

**NORTH RIDGEVILLE PLANNING COMMISSION
MINUTES OF
REGULAR MEETING – TUESDAY, NOVEMBER 9, 2021**

CALL TO ORDER:

Chairman Smolik called the Planning Commission meeting to order with the Pledge of Allegiance at 7:00 PM.

ROLL CALL:

Present were members Paul Graupmann, Chairman James Smolik, and Council Liaison Bruce Abens.

Vice-Chairwoman Jennifer Swallow was excused. Member Steve Ali was unexcused.

Also present were Assistant Law Director Toni Morgan, City Engineer Daniel Rodriguez and Deputy Clerk of Council Tina Wieber.

MINUTES:

Chairman Smolik asked if members had a chance to review the minutes of the regular meeting on Tuesday, October 12, 2021. He asked if there were any corrections. Hearing no corrections, the minutes were approved.

CORRESPONDENCE:

None

OLD BUSINESS:

None

NEW BUSINESS:

Chairman Smolik asked for the application to be read.

APPLICANT: Tony Valore, Valore Properties, Inc., 23550 Center Ridge Road, Westlake, Ohio 44145

OWNER: Same

REQUEST: Final Plat approval for Hampton Place Phase 6.

LOCATION: 775' southeast of Stone Creek Drive and Stoney Ridge Road in an R-1 District
Permanent Parcel Nos. 07-00-029-000-419, 07-00-029-000-197, 07-00-029-000-085

Application was read.

Administrative comments were read.

Chairman Smolik asked the applicant to state their name and address for the record.

Tony Valore, Valore Properties, Inc., 23550 Center Ridge Road, Westlake, Ohio 44145, was

sworn in.

Chairman Smolik asked Mr. Valore to explain the application.

Mr. Valore stated that the subdivision project was started in October of 2008. He explained that he had 160 acres and when the subdivision was started the ordinance at the time was 65 percent large and 35 percent cluster lots. In lieu of the money that was needed to put in the sanitary line which was running up Route 83, at the time they agreed to 55 percent large and 45 percent cluster. He stated 1.1 million dollars in improvements had been invested into the project from the subdivision up to Mills Road. He advised that the improvements were reimbursed through the building permits that they had with Ryan Homes to buy the lots. He stated the property has 168 acres and they needed 33.63 acres of open space but looking at page 7 of 39 of the plat on the bottom of the page it shows that they have the required open space 33.63 but the project actually has 46.09 open space. He explained that the project was phase seven and that there may be two or three more phases depending on how the market goes. He advised the he was looking for a final plat approval. He further explained that there is one lot, lot 293, that is 73 feet wide and that he was asking for a side variance to build a house on that property because in a cluster subdivision for single families the ordinance is for 35 feet between structures. He asked the City Engineer Rodriguez if that was correct.

City Engineer Rodriguez stated that it was correct.

Mr. Valore explained that he was supposed to have 85 feet on the lot but that he didn't have 85 feet on that property and was asking for a variance on that one lot. He advised that the project meets all other requirements and satisfied all the ordinances.

Chairman Smolik stated that he had a question for the Assistant Law Director Morgan and asked if there was legislation for the change with the cluster percentage.

Assistant Law Director Morgan asked the applicant if he remembered if the cluster change was by ordinance or if it just came through Planning Commission.

Mr. Valore stated that it was by ordinance because it originally was 65/35 and then an ordinance was passed on October 1, 2008. (Not granted by ordinance but granted by a variance from BZBA on 7.23.09)

Assistant Law Director asked if it was an ordinance then.

Mr. Valore stated that it was. He explained that that was in exchange for the improvements he had done on the property which opened up the whole corridor. He further explained that within a short time after that, all residents had to connect into the new sanitary and that it worked out to everyone's benefit.

Chairman Smolik stated that City Code 1282.11 states that the distribution of clusters shall be no

more than 35 percent and that is why he was asking to make sure there was some type of legislation that over rode that. He then asked if anyone from the Commission had any questions or comments.

