrysburg, OH

REQUEST

Chapter 1235.04(mm) – Special Approval Use: Restaurant – Outdoor Café

PROPERTY LOCATION & DESCRIPTION

The subject property is located at 109 W. Fifth Street and is within the Commodore Way retail plaza. The current user of this property is the “5th Street Pub”, a restaurant that specializes in pizza and also serves alcohol. This property is located outside of the Perrysburg Historic District and is currently zoned C2 (Central Business).

Commodore Way is bordered by:

North – C2 uses including: Shamas Salon, Antique Store, “The Guest House” Bed and Breakfast.

East – C2 and INS uses including: Commodore Way retail uses, Perrysburg Board of Education.

South – R4 single-family residential uses

West – C2 and INS uses including: “Comfort Keepers” and a C2 property currently occupied for residential purposes (Josh Alkire).

BACKGROUND

The subject property was previously the home of Peppercorn’s Restaurant, Anneliese’s Lounge, and now the 5th Street Pub. During the occupancy of Anneliese’s, a permit was issued for the construction of an 880 SF patio (2009). The City of Perrysburg requires separate approval for the construction and use of a patio when associated with a restaurant or similar use. The Special Approval Use (SAU) that permits the use of the patio for Anneliese’s was never considered/approved, nor has it yet been approved for 5th Street Pub. Currently, the 5th Street Pub owners desire to make full use of the patio as part of their restaurant and are now required to obtain Special Approval Use. Prior to finding out about the SAU requirement the 5th Street Pub allowed limited use of the patio and at the direction of the City, they have continued to make limited use of the patio until the Planning Commission could fully consider the request and render an official decision. The current limited operation of the outdoor patio has raised concerns from several neighbors including (*Josh Alkire) who resides at 121 W. Fifth Street. Mr. Alkire has expressed concerns regarding increased traffic, loud noise, and vulgar language coming from the outdoor patio during nighttime hours.

* A video recorded from Mr. Alkire’s property has been provided (by Mr. Alkire) to the City of Perrysburg as evidence of his complaints. This video is available for viewing prior to the Planning Commission meeting on May 30th, 2013 but it will not be shown during the meeting due to vulgar content.

ANALYSIS

Geoff and Melissa Kies have requested approval of a Special Approval Use that would allow them to operate their patio in accordance with the requirements of Outdoor Cafes. The current unenclosed patio is approximately 20’ x 44’ in size and is accessible from the restaurant. The patio is rated for 49 people. Because the patio is entirely contained on private property, unlike several downtown examples, no sidewalk lease or permit is necessary, nor shall the requirements of Chapter 1235.04(mm) that pertain to public sidewalks need to be met.

Per Chapter 1235.04(mm), the following provisions shall be strictly observed for all aspects of the outdoor café areas:

Chapter 1235.04(mm)

Restaurant: Outdoor Café:

- (1) An outdoor café may be set up and used from March 15 through October 31. The permitted hours of operation are from 7:00 a.m. to 12 midnight unless longer hours are specifically approved by the City. Noise radiating from an outdoor café which exceeds fifty (50) DBA between 8:00 p.m. and 12 midnight, or other approved hours, or fifty-five***

(55) DBA between 7:00 a.m. and 8:00 p.m., shall constitute prima facie evidence that such noise unreasonably disturbs the comfort, quiet and repose of persons in the area.

The “DBA” represents the sound pressure level in decibel measured on the “A” scale of a standard sound level meter. Noise level measurements shall be taken at the zoning district boundary of any residential zoning district and any planned development as may be appropriate. In all other districts, noise level measurements shall be taken at the property line of an affected property. The City Council may, by resolution, extend the dates of operation or the hours of operation for a stipulated number of days, not to exceed a total of thirty (30) days per calendar year.

(2) A site drawing showing the detailed plan of the outdoor café shall be submitted to and approved by the City. The detailed plan is to include: the design, relevant details and location of all temporary structures such as awnings, planters, landscaping, railing, tables, chairs and other equipment, as well as lighting and electrical outlet locations. For café’s on public property, the plan shall also show existing sidewalks, buildings, curbs, existing improvements, i.e., lamp posts, street trees, benches, mailboxes, etc. A minimum of sixty (60) inches shall be maintained as an unobstructed clear area for pedestrian use.

