

PLANNING COMMISSION

FEBRUARY 25, 2016

The meeting was called to order at 7:00 p.m. by Chairman Chris Carry. Commission members present were Chris Carry, Byron Choka, Tom Forquer, Seth Hudson, Eric Nicely and John Wellstein (6). Mayor Olmstead arrived at 7:11 p.m. Also present were Karlene Henderson, Law Director, Brody Walters, Planning and Zoning Administrator, and Mark Easterling, Zoning Inspector.

Approval of Minutes

Mr. Carry moved to approve the minutes of the February 4, 2016 meeting. Mr. Nicely seconded and they were unanimously approved.

Mr. Forquer asked that a copy of the email from Ms. Henderson related to voting, majorities, and abstentions be attached to the minutes as a record of the discussion that occurred at the last meeting. The email is attached hereto and made a part of these minutes.

Administrator's Report

Mr. Walters stated that he has several agenda items for the March 31, 2016 meeting. One of the items is fitting chemical sales and storage into the land use chart.

***Special Approval Use
Outdoor Storage
Easily Green
600 West Boundary Street***

DEVELOPER/APPLICANT

Andrew Kramp
Easily Green
240 Marie Place
Perrysburg, Ohio 43551

PROPERTY OWNER

Robert Maurer
Action Rentals, LLC.
445 E. Wooster St.
Bowling Green, Ohio 43402

REQUEST

Chapter 1235.02(d) Standards
Chapter 1235.04(bb) – Outdoor Storage

PROPERTY LOCATION & DESCRIPTION

The subject property is located on the west side of West Boundary immediately south of the railroad tracks. Grogan Drive is the closest street to the south. The property is zoned I-2 General Industrial and is located within the Corridor Overlay. Per Ch. 1225.08 "Outdoor Storage" in an I-2 district requires Special Approval Use.

BACKGROUND

Mr. Kramp currently owns Easily Green Landscapes & Lawn Care and would like to rent a portion of the building at 600 West Boundary in Perrysburg as a nursery sales business with the ability to sell bulk, bagged landscape products (mulch, compost, and topsoil) and other associated landscape items. In addition to those listed above, during the winter months he would also like to sell bagged de-icing materials as well as snow removal equipment. He would be utilizing approximately 3,750 SF of interior space in the north east corner of the property as well as exterior space to the northeast, north, northwest and west sides of the property (see attached drawings for more details).

ANALYSIS

This particular special approval use has two sets of requirements that must be met or determined not to be applicable in order to be granted. The first set of requirements comes from Ch. 1235.02(d) and these are the general provisions for all special approval uses. The second set of requirements from Ch. 1235.04(bb) is specific to "outside storage" uses.

GENERAL

Ch.1235.02(d)

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.

SPECIFIC

Ch.1235.04(bb) - Outdoor Storage

1. A solid wall, earthen berm at least eight (8) feet in height shall be provided around all sides of the area abutting residence, office or

- commercial zoning districts and shall be provided on all sides visible from public streets. Such wall or berm shall be of sound construction, painted, or otherwise finished neatly and inconspicuously. Such fence, wall or berm shall be of permanent finish and construction.
2. Ingress and egress to the facility shall be only from the arterial street. The city may approve access to a collector street if the city finds that such access point will further minimize impacts on other properties.
 3. The minimum lot or parcel size shall be five (5) acres.
 4. Adequate parking and unloading facilities shall be provided at the site so that no loaded vehicles at any time stand on a public right-of-way awaiting entrance to the site. (Ord. 186-2006. Passed 8-1-06)

The subject location was previously home to Granite City Countertops and Ballreich's Potato Chips. The current proposal would include a front yard pergola, nursery display, as well as a paver sample display. Just behind this display would consist of storage of bulk and bagged materials behind walls that are still visible from the street (West Boundary) just south of the railroad tracks. Parking would be on the east and south side of the building. Please see attached site plan description provided by Mr. Kramp.

RECOMMENDATION

The Zoning Inspector as well as the Planning and Zoning Administrator recommend that the Planning Commission disapprove the Special Approval Use for Easily Green's zoning use of Outside Storage in an I-2 General Industrial Zoning District. The Special Approval Uses would require that eight (8) foot walls be constructed in the front of the business and these walls would be visible from the street. This new construction would be required to meet the developmental standards of the corridor overlay district, which would require areas of storage be visibly screened from public streets per Ch. 1245.33 (h). There is no placement of the storage on the northeast of the property that would not be visible from the street.