Councilman Abens asked where the access was to subplot 293.

Mr. Valore stated that the access was on Stoney Ridge Road.

Chairman Smolik asked if there were questions or comments from the Commission.

None were offered.

Chairman Smolik stated that regarding Block D there would be a retention basin that sits behind the homes on Stoney Ridge.

Mr. Valore explained that it was Block 8.

Chairman Smolik asked if that retention basin would have a fence.

Mr. Valore stated it did not have one.

Chairman Smolik explained that those people on Stoney Ridge did not have a choice in having a retention basin put in behind their home. He further explained that if a person moves in they know where the retention basin is but that he was concerned from a safety standpoint, because all of a sudden now those people who live on Stoney Ridge have a retention basin behind their home. He stated that he wasn't sure if there were small children in any of those homes but asked if the applicant would entertain putting a fence around the retention basin.

Mr. Valore stated that he could put a fence in but that there are already 10 to 12 retention basins on the property currently.

Chairman Smolik stated that he was concerned about the people on Stoney Ridge. He explained that the people within the subdivision know they are buying a lot with a retention basin behind it. He advised that the existing parcels on Stoney Ridge were bought when there was no basin and now a basin will be put in their backyard. He explained that he was concerned because the current residents on Stoney Ridge didn't get a choice in the matter.

Mr. Valore explained that he could put a fence between the residents' yard and the retention basin but not around the whole retention basin.

Chairman Smolik advised that the fence should be along the Stoney Ridge Road homes.

Mr. Valore stated that would be fine. He explained that it would enhance the houses on the other side of the retention basin as well so that would be good.

Chairman Smolik stated that people within the subdivision know they are buying a home near a retention basin.

Mr. Valore explained that they did have fencing. He advised that if you go past the entrance on Stoney Ridge to the north there are fence, pines, fence, pines, so they could introduce that same fence down to the next phase location behind that property and it would be a nice blend to hit the corners of the pine trees.

Chairman Smolik asked for questions or comments from the Administration.

City Engineer Rodriguez stated that this project is currently under construction and the basin referred to does have a ten foot buffer, a flat area, and then goes four to one, twelve to one. He explained that it is built in the nature that is safe per se but to the Chairman's point, yes, those people on Stoney Ridge did not get a choice. He further explained that the project is going well and believed they are getting ready for pavement and stated that there was no reason not to move forward with this plat approval at this point.

Councilman Abens asked if where the plat shows utility easement, would that be how they get access to that retention pond.

Mr. Valore stated that by sublots 276 and 275 the access would go from there.

Councilman Abens explained that he lives in a development where the ponds are not accessible and it has created problems.

Mr. Valore said he understood but this basin is accessible.

Chairman Smolik asked if there were any questions or comments from the public.

No questions or comments were offered.

Chairman Smolik asked for questions or comments from the Commission.

No questions or comments were offered.

Chairman Smolik advised that he would like to add a condition that legislation needs to be verified regarding the cluster distribution.

It was moved by Graupmann and seconded by Abens to approve with the condition of verifying legislation regarding cluster distribution.

Assistant Law Director Morgan stated that if it was approved she didn't believe the Commission should go back and undo it.

Mr. Valore explained that he had the legislation with him at the Pre Planning Commission meeting and he thought the Commission had it as a matter of record. He stated that on the master plan it was starred and has a score card which has the ordinance right on it.

Chairman Smolik stated that he just wanted to verify that that legislation does exist.

Mr. Valore advised that it does exist.

Councilman Abens stated that it could be approved upon existence of that particular legislation.

Assistant Law Director Morgan explained that it was pretty awkward and it wasn't usually done that way.

Chairman Smolik asked if Assistant Law Director Morgan wanted to take a 5 minute recess to look it up. He asked how fast it could be looked up.

Assistant Law Director Morgan asked Mr. Valore if he had the ordinance number with him.

Mr. Valore stated that he had the number at the office and didn't think he needed it. He advised that he could run back to the office and get it and bring it back because he didn't want to wait another month.