(3) Plans for setting up the outdoor café must be approved by the City to provide for the free passage of pedestrians along the sidewalks, to provide for traffic and pedestrian safety and for fire safety issues. If alcohol is served, entrance to the outdoor café is required from inside the building. An outdoor café which is adjacent to residential properties or shares an alley with residential properties shall be screened with a solid wall a minimum of six (6) feet high.

(4) The outdoor café must be part of a licensed restaurant and meet all of the health requirements of the City and any other County or State requirements.

(5) For outdoor cafés on public property, liability insurance and property damage coverage naming the City as an insured party in an amount approved by the City, must be provided before setting up an outdoor café.

(7) Furnishings of an outdoor café shall consist solely of readily removable awnings, covers, canopies, railings, tables, chairs, planters containing plants and accessories. Furnishings may not be attached, even in a temporary manner, to the sidewalk or other public property except that canopies, awnings, umbrellas, covers and railings, if specifically approved by the City, may be secured by means of flush-mounted anchors or other method.

In addition, the following shall also apply:

- Ingress and egress from the outdoor café features shall be reviewed and approved by the City of Perrysburg Fire Division.

Per Chapter 1235.02(d), No SAU shall be approved by the Planning Commission unless it finds the following:

- (1) The establishment, maintenance or operation of the special approval use will not be detrimental to or endanger the public health, safety, or general welfare or the natural environment.
- (2) The special approval use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted nor shall it substantially diminish and impair property values within its neighborhood.
- (3) The establishment of the special approval use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
- (4) Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.
- (5) Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
- (6) The special approval use shall, in all other respects, conform to the applicable regulations of the district in which it is located and to any additional conditions or procedures as specified in this Chapter.

RECOMMENDATION

The Planning and Zoning Administrator recommends that the Planning Commission approve the Special Approval Use for the 5th Street Pub's outdoor café in accordance with Chapter 1235.04(mm) and subject to the following restrictions and with the understanding that failure to comply with and condition(s) shall result in the revocation of the SAU:

1. The patio shall not be occupied between the hours of 9:30 pm and 9:30 am for any purpose.
2. Additional Landscaping as proposed (on provided site plan – Eight, 4' tall evergreens/junipers) shall be installed along the western edge of the patio.
3. The south wall shall be enclosed to a height of 6' or alternatively a 6' fence/wall shall be erected to meet Condition #3 of the SAU criteria.
4. A lot combination shall be completed to remedy setback and property line discrepancies.

Mr. Walters reviewed the above Staff Report. Geoff Kies, owner of the 5th Street Pub, was present and said that for the most part he agrees with the Planning and Zoning Administrator's recommendations. He said from his standpoint restaurants are about pennies and he needs to scratch for every penny he can get. He said he understands how different this location is now than it used to be, but he would like to request that the time restriction be pushed to 11 p.m. on weekends. Mr. Bade clarified that by weekend Mr. Kies means Friday and Saturday. Mr. Kies said that he is going to take the outside seating down to 24 by putting up a wall that runs east/west on the patio and he will use the other portion for storage. He said he would love to find common ground regarding this issue. Paul Skaff, attorney for the Kies', said that many of the complaints have been about parking so they contacted the Perrysburg Schools and they have agreed to let them use the Administrative Building parking lot. Tom Hosler, Superintendent of Perrysburg Schools, was present and said that given their hours and the hours the 5th Street Pub operates, he thinks they can be a good neighbor and let them use the lot.

Jim Kuck, 124 West Fifth Street, said that he thinks the Administration is jumping the gun by recommending approval. Mr. Beredo explained the process of the Planning and Zoning Administrator reviewing items that come to the Planning Commission and making a recommendation as he also did for the first three items heard at this meeting. He said it is then up to the Planning Commission, which consists of six citizens and the Mayor, to hear from the Planning and Zoning Administrator, the applicant, the public and then make their decision.