The applicant was not present at the meeting. Mr. Easterling reviewed the above Staff Report. He called attention to a letter received from the Fort Meigs Cemetery Board opposing approval of the Special Approval Use for outdoor storage. Elias Cash, 617 W. Boundary Street, said that he lives across the street from this location and he is concerned that since the mulch is treated with chemicals they will be smelling it all the time. He also expressed concern about the parking lot kicking up dust when people drive on it.

Mr. Choka asked if the applicant has chosen to not put up an 8' wall. Mr. Walters said they have been made aware of the requirement. Mr. Choka asked if the wall would resolve the issues. Mr. Walters said that it would require an 8' wall in a front yard which is not permitted by Code. Mr. Easterling said that the wall is also not allowed to be visible from the street and it would be. Mr. Forquer said that since the applicant is not present, he doesn't want to reject something without fully discussing it. Mr. Walters said that if the applicant would come in and say he'd put up an 8' wall and the application still would not be approved, we should let them know that.

Mr. Hudson moved to table the Special Approval Use for Outdoor Storage for Easily Green, 600 West Boundary Street. Mr. Forquer seconded. Ayes: Choka, Forquer, Hudson, Olmstead (4). Nays: Carry, Nicely, Wellstein (3).

Rezoning Request

***R3 (Single Family Residential) to C1 (Neighborhood Commercial)
521 Louisiana Avenue***

APPLICANT/OWNER/DEVELOPER

Nicholas Nadaud
NK Real Estate Holdings of NW Ohio LLC
215 W. Fifth Street
Perrysburg, Ohio

REQUEST

Chapter 1285- Changes and Amendments
Chapter 1265 – Nonconforming Uses

PROPERTY LOCATION & DESCRIPTION

The subject property is located at 521 Louisiana Avenue between Fifth and Sixth Street, on the east side of Louisiana Avenue.

Adjacent properties to the north, south, east and west are zoned R3 and R4 (Single-Family Residential) and are currently used as occupied family residences.

The subject property is currently zoned R3 (Single-Family Residential).

The property is approximately .3333 acres (14,519 square feet).

BACKGROUND

According to Wood County records the structure on this property was built in 1960. For most, if not all of its recorded existence this property has been utilized as a commercial business. Past uses are believed to include medical offices, car dealerships, automotive repair, Insurance office, miscellaneous professional offices and a salon.

As the application of zoning laws has become more defined over the years, this property has struggled to accommodate commercial uses as it has been and still is zoned to allow a single-family residence. Because of the limitations associated with the “legal non-conforming” status this property has been under for many years, the use has slowly been squeezed in an attempt to convert it to its permitted use as a residential lot.

There have been several attempts to rezone this property over the last several years. These attempts have resulted in code amendments which attempted to loosen the restrictions of such properties with legal non-conforming land uses. It is believed that a final decision on the zoning on this property should be made rather than creating legislation that erodes the fundamental elements of zoning by allowing exceptions and

exclusions for non-conforming uses. In other words, a clear path should be identified for how this property should be used in the future. If commercial uses are desired to remain and continue then the property should be zoned appropriately, otherwise this request should be given a recommended for disapproval.

Previous rezoning requests had offered neighbors an opportunity to jointly review and approve deed restrictions for this property. While city approval or denial should not be based on the existence or nonexistence of deed restrictions, it may serve as a tool to calm concerns among neighbors of potential future uses.

ANALYSIS

The current owner / applicant has requested a zoning change from the current zoning of R3 (Single-Family Residential) to C1 (Neighborhood Commercial). C1 (Neighborhood Commercial) is areas for small local businesses with convenience type goods such as are handled in small drugstores and personal services such as barber shops and beauty salons. Uses in these areas must be compatible with surrounding residential uses and not be large generators of traffic.

Due to the restrictions of Chapter 1265; mortgage financing and/or re-financing; property insurance concerns; the ability to make additional improvements; and the ability to lease current vacant space, a change in zoning to accurately accommodate the current use would seemingly be appropriate.

The following uses are permitted uses or allowed with a Special Approval Use (SAU) within C1.

- Farmers Markets and Stands **(SAU)**
- Animal Services Outdoors **(SAU)**
- Animal Services Indoors
- Neighborhood Business less than 10,000 SF
- Personal Services
- Consumer Repair Services
- Medical Offices **(SAU)**
- Accessory Use
- Child Day Care Centers **(SAU)**
- Essential Services
- Mortuaries/Funeral Homes **(SAU)**
- Parks and Recreation Facilities
- Part-Time Child Day Care Centers **(SAU)**
- Public and Private Schools **(SAU)**
- Public Service Facility **(SAU)**
- Public/Private Utility

The Comprehensive Plan – Conservation and Development Map indicates ‘Neighborhood Conservation’ for the subject site. *“Neighborhood Conservation”*:

Preservation of existing neighborhood character and continued maintenance of buildings and infrastructure.

