

**NORTH RIDGEVILLE PLANNING COMMISSION
MINUTES OF REGULAR MEETING
TUESDAY, JUNE 13, 2023**

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, Steve Ali, Paul Schumann, Council Liaison Bruce Abens and Chairman James Smolik.

Also present were Chief Building Official Guy Fursdon, Assistant Law Director Morgan, City Engineer Christina Eavenson, Planning and Development Director Kimberly Lieber and Deputy Clerk of Council Tina Wieber.

MINUTES:

Chairman Smolik asked if the members had a chance to review the minutes of the regular meeting on May 9, 2023. He asked if there were any corrections. Hearing no corrections, the minutes were approved.

CORRESPONDENCE:

Administrative Approvals & Zoning Certificates

1. **PPZ2023-0191: Transcendence Health LLC, 36591 Center Ridge Rd, Suite 101**
Approval of a Certificate of Zoning Compliance for Chiropractic office.
2. **PPZ2023-0170: Sagamore Companies, 38207 Center Ridge Rd**
Administrative approval of a Planning Commission application to install an industrial unit employee office.

Director Lieber stated two approvals had occurred in the last month. She commented that one was a zoning certificate for Transcendence Health, LLC, at 36591 Center Ridge Road and that the other was administrative planning approval for Sagamore Companies of their work trailer at their leased property at Beckett. She stated that that would involve some installation of additional landscaping on that site. She stated that the unit had been in place for quite a few years and the applicant had been made aware that they would further need to seek Building Department approval for a permit for the unit and for any utility work that was done there in the past.

Master Plan Update

Chairman Smolik stated that the Steering Committee had meeting number five on June 7, 2023 and one of the topics of discussion were case studies of other communities that were similar bedroom communities and those were Dublin, Ohio, South Lake, Texas and Carmel, Indiana. He stated that they looked at the town center features, which would be looked at for North Ridgeville at Route 83 and Center Ridge Road. He stated that another concept they explored was a neighborhood town center and an example of that would be Route 83 and Mills Road, the Bistro 83 Plaza. He stated they explored areas

throughout the town where maybe another similar situation like that might happen. He added that the City was having a Ready to Imagine Town Center Pop-up Party that would happen July 20, 2023 in the front lawn of City Hall. He stated that that would be further exploring the Town Center concept and he encouraged everyone to go and attend to voice their opinion on that subject. He discussed that the Master Plan was very important because if development continued at the current progress, the City would be out of land in ten years. He mentioned that they had to be smart about it with what land they had left.

NEW BUSINESS:

PPZ2023-0193: Veterans Memorial Park, 7565 Avon Belden Rd, PPN 07-00-022-101-059

Proposal consists of constructing Veterans Memorial Park on land in South Central Park owned by the City of North Ridgeville. Property zoned R-1 Residence District.

Application was read.

Chairman Smolik asked the applicant to state his name and address for the record and explain the proposed project.

Mark Steinbrunner, 37400 Sugar Creek Lane, North Ridgeville, OH 44039.

Mr. Steinbrunner explained that a few years back, he had reached out to Councilman Maleski to see if he could get a plot of land to build the memorial. He stated that it was something that the City needed and that with many veterans living in the City, it seemed appropriate that they build one. He mentioned that it would be across the street at Route 83 and Bainbridge Road. He stated that it would incorporate a walkway and they were going to attach it to the existing walkway that went through South Central Park. He mentioned that it would wind its way through and they would have some mounds to enclose it a little bit. He stated that they would add a few trees and as they took the walkway, it would take them around to the flag display that would have every service flag, the United States flag, the Ohio flag and the POW flag and they would be lit up. He continued that they were selling pavers throughout the City and would allow veterans throughout the City to put their names onto the display also. He stated that coming around it there would be stones going in a circle for every conflict that the United States had been in. He added that it would also have a fountain that was more of a water source fountain. He stated that on the fountain it would have engraved every North Ridgeville resident who gave the last full measure to the country. He commented that it would incorporate a nice landscape.

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

None were given.

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

None were given.

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

Elaine Schroeder, 7416 Avon Belden Road, North Ridgeville, OH 44039.

Ms. Schroeder stated that she lived directly across from the park that they were putting in.

Ms. Schroeder asked if it was City owned property, why were they rezoning it.

Chairman Smolik stated that to his knowledge it was not being rezoned.

Ms. Schroeder stated that she was in favor of cleaning up that corner but because she lived right across the street, she was hoping that the lights wouldn't shine in her windows.

Keith Martin, MBD Homes, 39186 Center Ridge Road, North Ridgeville, OH 44039.