Mr. Walters played a video and audio recording that was provided by Josh Alkire, 121 W. Fifth Street. Mr. Bade asked Mr. Kies how late they use the patio. Mr. Kies said they stop seating it about 9:30 p.m. on weekdays and 11:00 on weekends. He said that what he thinks is on the video are people going out to smoke; they are not serving on the patio after midnight. Mr. Hudson asked if the Special Approval Use is denied if the doors to the patio would be open. Mr. Kies said that the Fire Code requires him to keep them unlocked. Mayor Evans said the patio was constructed in 2009 and there were no complaints about Anneliese's. He asked Mr. Alkire and Tonya Motter how long they have lived in their house. Mr. Alkire said they have lived there ten years. Mayor Evans asked if they were aware it was zoned C2 when they purchased it. Mr. Alkire said they were aware of the zoning, and at the time it was Peppercorns Restaurant and there was no patio. Mayor Evans noted that according to Chapter 1235.02(d) no SAU shall be approved if it is injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted. He asked Mr. Alkire and Tonya Motter if they are saying they aren't enjoying their property, and they said yes. Mayor Evans asked them if they are agreeable to the Planning and Zoning Administrator's recommendations. They said that smokers will still go out there and drunken smokers are louder than diners. Mayor Evans noted that if we close off the patio, smokers will go to the parking lot. Tonya Motter stated that employees of the pub go out there after they close. Mayor Evans asked what bedtime is at their house, and they said nine o'clock. Mayor Evans asked how Mr. Alkire made the recording that was submitted. He said he used a Canon handheld video recorder for the one that was shown earlier, and he used his iPhone for the vulgar one that was not played. Mayor Evans said that he heard a lot of echoes, so perhaps some noise reducing efforts such as outdoor carpeting would

help. Mayor Evans asked Mr. Beredo if the Planning Commission can impose a one year limit on a Special Approval Use to review it again. Mr. Beredo stated that the terms for a Special Approval Use include revocation if the guidelines are not met. Mayor Evans explained that a wall on the west side was not recommended because the Code calls for a wall if it is adjacent to residential property, and the adjacent property to the 5th Street Pub is zoned commercial. Mayor Evans asked Mr. Kies what accommodations he would be willing to make to reduce the noise. Mr. Kies said as recommended by Mr. Walters he would plant juniper trees; they use blinds that are lowered at 9 p.m.; agree to limiting the hours of use; and limiting the number of people.

Mr. Choka acknowledged how difficult the restaurant business is, and he asked if Mr. Kies knew he did not have permission to use the patio when he opened the business. Mr. Kies said he was not aware that he could not use the patio. Mr. Choka asked if he has looked at enclosing the patio. Mr. Kies said that is his long term goal and he would love to do it, but with adding separate HVAC, the walls, and insulation, it is costly. Mr. Bade asked if the Administration had looked into the section of the Code that says the SAU shall not substantially diminish and impair property values within its neighborhood. Mr. Walters said that we are not in a position to give testimony on whether property values have diminished. He said that perhaps that could be determined by an appraiser. Mr. Carry asked Mr. Alkire if the patio was full at 8 p.m. when he filmed the video. Mr. Kies said he believes so, but the blinds were down. Mr. Carry said if it was full, reducing the number of people as Mr. Kies has proposed would at least reduce the noise level. Mr. Alkire said the video that was not shown was only four people on the patio. Ms. Witt clarified that Chapter 1235.02(d)(2) refers to the enjoyment of other property in the immediate vicinity which would include residential properties in the area.

Mr. Bade then opened the floor to comments from the audience.

Gene Phlegar, 144 W. Fifth Street – asked if the restaurant is air conditioned; he said the Planning Commission is required to look at the law; the restaurant is the new kid on the block and they have to play by the rules in effect; he pleaded with the Planning Commission to be sensitive to residents as well as businesses; he hopes the restaurant does not go away, that they consider closing in the patio and that the owner gets brash and says to patrons using the patio to shut up or go inside.

Carl Motter, 116 Civic Drive – said he has a vested interest because his daughter and family live in the house two doors down; he said property is adjacent to residential so solid wall should be required; the employees park on the street in front of the houses and there should be a good neighbor policy, so far they have not been a good neighbor.

Jim Kuck, 124 W. Fifth Street – presented the Commission with a petition in opposition of the patio, a copy of which is attached hereto and made a part of these minutes; he said several residents in the area go to bed at 8 or 9; the girlfriend of his neighbor, Jason McCarthy, who lives on Louisiana Avenue, walks their dogs at night and she had to change her route and walk across the street because a man asked to use her cell phone; he said there are some intoxicated people outside the restaurant; this goes to quality of life, it's not right.

Syd Rogers, 120 & 122 West Indiana Avenue – she loves this town and is on the side of a solution; she doesn't feel cutting down the number of people on the patio is workable because Mr. Kies will make no profit; she's not sure the juniper bushes will do anything, what about sound barriers.