Should a zone change to C1 be approved, the provisions of Chapter 1265 would apply with regard to any alterations, additions and/or improvements.

Also, due to the existing lot size and dimensional characteristics, per Chapter 1265, nonconforming status shall remain.

C1 zoning at this location would require compliance with the following provisions of the Zoning Code:

- Chapter 1230 – Intensity and Dimensional Standards
- Chapter 1250 – Site Design Standards
- Chapter 1260 – Site Plan Review

RECOMMENDATION

The Planning and Zoning Administrator recommends that the Planning Commission recommend to City Council approval of the zoning amendment to C1 (Neighborhood Commercial) for property located at 521 Louisiana Avenue.

Further, it is recommended that a public hearing be set before City Council for April 5, 2016 at 6:20 p.m.

Mr. Walters reviewed the above Staff Report. The applicants, Nick and Kim Nadaud, 215 W. Fifth Street, were present. Mr. Nadaud explained that they are both podiatrists and they want to relocate their practice from Toledo to Perrysburg because this is where they live and they plan on being here for thirty years. They said that the main reason for their request to rezone is so they can change the signage. They would like to turn it ninety degrees. Mr. Choka asked if they can run their business without the rezoning. Mr. Walters said that they can have the business there. It would be considered legal, non-conforming so they cannot make changes to the signage. Ms. Nadaud said that there is 1,200 s.f. in the rear of the building that they would be open to renting out, possibly to another medical office. She said that she understands the neighbors don't want a lot of traffic. Mr. Forquer asked if there is another avenue to get relief for the signage without rezoning. He said it seems like an overcorrection. Mr. Walters said that he doesn't feel it's an overcorrection. He said that over time other issues will arise. He added that the applicant can apply for an administrative appeal to the Board of Zoning Appeals on Mr. Walters' interpretation of the Code. Mr. Forquer said that this could be considered spot zoning and that he is okay with the podiatrists' office, but he is hesitant to rezone because it opens it up to other commercial uses. Mr. Nicely said that he is concerned that they would have to come back again if they wanted to make changes to the building and he would like to hear from the neighbors. Mr. Wellstein asked if the rezoning were approved if the applicant would have to come back for Special Approval Use. Mr. Walters said that his initial answer is yes, but he would have to review the Code to be sure. Mr. Wellstein said this property could be

rezoned but not approved for the Special Approval Use. Mr. Walters was asked if the applicant could rent out the 1,200 square feet if the zoning remained R3. Mr. Walters replied that if collectively the businesses are of equal or less intensity than the previous use then they could rent it out.

Alisa Smith, 115 E. Sixth Street, said that she borders this property and she has lived there for twenty years. She said it was a podiatrist office then a hearing center and now it is back to a podiatrist office. She said that there is low level traffic but she is against the rezoning because the idea was to get it back to residential to fit the neighborhood. She said that she has an issue with lights shining in her windows. She added that this is in the middle of residential property and the owners knew what they were getting.

Jim Foust, 117 E. Sixth Street, said that he and his wife Cathy Zimmer have the same concern as Mr. Forquer and that rezoning this property would be creating an island of commercial zoning. He added that surrounding properties might feel pressured to go commercial.

David and Andrea Rex, 138 E. Fifth Street, said that they are opposed to any commercial zoning for this property. Mr. Rex said that the Master Plan has no intent to extend the commercial district past Fifth Street. He added that the State of Ohio frowns on spot zoning and this could work its way down Louisiana Avenue to South Boundary Street. He said it is not a benefit to the community. Mr. Rex said it was built in the 1920's by the owner of 115 E. Sixth Street and was a hardware supply store but that's when it was in a village and there was no zoning. He said that he does not think signage is a huge issue and he would not necessarily mind some accommodation being made for it.

Mayor Olmstead asked Mr. Walters about the references to spot zoning. Mr. Walters said that on the surface he can see how they feel that way, but C1 is neighborhood commercial which implies that it is tied to a neighborhood. Mr. Walters said that the very definition of C1 zoning, which states: *"Areas for small local businesses with convenience type goods such as are handled in small drugstores and personal services such as barber shops and beauty salons. Uses in these areas must be compatible with surrounding residential areas and not be large generators of traffic."* in his opinion would not put them in conflict with spot zoning. He said that this property has an identity crisis, this is the least intense commercial use and the ratchet of non-conforming use will continue to tighten on this property.