Mr. Martin stated that MBD Homes was the general contractor for the project. He discussed that the lighting that was referred to was just lighting for the flags only. He stated that the biggest concern that they had was for vandalism at night and of course they didn't want to be a burden, so the City would be taking responsibility for it once it was completed. He mentioned that from what he understood, the lights probably wouldn't be there and he didn't think there would be an issue with lighting up her house and added that they didn't want to light up her house. He stated the lights would be for the focal point of the flags only and he assumed that they would be from dusk until dawn.

Ms. Schroeder asked if it would just be at the base with the lights pointing up.

Mr. Martin stated that was correct.

Mr. Schumann stated that he had a question regarding form. He stated that they were a recommending body and they would be recommending to Council and asked if that was correct.

Director Lieber stated that it was.

Member Schumann stated that he noticed on some of the application packets there were questions about having all the stuff in for lighting and for landscaping. He asked if the Commission had it within their purview to make it a condition to have an administrative review on those parts. He asked if that was something that was done.

Chairman Smolik explained that a lot of times there were conditional approvals but there were also times where lighting and things would be done by administrative approval.

Director Lieber stated that regarding that particular project, she recommended that Planning Commission include a condition of approval that the final plant selections be reviewed with the Parks & Recreation staff and approved prior to installation. She commented that they were aware that they were subject to the availability of their donors and they were sensitive to that. She stated that they just wanted to make sure that the plants that were selected were appropriate for the soils and that they wouldn't create a maintenance burden long term for the parks. She added that that was the one condition that she would recommend for that project. She discussed that she wanted to point out that the woods that abutted Avon Belden Road, that wooded area, any tree clearly had mostly been done and most of those woods would remain with that project. She mentioned that for residents that lived on the the opposite side of Avon Belden Road, those trees would stay there as a buffer for lights and for activity.

Ms. Schroeder asked if it would be totally cleared.

Director Lieber stated that it wouldn't. She mentioned that in looking at the plan shown on the screen, the outline to the left, to the west side around the open piece, those were existing trees to remain. She stated that the whole open area really wouldn't be touched, other than maybe in the future there might be a sidewalk carried out to Avon Belden, but that would be a future phase.

Assistant Law Director Morgan stated that if there was anything in the ordinances, they didn't have to specifically approve it, they would still be subject to it. She mentioned that the approval was always subject to ordinances as well. She stated that at the pre-hearing they indicated that they had no problem with Parks & Recreation giving them the ultimate approval for the landscaping.

Member Schumann asked if she was referring to the Building Department.

Assistant Law Director Morgan commented building ordinances, engineering and whatever it took. She added that they were always subject to those that were on the books.

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

Dennis Boose, 6405 Denise Drive, North Ridgeville, OH 44039.

Mr. Boose stated that as a member of the North Ridgeville Park & Recreation Commission, they had come before the Commission a couple of months ago and were approved a recommendation for a fully funded project. He mentioned that at that time the project was not fully funded and he wanted to make sure that was the case today. He stated that there were a couple of pieces of information about the funding and the cost of the project that weren't the same within the document. He discussed that on the North Ridgeville Veterans Memorial page it said that their goal for the group was to raise \$345,000 and they had generated \$287,000. He commented that on the proposal summary it showed that the total investment summary was about \$245,000, which would mean that they would have reached that goal. He stated that the main concern of the Commission was that it was fully funded. He added that it was his understanding that they were able to lower the costs of some of the things that they were originally going to do. He stated that other than that, it was a wonderful project that was done the right way. He mentioned that they organized and created a 501c3. He discussed that they did all the things that they needed to like going for grants. He added that the was behind the project as long as it was fully funded.

Chairman Smolik asked Assistant Law Director Morgan if financial disclosure in a public meeting would have to go to executive session or if it was something they could announce publicly.

Assistant Law Director Morgan stated that they could announce it if they chose to.

Mr. Boose stated that one of the reasons it was important to the Commission was that it was being built on the City's land. He discussed that if they were doing it on private property with a private contractor and such, they would have the wherewithal that if they ran out of money, they would have to do something to come up with it. He stated that it wasn't as easy for a non-profit organization to do that on City owned property. He explained that the task was to make sure at the end of the day, that the City wouldn't have to come up with some money to finish the project. He added that he looked forward to the project being completed.

Chairman Smolik asked if the applicant wanted to state where they stood financially as far as funding the project.