Mr. Walters stated that there appears to be some misconceptions about his recommendations. He said that he was given the task of trying to balance two issues of property rights; the rights of the neighbors to enjoy their property as residential and the rights of the business owner to enjoy his property as a commercial use. He said his recommendations are in addition to the items required by the Special Approval Use. His beliefs, and what his recommendations were based on, is that if the outdoor café is used and activities are performed in the manner in which it is legal to be used in terms of noise levels, etc., then his recommendations go above and beyond. If Mr. and Mrs. Kies are meeting the essential criteria, the foundation to get the Special Approval Use, there will be no issues. Mr. Walters said he is not saying that 4' junipers are going to cure noise concerns, because they will not. What is going to cure the noise concern is compliance with what the Special Approval Use requirements state which is 50 decibels after 8 p.m.; 50 decibels is equivalent to normal conversations. He said his recommendations are not a cure all; if the basic requirements for the Special Approval Use are being met, his recommendations are above and beyond those.

Ron Juan, 108 W. Fifth Street – he can't keep his front windows open; he's glad to see successful business but it's truly impacting his life and taking away from the enjoyment of their property; he raised his family there but can't see staying there given the conditions they're currently living under; there are parking issues – nowhere for his family and friends to park.

Mayor Evans asked Mr. Juan if the recommendations of the time frame, if it shut down at 8 or 9 o'clock would work for him. Mr. Juan said he is willing to give it a shot and he hopes it will work. He added that people may still wander out to the patio past the hours allowed.

Jim Haas, 420 Walnut Street – he owned the Lamplight Café and worked at it and made some money; he is not asking Mr. Kies to give up his liquor license but he should close in the patio; he said to ask the landlord to do it.

Mr. Carry said that the recommendation says the patio should not be used after 9:30 p.m. He asked if that meant for any use. Mr. Walters said that his recommendation is that it not be used for any purpose after 9:30 p.m. He said the basis for his recommendation was that customers could use the patio until 9:00 p.m. and that would give the staff thirty minutes to clean it up.

Maria Jones, 114 & 116 West Indiana Avenue – she has been here over 30 years and this is the first time she has had to attend any community based meeting; she read a letter that she prepared to send to the Perrysburg Messenger Journal; She said if the Kies' continue to be a bad citizen business, they will continue to fight them. She said we cannot let you spoil our neighborhood character and the quality of our lives. She said the Kies' will spend a lot of time and money on needless conflict and will have terrible

public relations. Ms. Jones stated that the Kies' won't win long term because the neighbors are there long term and they are not changing. She said if the Kies' become a good citizen business, they will spread the good word. Ms. Jones also stated that for the first time in thirty years she was not able to get into their parking lot because a truck was stopped. She said she had to wait twenty minutes and in checking with the law, the time limit allowed is fifteen minutes.

Jim Delph stated that he values family more than money and he values neighbors. He said he wants to be neighborly, and the solution might be to enclose the patio; he will have to talk to Geoff Kies and his banker. He said he is here to work together. He said a lot of negative comments are being passed around the community about outrageous rents that he is collecting, and that is not the case. He said he'll do what he can to try and solve the problem.

Janet Motter said she does not live in Perrysburg but her kids do. She said that it's a bar; you can call it a restaurant but they drink alcohol. She values the safety of her children and grandchildren and she hopes the Commission thinks about that when they vote.

Christine Leighton, 520 Walnut Street, said that she is brand new to Perrysburg. She moved here in December because of the quiet neighborhood. Her advice was to just say no.

Paul Skaff, attorney for the Kies', said that they have listened to the comments and have taken them to heart. He said the word balance has come up several times, and he applauds Mr. Walters for his efforts. He said that the recommendations are thoughtful and strike a balance and are an excellent compromise. He said that one of the things he loves about Perrysburg is that everyone eventually gets along. He said we may disagree, but we reach compromises. He said that Mr. Kies has offered significant compromise, and he respectfully requested that the Planning Commission approve the Special Approval Use with the Planning and Zoning Administrator's recommendations with an amended recommendation to extend the time on Friday and Saturday nights until 11 p.m.