Chairman Smolik advised that he just wanted to make sure it exists.

City Engineer Rodriguez asked the Chairman if he wanted to move on to the next applicant while the ordinance was being looked up.

Assistant Law Director Morgan asked Deputy Clerk of Council Wieber if it was something they could research in her office.

Deputy Clerk of Council Wieber explained they could and it shouldn't take more than a couple minutes.

Assistant Law Director asked Chairman Smolik if he wanted to do that.

It was moved by Graupmann and seconded by Abens to recess.

A roll call vote was taken and the motion carried.

Yes – 3 No – 0

Chairman Smolik advised that for the current application, the Commission was looking for some legislation and the developer had some input on to share.

Mr. Valore explained that he did. He stated he had the legislation at his office.

Assistant Law Director Morgan explained that they did search for the legislation but were unable to find it. She further explained that Mr. Valore has offered to drive to his office and find it and bring it back. In the mean time, they could move on to the next applicant and Mr. Valore should be back by that time.

Mr. Valore asked for a cell phone number to call to give the information.

Chairman Smolik asked the Commission if they wanted Mr. Valore to get the legislation and move on to the next applicant or were they ready to make a motion.

Assistant Law Director Morgan stated that she didn't think Council would want them to send them a conditional application approval that they may be taking back. She further explained that these questions can always be answered ahead of time if it presents itself so that they could move on.

Chairman Smolik stated that they had a better solution.

Councilman Abens explained that the Commission would go ahead and approve the application and then look for the ordinance number and he would explain to Council that it was approved in this fashion and that ordinance supports what they were doing.

Chairman Smolik advised that the motion on the table was for approval.

It was moved by Smolik and seconded by Abens approve the application with the conditions of previous legislation regarding cluster subdivisions and fencing the retention basin along Stoney Ridge Road. (Not granted by ordinance but granted by a variance from BZBA on 7.23.09)

A roll call vote was taken and the motion carried.

Yes – 3 No – 0

Chairman Smolik asked for the next application to be read.

COUNCIL REFERRAL: T 128-2021 Vacating public access to property known as Roosevelt Avenue from 5169 Lear Nagle Road to 33593 Adele Street in the City of North Ridgeville.

(Introduced by the petition of Michelle Howells on 10.06.2021)

Application was read.

Chairman Smolik asked the applicant to state their name and address for the record.

Michelle Howells, 5169 Lear Nagle Road, North Ridgeville, Ohio 44039, was sworn in.

Chairman Smolik asked the applicant to explain their project.

Mrs. Howells stated that the plat on the screen was incorrect as to which parcels were hers.

City Engineer Rodriguez stated that it was fine and that the applicant could go ahead and explain and the he would share the new copy.

Mrs. Howells explained that she had dropped off the new plat but does have a couple more if they wanted to share them with the Commission.

City Engineer Rodriguez advised that she could share them with the Commission. He further explained that there was one name on a parcel that was incorrect.

Mrs. Howells explained which parcels that she and her husband own in back and in front of Roosevelt and the property coverage was an “L” shape. She stated that Al Wisniewski and Valerie Clifford own parcels on Lear Nagle Rd and own behind on Roosevelt as well. She explained that there is a corner house that is on Lear Nagle Rd and also the first house on Adele Street, and that the owners were sitting in the audience.

City Engineer Rodriguez stated that their lots were turned.

Mrs. Howells stated that the owners who were present, their house is on Adele and the corner house is on Lear Nagle but their side wasn't dead. She explained that she just wanted Roosevelt vacated to where her property ends straight up to Adele. She explained that the other lots could still enter off of May Street. She stated that they wouldn't be blocking anyone because they could still enter off of May Street. She advised that they did use May to tear down the dead trees in the right-of-way. She explained that they wanted to vacate Roosevelt from their property to Adele.

Chairman Smolik asked for questions or comments from the Commission.

Member Graupmann stated that he took a drive up there and he thought he found the street but he was curious as to why the applicant wanted to vacate the street.