Mr. Martin explained that when he first took on the project, they only had one bid at that time for each trade. He mentioned that since he took over, they had received numerous bids from numerous contractors and they had received more donations for free work. He added that that was where they were able to get the majority of those costs down. He discussed that they did make some concessions on the overall project, such as taking out the walkway to State Route 83, as well as they did some shortening on the fountain and they agreed to different products regarding that to get the cost down. He added that that was how they were able to get the costs down dramatically.

Chairman Smolik asked if it was funded.

Mr. Martin stated that it was funded. He discussed that they had a piggy bank with the County, the State and with the donations of roughly two hundred ninety eight thousand and some change and that they came in at two hundred forty five thousand, as Mr. Boose had stated. He commented that they had presented that to the Commission and they did have excess for that variable, which they would look at. He explained that he, as a general contractor and working with the City, they had to monitor that but they were on track currently to achieve that.

Jim Maleski, 6088 West Breezeway, North Ridgeville, OH 44039.

Mr. Maleski stated that he was the treasurer of the group. He discussed that exactly what Mr. Martin stated was correct but in order to be completely transparent, one hundred thousand dollars of it was a grant that Nate Manning got them through the Ohio State budget and the City would actually have control over that and would be giving them part of that money. He added that in their actual bank account was one hundred ninety four thousand dollars and the one hundred thousand would be in the hands of the City. He mentioned that the last he had talked to the Mayor about two weeks ago, they were still waiting for that money to come in but that was where the other portion of it was coming from.

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

None were given.

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

None were given.

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

Mr. Abens stated that it looked like a great project but asked who would be responsible for maintaining that.

Mr. Boose commented that as Director Lieber had stated, since it was on City property, once it was completed, the City owned it and they would have to maintain it. He explained that one of the reasons that they wanted to make sure that they reviewed the plantings and such was to make sure that they were low maintenance and that they could take care of it but it would be the City's responsibility.

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

None were given.

Moved by Graupman and seconded by Ali to approve the application as presented.

Member Schumann asked if they were including wording about the condition that Director Lieber mentioned.

Chairman Smolik stated that he could add a condition to the motion.

Member Graupmann stated that he thought Director Lieber stated that because they had to abide by the procedures and that sort of thing for the City that they didn't have to do that and asked if he misunderstood.

Director Lieber stated that she didn't think it could hurt to add a condition of approval that final plant selections be approved by Parks and Recreation.

Moved by Graupmann to amend his motion and seconded by Ali to include that the final plant selections be approved by Parks and Recreation.

A roll call vote was taken and the motion carried.

Yes – 4 No – 0 Abstained – 1(Smolik)

PPZ2023-0194: Elite K911 Dog Training, 31740 Cook Rd, PPN 07-00-004-110-038, 07-00-004-110-037
Proposal consists of constructing a 1,130 square foot addition to the rear of the existing kennel and training building in order to provide dog grooming services. Property zoned B-3 Highway Commercial District.

Application was read.

Chairman Smolik stated that it was his understanding that the applicant revised his submission and the Commission was only looking at the pool and deck portion.

Mr. Stella stated that was correct.

Chairman Smolik asked the applicant to state his name and address for the record and explain the proposed project.

Charles Stella, 31740 Cook Rd, North Ridgeville, OH 44039.

Mr. Stella stated that he was looking to get approval for a dog diving pool with a deck attached to it on the back side of the property. He added that originally it was going to be the grooming as well but they decided to pull that for now and just wanted to focus on the pool and the deck itself. He discussed that they did dock diving, which was a sport where dogs jumped for distance and it was a pool designed specifically for dogs. He stated that regarding the deck, there was a specific distance that they had to go with the deck for the pool for jumping to qualify.

Chairman Smolik stated that he noticed that there was a creek there and asked if it was within the 100 year

flood plain.

Mr. Stella stated that he wasn't sure about that. He stated that he had asked that originally when he first bought the property and they said that that didn't really apply because the creek wasn't maintained. He commented that he wasn't sure if that had anything to do with that.

Chairman Smolik stated that it would probably make it worse but it did not have anything to do with that.

Mr. Stella stated that he had seen the water come up pretty high and that he had been there for sixteen years.

Chairman Smolik asked if it would be an above ground pool.

Mr. Stella stated that it was an above ground pool and would be 54 inches high.

Chairman Smolik asked if the deck was above ground as well.

Mr. Stella stated that the deck was almost six feet in the air and it was considerably farther away from the creek. He stated that the corner of the pool was near the creek and then it went away from there.

Chairman Smolik asked regarding safety fencing, if he just had a gate to get up onto the deck or what would he have there.