Cass Miller, 136 W. Fifth Street, said that she is a smoker and if the doors were unlocked, she would go out there to smoke. She asked what would be done to prevent that. Mr. Walters said that how his recommendation is achieved is a management decision. Mr. Kies said that he is not sure, but if he has to have someone sitting there telling people they can't go out, then he'll have to do that. He said that he has heard many people make comments about his business, and he realized that he has told them nothing about himself. He said that he too is a Perrysburg resident and has lived here since 1979. He said he lives four blocks away and he walks to work. He said that this is his community too, and he is not trying to pollute the community. He said a lot of people have said this is a bar, but 75% of what he sells is food. He said thankfully in the eyes of his insurance company he is not a bar because it sends rates through the roof. He asked the audience who remembered the Shamrock. He said that was a good place to go if you wanted a fat lip and nothing like that goes on at his place. Mr. Kies said that he is not looking to bring in an element to ruin their lives. He said he would love to enclose

the patio and use it all year, but he asked that he be given until the end of the summer to get it done because it's expensive. He said that he is a family friendly business; there are no fights or drug dealings in the parking lots. The Police Division has been out several times because of the noise level, but no citations have been issued.

Mr. Bade stated that the properties abutting this property have to understand that there is going to be noise. He said that his neighbors on one side have a pool and use it late at night and the other side has a dog that constantly barks. He said that Mr. Kies has rights too and the Commission is listening to both sides, but it bothers him when people say that they will bring Mr. Kies conflict.

Dale Sinkovic, 519 Walnut Street, asked how they propose to make people use the school parking lot and cross Louisiana Avenue.

Beth Marrin said she is affiliated with 136 West Fifth Street. She said she does not live there, but spends a lot of time in the area. She said if smokers go outside, they will not be outside long, and it will not be constant chatter or noise. She asked if the level of 50 decibels applies to the music level and how that would get enforced. Mr. Bade said that the decibel limitations apply to all noise. Mayor Evans said that he knows the Police Division has a noise meter because of noise complaints many years ago at the former Peters Stamping Plant. He said he is not sure if the officers are qualified to use the machine, but we do have one.

James Laine, 332 Sycamore Lane, said that with regard to the parking, if the employees could park in a city parking lot it may help. Mr. Bade said he agrees that residents should be able to park in front of their own home, but that is not the law.

Karl Motter stated that the people parking in front of his kid's house is the wait staff. Mr. Kies said that he will have his employees use the city parking lot or the school parking lot, whichever they prefer. The audience indicated they would prefer if employees parked in the school parking lot. Mr. Kies said that he will have his employees use the school parking lot, but he cannot account for customers' parking in front of their homes. Tonya Motter said that is fine because there is a turnaround with customers. She also said that with regard to the property values, they have spoken to Jill Perry, a real estate agent, who said that if they did not have this issue, their home could probably sell for \$20,000 more. Mr. Choka asked how long ago they spoke to her, and Tonya Motter said two days ago. Mr. Hudson asked if it was because of a busy restaurant or if she specifically said it was because of the patio. Tonya Motter replied yes. Mr. Alkire said that Ms. Perry said it could sell for \$20,000 more if the patio was not there.

Mayor Evans made a motion to deny the Special Approval Use. Mr. Forquer seconded. Ayes: Bade, Carry, Choka, Evans, Forquer, Witt (6). Nays: Hudson (1).

Mayor Evans explained why he made this motion. He said he had several conversations with Mr. Delph and the business owner. He said that this is a solvable issue, and he wants a successful business in town and he likes the concept of outdoor dining. However, with the number of people here who are affected by an outdoor patio, it is just not a good location for an outdoor eating facility that wants to stay open later. He said

he was proud of Mr. Walters and how he worked through this issue and tried to make a compromise. Mayor Evans said he hopes that they will continue to work with the residents to come up with a solution to deal with this issue. He said that he thinks parking is a very solvable issue as there is public parking close by, and the Schools have also agreed to let them use their lot. He said that noise will be the issue and if they enclose the patio, smokers will go outside to the parking lot and talk anyway. He said that the patrons of the business need to understand that there are neighbors and he thinks Perrysburg people will figure it out. He said the ones from out of town might have to be trained. Mayor Evans said he came to the meeting planning on making a motion to approve with the Staff's recommendations, but after hearing the concerns from the neighbors, that's why he made the motion he did.

OTHER BUSINESS

Mr. Bade asked about the timeframe for improvements at Arnie's. Mr. Walters said he's not sure of the exact date, but will check into it.