Mrs. Howells explained that they are currently planting grass and that they want to put up a fence. She stated that if she did that and put on a small addition, if she put up a fence and somebody wanted to come through Adele she would have to tear it down.

Member Graupmann asked if Mrs. Howells would be blocking off the street.

Mrs. Howells stated that the street was not there and had never been there.

Member Graupmann stated that he didn't see any signs while looking for the street and that maybe he looked in the wrong area.

Mrs. Howells explained that it had never been there and that it had always been a wooded lot all the way through.

Member Graupmann asked if there was blacktop on it.

Mrs. Howells stated that there wasn't.

Member Graupmann explained that he couldn't find it.

Mrs. Howells advised that it is all just land and that they have been taking care of it for 30 years and so has everybody that moved there.

Mr. Howells explained that their neighbors already have fences on it.

Mrs. Howells stated that they had chicken wire fence so it was easy to tear down if they had to but she wants to put a permanent fence in.

Chairman Smolik explained that even though the street doesn't exist, there is city right-of-way, it was planned a while ago so that a future street could have went in there.

Member Graupmann stated that he understood.

Mr. Howells advised that technically he didn't think a street could be built there because it is supposed to go house, house, street, house and there's not room to put another house there.

Chairman Smolik asked Mr. Howells to go to the podium to speak so that the comments would be on the record.

Mr. Howells stated that was fine. He stated his name was Robert Howells. He advised that when they first bought the house 30 years ago, he was told that even though that easement was there, that technically it could never be used as a street because it was supposed to go house, house and then street. He explained that residences are supposed to have the backyard meeting out of someone's front door in your backyard. He further explained that they wanted to vacate so that they could take their properties and tie them into their other Nagle property and fence it all in. He stated that eventually he would like to put an addition onto his garage and if the property line is right directly through the City's easement he wouldn't be able to.

Councilman Abens stated that maybe he was a bit confused but the City would still be keeping its' easements. He explained that what the Commission was doing was basically closing the street down to public access but the City is still going to be keeping the easements for possible sewers or whatever down the road.

Assistant Law Director Morgan explained that the City keeps the right to put in utilities and that sort of thing. She stated that it would probably never be used but that City does have an easement in all of the right-of-ways.

Mr. Howells stated that the City could go right through his front yard and tear it up, he understood that.

Assistant Law Director Morgan explained that it was just in case they ever needed to use it.

Councilman Abens stated that just as long as the applicant understood that if all of a sudden the City said we need to put a sewer in or something like that for water management, the City would still maintain that right. He asked the City Engineer if that was accurate.

City Engineer Rodriguez stated that he didn't see that happening as every street around there has sewer and water services. He advised that yes, that was correct.

Councilman Abens explained that he didn't see it happening at this point but ten or fifteen years down the road who knows.

Chairman Smolik asked about the land distribution and who gets what as far as how it gets vacated out. He explained that what happens then is that the City right-of-way turns into an easement and asked if that was correct.

Mr. Howells stated that was how it sounded to him.

Assistant Law Director Morgan explained that this ordinance would be a little bit different and that was what she wanted to discuss.

Chairman Smolik stated that prior to the Commission arriving there was correspondence placed in front of them of the actual ordinance and the law department would be explaining what the new changes were.

Assistant Law Director Morgan explained that the path of the ordinances comes from Council to the Commission and they can either approve, disapprove or make suggestions and she was suggesting changes on a couple of things. She stated the Commission had both ordinances in front of them. She explained that on the original ordinance what has been the traditional language and no one thought to really correct it, but the third "Whereas" statement indicates a two thirds vote and that it wasn't entirely accurate. She explained that the only time Council needs a two thirds vote is if they do something different than what the Planning Commission suggests. She explained that the new ordinance in front of the Commission had the corrected language. She further explained that the main change, the one that had legal significance was in Section 4. She stated that she had added a new Section 4. She advised that during the Pre Planning Commission meeting it was discussed that there are a couple parcels where written consent was not obtained and the City's ordinance allows them, and it was quoted in that Section, to make this division under 1022.02 (b) even if written consent is not obtained from