Mr. Stella stated that his property had a six foot fence all the way around it, the whole property. He explained that the back area, which the creek separated from the front, was fenced on its' own from the front. He stated that the deck and the access to the pool would also be gated.

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

None were given.

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

Director Lieber stated that her report contained comments mostly related to the addition and the parking changes and wouldn't be relevant to just the pool addition. She commented that she had no objection to the pool and deck, so long as its' placement met the required setback there might be from the ditch.

City Engineer Eavenson stated that the pool wasn't the focus originally and asked that during the final engineering review that he add some dimensions to the side yard as well as the ditch. She discussed that she wanted to see some space between that watercourse and the pool. She asked if there was a blow up on the dimensions of the pool and asked if he had dimensions on the pool.

Mr. Stella stated that the pool was 30 by 18 and he had it on one of his drawings.

City Engineer Eavenson stated that when he submitted the package to engineering, he would need to make sure all of the dimensions were on there as well.

Mr. Stella stated that he would do that.

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

None were given.

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

None were given.

Moved by Smolik and seconded by Graupmann to approve the application for the pool and deck only.

A roll call vote was taken and the motion carried.

Yes – 5 No – 0

PPZ2023-0195: Chase Bank, 34385 Center Ridge Rd, PPN 07-00-016-112-067

Proposal consists of constructing a new 3,384 square foot drive-through bank at the corner of Center Ridge Road and Pitts Boulevard. Property zoned B-3 Highway Commercial District.

Application was read.

Chairman Smolik asked the applicant to state her name and address for the record and explain the proposed project.

Erin Gogolin, Bohler Engineering, 1 Allegheny Square, Suite 402, Pittsburgh, PA 15212.

Ms. Gogolin stated that with her she had Vaughn Benson, who was with FMS Architects and was the architect on the project.

Vaughn Benson, FMS Architects, 995 West Third Ave, Columbus, OH 43212.

Ms. Gogolin stated that they were there on behalf of JP Morgan Chase Bank to present their application for the construction of an approximately 3,300 square foot bank branch on the corner of Pitts Boulevard and Center Ridge Road. She discussed that at the current site the existing driveway was pretty close to the intersection and was probably about thirty feet. She stated that they were looking at moving that driveway approximately 170 feet away from the intersection. She mentioned that she went out there before the meeting to see how close it was because looking at plans, what you saw was one thing but to see it in real life it was really a lot closer. She stated that it would be a vast improvement. She commented that their development included 25 parking spaces, circulation around the building and an ATM. She stated that they were also proposing an underground detention system to attenuate any storm water management requirements.

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

Mr. Graupmann asked if the Commission had received a proposal to place a Jiffy Lube a few months ago in there as well. He stated that he didn't know what the status of that was but that it would be close to that and asked if he was correct.

Director Lieber explained that the Jiffy Lube project withdrew and Chase would be in its' place.

Member Schumann stated that there were a couple of recommendations from the Planning Review including the cross access agreement and asked if that had been taken care of yet.

Ms. Gogolin stated that they were in talks with the landlord to obtain that agreement. She explained that they were aware of the project but they didn't have that finalized yet.

Member Schumann stated that there was a 10-foot plant buffer.

Ms. Gogolin stated that they had adjusted the site plan and it was a 15-foot buffer now and also placed a 6-foot high, opaque fence to block any light along that residential property.

Member Schumann asked if the cut sheet for the lights had been provided.

Ms. Gogolin stated that they were.

Member Schumann recommended that the Commission included the cross access agreement as a requirement.

Mr. Abens asked if the project had at least a 90% possibility of going through since Jiffy Lube pulled out.

Mr. Benson said that he would say more than 90%.

Member Ali commented that it was in his front yard. He stated that he would rather see that type of project going in versus a Jiffy Lube for traffic. He stated that his main concern was landscaping, the buffering, and also the traffic and driveways because it did get busy in the morning and afternoons. He added that to him it was a better fit of a project for that corner right there because it did get hectic.

Member Schumann stated that he sat over there yesterday and watched traffic coming out of Giant Eagle and that the project would change the traffic pattern a lot. He stated that a lot less people would be taking the cut through because they were going to have to drive all the way through the bank, so a lot of them would just go out the other way. He stated that it would change the pattern a little bit and didn't think it was necessarily a bad thing. He added that even though he was sitting there for a very short period of time, the cars did back really quick because they had to make a quick left turn. He mentioned that there wasn't any landscaping there currently but it was going in and it would be better than what was there currently.