There being no further business, the meeting adjourned at 9:08 p.m.

Respectfully submitted,

Mary Jo Sutton

RECEIVED

MAY 24 2013

May 22, 2013

CITY OF PERRYSBURG
Division of Planning and Zoning

617 W. Front Street
Perrysburg, OH 43551

City of Perrysburg Planning Commission
Planning and Zoning Division
201 W. Indiana Ave.
Perrysburg, OH 43551

Dear Planning Commission Members,

We recently received notice of a meeting scheduled for May 30 at 7:00 PM for the consideration of a request for a zoning change made by our nearby neighbor who lives at 649 W. Front St.: applying to change from S1 to R2. Unfortunately, we will not be able to attend this meeting. We do have a vested interest in the decision which will be before you at that time, however.

We have no idea what our neighbor at 649 is proposing to do with the four acres in question if granted the change from Scenic to Residential zoning, and we do not know the extent of possibilities for development of that land should such a change in zoning be made, but we are afraid that it might mean that a street could be added to connect our street to Rapids Road in some way. If that were to be the case, or even allowable under the changed zoning designation, we would be strongly opposed to it.

We believe that much of the value in our property lies in the fact that we are located on a dead end street which is very quiet, private and scenic. That is exactly why we paid as much as we did for our house five years ago. To turn this portion of West Front St. into a thoroughfare would have a significant negative impact on our property value.

Please do not change the zoning of these 4 acres if it would ever allow for any road to connect with West Front Street at the dead end circle or otherwise.

Sincerely,



Catherine W. Huber


Robert G. Huber

Petition against the 5th Street Pub

Petition summary and background:	The 5th Street Pub, located at 105 W. 5th St. in Perrysburg, seeks special approval use from the city that would allow the establishment to operate an outdoor café.
Action petitioned for:	We, the undersigned, are concerned citizens and neighbors who object to this proposed special approval use. Our concerns lie with the ongoing noise (including loud music and drunken revelry), parking issues, smoking issues, and general disturbances of the peace that have already changed the character of our neighborhood. We do not want this special use permit to be granted.

Printed name	Signature	Address	Comment	Date
James C. Kuck	<i>James C. Kuck</i>	124 W. Fifth St. Perrysburg		5-26-13
Ronald Juan	<i>Ronald Juan</i>	108 W. Fifth St. Perrysburg		5/26/13
Vicki Wertbaugher	<i>Vicki Wertbaugher</i>	502 Louisiana Ave Perrysburg		5/26/13
Rett Wertbaugher	<i>Rett Wertbaugher</i>	502 Louisiana Ave		5/26/13
Josh Sabatino	<i>Josh Sabatino</i>	145 South St. Clair #8		5/26/13
Kelly Termin	<i>Kelly Termin</i>	122 W 6th St Perrysburg		5/26/13
David Smith	<i>David Smith</i>	116 W 6th St, Perrysburg OH		5/26/13
becky Kashner	<i>becky Kashner</i>	101 W. Rader Ave Massapequa Woods		5/26/13
Mary Smith	<i>Mary Smith</i>	116 W 6th St Perrysburg		5/26/13
Don Anderson	<i>Don Anderson</i>	650 Louisiana Pburg		5-26-13
Roland Haas	<i>Roland Haas</i>	126 West 6th street		5-26-13
Tanet Haas	<i>Tanet Haas</i>	x - - x		5-26-13

Printed name	Signature	Address	Comment	Date
MARCIUE MILLER	<i>Marciue Miller</i>	132 W. 6TH ST.		5-26-13
GARY MILLER	<i>Gary Miller</i>	132 W. 6TH ST.		5-26-13
Danielle Rodgers	<i>Danielle Rodgers</i>	429 W Indiana Ave		5-26-13
Rick Steinline	<i>Rick Steinline</i>	125 W. 6th St		5-26-13
SHARON SEITZ-DENNIS	<i>Sharon Seitz-Dennis</i>	480 Walnut ST.		5/26/13
Helen S HAAS	<i>Helen S Haas</i>	420 Walnut Street		5/26/13
James H. Haas	<i>James H. Haas</i>	420 Walnut St.		5/26/13
Dennis Seilak	<i>Dennis Seilak</i>	545 Garfield DR.		5/26/13
JASON MCCARTHY	<i>Jason McCarthy</i>	514 LOUISIANA AVE #A3		5/27/13
KATHLEEN F. MILLER	<i>K. F. Miller</i>	136 W. 5th St.		5/28/13
Catherine C. Miller	<i>Catherine C. Miller</i>	136 W. 5th St. Pburg		5/28/13
Diana L. Berry	<i>Diana L. Berry</i>	136 W. 5th St. Pburg		5-28-13
Thane Kleber	<i>Thane Kleber</i>	236 W. 5th St. Pburg		5-28-13
Cindy Walker	<i>Cindy Walker</i>	146 W. 5th St. Pburg		5-28-13
Jim Foust	<i>Jim Foust</i>	117 E. 6th Street		5-28-13
CHRISTINA TOOTH	<i>Christina Tooth</i>	514 LOUISIANA		5-28-13