Mr. Nicely said that he appreciates the residents coming to express their comments. Mayor Olmstead said that he understands the concerns expressed by the surrounding properties and the dilemma he has is that the non-conforming constrictor will be ongoing and that does not allow the property owner full enjoyment of their property. He said from a property owner standpoint he's uncomfortable with that. He said that he has heard comments like "it's just a sign" but that is a big deal especially for a small business and although he is not usually a middle of the road guy, this is challenging.

Mr. Carry moved to recommend to City Council approval of the rezoning request from R3 (Residential) to C1 (Neighborhood Commercial) for 521 Louisiana Avenue and that a public hearing be scheduled before City Council for April 5, 2016 at 6:20 p.m. Seconded by Mr. Hudson. Ayes: Carry, Hudson, Nicely, Olmstead, and Wellstein (5). Nays: Choka and Forquer (2).

Preliminary Site Plan
Special Approval Use – Hospitality Services
Holiday Inn Express

APPLICANT

Ramesh Patel
Sunrise Hospitality, Inc.
27350 Lake Vue Dr.
Perrysburg, OH 43551

The JDI Group
360 W. Dussel Dr.
Maumee, OH 43537

REQUEST

Chapter 1260.05 – Preliminary Site Plan Review
Chapter 1250 – Site Design Standards
Chapter 1235.04(y) – Motels and Hotels

PROPERTY LOCATION & DESCRIPTION

The proposed project is located on parcel #s Q61-400-090105001007 and Q61-400-090105004000. This property is located north of Carronade Drive, east of Hulls Trace Drive and south of Candlewood Suites. The property is approximately 5.584 acres in size and is zoned C - 4 Highway Commercial. All adjacent city property on the north side of Carronade Drive is also zoned C-4. The Kroger property on the south side of Carronade Drive is zoned C-3 Community Shopping. Because this project is proposed to span more than one parcel it is recommended to require a lot combination and a lot split to achieve the layout as shown.

ANALYSIS

Preliminary Site Plan

Land Use – The requested use has been reviewed and determined to be “Motel / Hotel” which is a Special Approval Use (SAU) in C-4 zoning districts.

Dimensional Standards - The proposed building shown on the Site Plan is consistent with the dimensional standards of Chapter 1230 with regard to setbacks. The height of the building is in excess of the height requirement for this zoning district but the applicant has obtained a height variance from the Board of Zoning Appeals (BZA application 21-15) to allow a building height of up to 52 ½ feet.

Access – The subject location currently has no curb cuts onto Carronade Drive, Hulls Trace Drive or Lake Vue Drive. There are two curb cuts proposed as part of this project, one on Carronade and one on Lake Vue Drive. All proposed drives are shown to be in compliance with the required spacing distance from existing streets and drives.

Parking – The parking requirement for this use was calculated at 236 required spaces (see sheet C-101 for calculation) with 236 spaces provided. The previous submission for this site featured parking in the required front yard but this revised site plan has expanded the parking area to the west to avoid a parking shortfall as well as parking in the front yard. Overall, this plan appear to be dimensionally consistent with the requirements of the zoning code but there are a few small revisions that are recommended to improve this project. These revisions (shown on the site plan in red) would result in the loss of 6 parking spaces. It is recommended allow these revisions and to require curbing throughout the entire parking lot area.

Landscape Islands – The landscape islands that are shown on site are sufficient in both size, quantity and arrangement.

Street Trees – A street tree plan will be required to be reviewed and approved by the City's Street Tree Commission prior to the issuance of a zoning permit. The Street Tree Commission conducts monthly meetings.

Signage – A full review of signage will be conducted by the Planning and Zoning Division prior to the issuance of permits.

**Note: Relief for area, height and setback can be sought from the BZA. No relief can be provided for sign quantity.*

Lighting – None currently shown on preliminary site plan.

Sidewalks – Sidewalks are shown along the entire frontage of the property and a section of sidewalk from Carronade Drive to the front entrance has also been provided. A crosswalk needs to be added across the drive demarcating the crossing to the front entrance. This crosswalk should be demarcated with different pavement material as paint is not effective long term.

Waste Receptacles – Receptacles shall be in accordance with Ch. 1250.57. The proposed location of the waste receptacle is not in compliance with the zoning code which states that waste receptacles should be located in a rear yard of a non-required side yard.

Special Approval Use

General Requirements

Ch.1235.02(d)

3. 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.
4. 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.