everyone. She explained that it wasn't always possible or feasible to obtain and it is indicated that even though they made due diligence and made reasonable efforts even up to and including the meeting that evening, the City had tried to contact the owners of those parcels to let them know what was going on, but it hasn't happened and it is allowed by ordinance. She further explained that the ordinance in a normal vacation or in the default vacation of a street is 50/50. She stated it divides the property among the owners on either side. She explained that the City's ordinance also indicates that does not have to happen and what the new version of the ordinance does is that for those properties where they haven't been able to contact anybody, they would give it all to the people who presented the petition and the City is allowed to do that. She explained that one of the reasons they are allowed to do that is so that there's not a piece of property, however small, that no one ever tends and that there's not a piece of property, however small, that no taxes are ever paid on. She advised that it solves the problem for the City as well. She further explained that that is what Section 4 has done, it has indicated there are owners of record that have not been able to be located and that they are not going to split it 50/50 for those properties. The City would give them all to one owner so that the properties have taxes paid on them and they are tended to.

Chairman Smolik thanked the Assistant Law Director for the explanation. He asked if the home owners were notified by certified mail or regular mail regarding the Planning Commission meeting.

Deputy Clerk of Council Wieber explained that they were notified through regular mail.

Chairman Smolik asked the applicant if they had tried to get ahold of the homeowners as well.

Mr. Howells stated they had.

Chairman Smolik asked by what means the applicant had tried to contact them.

Mrs. Howells stated that the address of 5177 Nagel, for Amy McHugh, she passed away and there was no way to reach anyone.

Mr. Howells explained that her daughters moved out. He further explained that the lot next door, there were three lots south of Ms. McHugh and they are past due in taxes. He stated he had tried to reach them for the past five years and even went to the county to see if they could do something to purchase their lots to make it all tie together and there has been no response. He stated he tried mailing letters three different times.

Mrs. Howells stated they have made phone calls.

Mr. Howells advised that the county said with Covid they don't really have the time to pursue the back tax issue.

Chairman Smolik asked the applicant if he minded showing on the map where the land would be divided.

Mr. Howells explained that according to the Law Director, since they can't get ahold of the other property owners, he showed what parcels were his and that he would have the whole vacated part. He further explained that Al Wisniewski owns three lots on Nagle and the three lots behind him. He advised that Tom Mangan should get half and Gabriel Leidy should get the other half. He stated that Gabriel Leidy was present in the audience. He explained that Mr. Leidy's lots were turned due to the way the houses were put in.

Chairman Smolik asked for questions or comments from the Commission.

None were given.

Chairman Smolik asked for questions or comments from the Administration.

Assistant Law Director Morgan stated that she would like to indicate when the Chairman, assuming he would approve the ordinance, that he approve the ordinance as submitted with the changes.

Chairman Smolik thanked the Assistant Law Director for the clarification.

City Engineer Rodriguez stated that he did reach out to the Lorain County Tax Department regarding this particular vacation as presented. He explained that the City can submit it as presented but each individual owner would have to go and get their deeds changed to incorporate this new land after this vacation is approved.

Chairman Smolik stated that he assumed all of the fees associated with surveying the new divisions would be the burden of the homeowners and not the City.

City Engineer Rodriguez advised that that was correct.

Chairman Smolik asked for questions or comments from the public.

Gabriel Leidy, 33593 Adele Street, North Ridgeville, Ohio 44039, stated his name and address for the record. He stated his lot was the north eastern lot on the corner of Roosevelt Avenue. He explained that his reason for attending the meeting was his interest in what would have been zoned as that road, which he understood would be 20 feet he would gain.

Chairman Smolik explained that was correct based on what he was told. He asked Mr. Leidy if his was the house that was turned.

Mr. Leidy stated that was correct.

Chairman Smolik explained that Mr. Leidy's rear property would gain an additional 20 feet.

Mr. Leidy asked if he were talking about the side.

Chairman Smolik stated he was.

Mr. Leidy explained it was the west side. He then asked if it was upon him to get a survey.