Printed name	Signature	Address	Comment	Date
Joanne Juan	Joanne Juan	108 West 5th		5/28/13
PHIL ANDERSON	Phil Anderson	232 W. Front		5-28-13
Jaron Berry	Jaron Berry	136 W. Fifth		5/28/13
Gene G. Pilegar	Gene G. Pilegar	144 W. 5th		5/28/13
Nancy K. Pilegar	Nancy K. Pilegar	144 W. 5th + L St.		5/28/13
Beth Bryceland	Beth Bryceland	209 W. Fifth St		5/28/13
Debbie McKeand	Debbie McKeand	220 W. Fifth St		5/28/13
Pori S Currie	Pori S Currie	529 E. S. Broadway		5/29/13
Judy Emmons	Judy Emmons	513 W. 2nd St.		5-29-13
MARGE ELDEN	Marge Elden	1730 Eaglecrest		5-29-13
Karen Roberts	Karen Roberts	120 W. 5th St.		5-29-13
Debi Sinkovic	Debi Sinkovic	519 Walnut St.		5-29-13
Michael M. Dorn	Michael M. Dorn	519 Walnut St.		5-29-13
Maria Jones	Maria Jones	114 W. Indiana		5/29/13
JAMES JONES	James E. Jones	114 W. Indiana		5/29/13
JOSH ALKIRE	Josh Alkire	121 W. 5th		5-29-13

Printed name	Signature	Address	Comment	Date
SUSAN HOEHL	Susan Hoehl	120 W. FIFTH #4		MAY 30, 2013
Richard Baranowski	Richard Baranowski	414 Locust St.		
Andrea Pix	Andrea Pix	523 W 2nd St Bourg	Keep Perryburg Beautiful	5/30/13
Sandra Strachan	Sandra Strachan	123 LOUISIANA		5/30/13
JAMES Laine	332 Sycamore Ln	James Laine		5/30/13
Louise Laine	332 Sycamore Ln	Louise Laine		5/30/13
SUSAN SCHWIND	732 LOUISIANA	Susan L. E. C.		5/30/13
Carol Bridenbaugh	232 W. Front St	Carol Bridenbaugh		5/30/13
Mary Catherine Caron	801 Hickory St.	Mary Catherine Caron		5/30/13
Lynn A. Jaybe	25614 Wood Creek	Lynn A. Jaybe		5/30/13
P. Cassin		5th St.	Quiet & Controlled	5-30-13

Petition against the 5th Street Pub

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Printed name	Signature	Address	Comment	Date
DAVE ROMAKER	Dave Romaker	2655 CO. RD. H.		5/27
MICHAEL KERRIN	Michael Kerrin	26323 FORT MEIGS		
ROBIN GYRAN	Robin Gyrán	130 Mainwood hwy.		5/27
CHAR NESPER	Char Nesper	495 Hickory		5-27
PATT HAY	Patt Hay	130 Mallard Rd		5-27
CARRIE ECK	Carrie Eck	700 Oak Knoll Dr		5/27
JASBIR KOUR	Jasbir Kour	13702 Skelton x 1 Rd		5/27
MARY K. GAFFIN	Mary K. Gaffin	1026 E. Boundary St		5/27
SUSAN DAVIS	Susan Davis	220 Mallard		5/27
MARY SUTHE	Mary Suth	25375 White Road		5/27
DAWN RICKENBERG	Dawn Rickenberg	808 Three Meadows Apt		5/27
DENNIS PALASCO	Dennis Palasco	447 Armand Dr.		5/27

[illegible]