7. 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.
8. Adequate utilities, access roads, drainage and necessary facilities have been or will be provided.
9. Adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion in the public streets.
10. 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.

Specific Requirements

Ch.1235.04(y) Motels and Hotels

1. It shall be demonstrated that ingress and egress does not conflict with adjacent business uses.
2. A four (4) foot solid wall such as brick, decorative block or decorative poured concrete must be provided where abutting or adjacent districts are zoned for residential use. The height of the wall shall be measured from the surface of the ground of the abutting residential district.
3. No kitchen or cooking facilities are to be provided within the dwelling units with the exception of units for the use of the manager or caretaker unless otherwise approved by the Planning Commission.
4. Each unit shall contain not less than two hundred fifty (250) square feet of floor area.

RECOMMENDATION

The Planning and Zoning Administrator recommends that the Planning Commission approve the preliminary site plan with the inclusion of the edits that are shown in red on the attached plan. These edits include the loss of 7 parking spaces, a 10' relocation of a drive aisle, 1 expanded landscape island, two curb radius modifications, and relocation of the dumpster which includes converting the proposed dumpster area into additional parking. Neither the proposed dumpster enclosure nor the suggested edit would meet the strict application of the code but due to the limitations of the site it appears that the suggested edit is perhaps the best scenario for the applicant as well as the city. Additionally, it is recommended to approve the request for a Special Approval Use for the hotel as a separate motion.

Mr. Walters reviewed the above Staff Report calling attention to the preliminary site plan that has red mark-ups. Tom Worline and Ramesh Patel were present on behalf of the applicant. Mr. Worline said that his only question about Mr. Walters' report is that he mentioned there are two curb cuts but there are three. Mr. Walters said that Mr. Worline is correct. There are three; one is on Hulls Trace. Mr. Walters said he reviewed that curb cut and it is okay.

Mr. Forquer moved to approve the Preliminary Site Plan with the red mark-ups for the Holiday Inn Express on Carronade Drive subject to the other comments and recommendations in the Planning and Zoning Administrator's report. Mr. Carry seconded. Ayes: Carry, Choka, Forquer, Hudson, Olmstead, and Wellstein (6). *Mr. Nicely was out of the room.*

Mr. Carry moved to approve the Special Approval Use – Hospitality Services for the Holiday Inn Express on Carronade Drive based on the approved Preliminary Site Plan including mark-ups. Seconded by Mr. Forquer. Ayes: Carry, Choka, Forquer, Hudson, Olmstead, and Wellstein (6). *Mr. Nicely was out of the room.*

Other Business

Mr. Carry said that if there are no objections, he proposes combining the November and December meetings that were scheduled for December 1 and December 29, and instead schedule one meeting for December 8.

There being no further business, the meeting adjourned at 8:10 p.m.

Respectfully submitted,

Mary Jo Sutton

Good afternoon plan commission members,

After reflecting on the last meeting and the issues discussed related to voting, majorities, and abstentions, I thought a brief summary would be helpful.

The critical issue is obtaining a majority of votes. The municipal code requires 4 members to constitute a quorum in order to hold a meeting. Passage is by the concurrence of a simple majority. This is where a difference of legal opinions seems to have caused some conflict in voting procedures. Let me be clear in stating that nothing the plan commission has voted on in the past is null, void or otherwise insufficient.

Further, it is important to note Section 1270.05 of the code provides “the Planning Commission shall adopt its own rules and procedure, consistent with the provisions of the Charter and this Chapter” and that “the Planning Commission may adopt, from time to time, such regulations and rules, consistent with the provisions of this Chapter, as may be deemed necessary to carry into effect the provisions of this Zoning Code.” This provides some flexibility in voting procedures.

In the past, this commission had been advised by legal counsel that a motion passed when a majority of members who voted, voted to approve. Therefore, if seven members were present, 3 voted yes, 2 voted no and 2 abstained the recommendation or plan would be approved.

My experience and practice has been to recommend that passage must be by majority vote of the members present, whether there are abstentions or not. For example, if 6 or 7 members are present, there must be a majority of 4 voting yes for approval. If 4 are present, then there must be 3 members voting yes. In the event of a tie, the motion fails because no majority was reached.

There has also been some discussion regarding abstaining from voting. This is appropriate and, in fact, is the member’s duty to do so if there is a personal, usually pecuniary conflict, in the matter before the commission. It is important to distinguish that an abstention is not a “no vote” but it can operate to prevent the members of the commission from reaching a majority vote.

Hopefully, this information will assist with accomplishing the duties charged to the plan commission.

Karlene Henderson

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