City Engineer Rodriguez stated that he wasn't sure how the deed change took place but if the applicant had a mortgage it would change their mortgage because now they would be adding more land to the property than they currently have and it would change certain things. He stated that how the applicant would go about that he wasn't sure. He stated he assumed they would contact a surveyor and maybe even an attorney to do the deed changes for them and they would refile that with the mortgage company and with the county. He explained that adding that additional 20 feet by 97.12 feet, the applicant would have another almost 100 feet by 20 feet extra side yard added to the property.

Mr. Howells asked if that was something they could just go to the county for and to start at the county.

City Engineer Rodriguez explained that they may be able to start a tax map and they may be able to give better direction.

Mrs. Howells explained that they had all the properties surveyed.

City Engineer Rodriguez stated that he wasn't worried about Mrs. Howells' survey and that everything that she had was perfect as is. He stated the vacation was going to take place if it was approved by the Commission. He explained that for each individual owner to gain this property, they would have to have their deeds changed for that property to be added to their existing deed. He further explained that in the Howells case, that they may want to have a lot combination adding all of their lots together if they wanted to make them all one big lot. He asked the Chairman for the technical term.

Chairman Smolik stated it was an assembly plat.

City Engineer Rodriguez stated they may want an assembly plat where they take their five lots behind them and the three in front and the vacated area to make them one big parcel. He explained that it may be the same for Mr. Gabriel as well. He advised that a surveyor or a real estate attorney would be able to walk them through the process. He stated that as presented it could be submitted with the vacation ordinance and the county would take the street away from being City and then anyone who vacates would have to individually go up there and claim their half.

Chairman Smolik explained that they would be claiming it with the ordinance as their exhibit.

City Engineer Rodriguez stated that was correct.

Chairman Smolik asked Mr. Leidy if he had any further questions or comments.

Mr. Leidy stated that the vacation potentially involves a survey and a real estate attorney, so there would potentially be a survey fee and an attorney fee.

City Engineer Rodriguez explained that was a possibility. He stated that they would have to inquire into those services. He advised that they could contact the surveyor, Mr. Barbosa, who did the survey for the Howells and maybe he would be able to give him some better direction. He explained that since he has the information already, he already surveyed it, he already has some work done, so the cost should be less.

Mr. Howells stated that he was told that it was pretty much up to the county when you go there to get it transferred and normally they don't ask it be re-surveyed because they have all the numbers.

City Engineer Rodriguez stated that was correct.

Mr. Leidy stated that all the information was there.

Mr. Howells explained that the first step was to go to the county and see what they say.

Chairman Smolik asked for questions or comments from the public.

None were given.

Chairman Smolik asked for further questions or comments from the Commission.

None were given.

Chairman Smolik asked for further questions or comments from the Administration.

None were given.

It was moved by Smolik and seconded by Graupmann to approve the application.

A roll call vote was taken and the motion carried.

Yes – 3 No – 0

Asstiant Law Director Morgan asked the Chairman if he would mention the changes to the ordinance.

Chairman Smolik stated he would like to amend his motion for approval based on the new ordinance from the City of North Ridgeville's Law Department dated October 18th, 2021.

It was moved by Smolik and seconded by Abens to approve the changes to T128-2021.

A roll call vote was taken and the motion carried.

Yes – 3 No – 0

City Engineer Rodriguez explained that the ordinance would go back to Council and would have

a couple more readings before it gets adopted and then there would be a 30 day waiting period after that adoption. He stated it would still be 60 days before the applicant saw the ordinance being effective.

Mrs. Howells stated she understood and asked if she would get notification if she had to show up for anything else.

City Engineer Rodriguez explained that she should not have to.


Chairman Smolik asked Mrs. Howell for the corrected plat which was given to the Deputy Clerk of Council to make a copy.

ADJOURNMENT:

The meeting was adjourned at 7:52 PM.



James Smolik
Chairman



Tina Wieber
Deputy Clerk of Council

Tuesday, December 14, 2021
Date Approved