Chairman Smolik remarked that the old Giant Eagle went basically straight to Pitts Boulevard and now they would have to go south and around. He asked if right at that corner where the Giant Eagle building was, which would be the northwest corner, could they modify the curb there so that it wouldn't be a true right angle but more of a turn, so that it would be guiding people. He added that if they were traveling west, it would just make easier wayfinding than to go directly south.

Ms. Gogolin said, yes.

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

Director Lieber expressed her appreciation with the applicant working with the staff through various site plan iterations to try and connect that piece to the plaza, which didn't always have the most logical

internal traffic circulation. She noted that even the parking spaces on that west side of the plaza had also been reoriented and she thought would help internal traffic flow throughout that area. She commented that it would definitely be a benefit and appreciated that.

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

None were given.

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

None were given.

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

None were given.

Moved by Schumann and seconded by Graupmann to approve the application with the provision that they provided a copy of the cross access agreement.

A roll call vote was taken and the motion carried.

Yes – 5 No – 0

PPZ2023-0196: BCubed Biggby Coffee, 35095 Center Ridge Rd, PPN 07-00-021-119-151

Proposal consists of constructing a new 361 square foot drive-through coffee shop at the corner of Center Ridge Road and Ranger Way. Property zoned B-3 Highway Commercial District.

Application was read.

Chairman Smolik asked the applicant to state his name and address for the record and explain the proposed project.

Michael Sertich, 2440 Woodhawk Lane, Avon, OH 44011.

Mr. Sertich stated that they were a Lorain County based operator of Biggby Coffee Franchises and they were excited to bring the BCubed concept to North Ridgeville. He explained that it was a drive-through coffee kiosk and primarily they would get their customers through the drive-through window but there would be a walk-up window as well. He stated that he had Bennett Weickert with him from Star Incorporated, who could talk more about the physical natures of the project as he had been their lead on a BCubed project previously.

Bennett Weickert, Star Design Build, 46405 Telegraph Rd, Amherst, OH 44001.

Mr. Weickert stated that it would be a 361 square foot modular constructed coffee kiosk primarily drive-through only traffic with a couple employees. He discussed that they had worked with Guy, Kim and Christina's department on the traffic flow within the Aldi Plaza to make sure that there wasn't any safety issues with cars navigating through the parking lot to enter the drive-through lane, meeting the 10 car stacking requirement, bypass lane and safely exiting the plaza at either Center Ridge Road or Ranger

Way.

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

Member Schumann stated that there were some items that came up on the Planning Review from the Director and asked if they had provided a calculation summary on the lighting plan yet.

Mr. Weickert stated that the photometric plan was provided with the cut sheets on the light fixtures for the building and there were some modifications made to the landscaping plan. He explained that Kim had mentioned that there were some possible issues with plant diseases across the boxwood blight so their landscaper suggested a good alternate would be the green luster Japanese Holly, 18 to 24 inches tall.

Member Schumann stated that there was some question as to screening of headlights.

Mr. Weickert commented that that was part of their landscape revision. He stated that the landscape along the north side of the property there or west side, where the drive-through lights would be shining, they proposed arbovitae trees there, 5 to 6 feet in nature, so that they would block the vehicle lights shining onto Center Ridge Road.

Member Schumann asked that when they construct the building, he noticed that the elevation was higher on the lot than it was on the parking lot for the strip mall there and asked if they would drop it down to the same level.

Mr. Weickert stated that they hadn't received their final grading plan from their Civil Engineer yet but he imagined that he would be stripping the topsoil off and adjusting grades. He mentioned that the purpose of the parking lot there was that it was all going to sheet drain to the bioswale retention, which was the stone area to the south of the sidewalk and then that would filter through that and tie into all the existing storm water.

Council Liaison Abens stated that he heard the term modular construction used.

Mr. Weickert said, yes, that was correct.

Council Liaison asked who the manufacture was.

Mr. Weickert stated that the manufacturer was BQ Manufacturing out of Michigan. He explained that when they submit their package, they basically have building official approval. He stated that it was modular built in a controlled environment and shipped in different pieces and then it would be set up in one day on foundations that they built in the ground and would get inspected through the City. He remarked that in about a day the coffee shop would be there and it was a pretty unique construction.

Council Liaison Abens stated that he understood but that unfortunately it wasn't subject to real estate taxes because modular buildings were considered equipment.

Mr. Weickert stated that he wasn't familiar with that.

Council Liaison Abens that he was.

Victor Kirallah, 24500 Chagrin Blvd, Beechwood, OH 44122.

Mr. Kirallah stated that he was their real estate broker and that based on the lease that they signed, they would pay real estate tax to the landlord and it was on a pro rata share.

Council Liaison Aben stated that that was fine, it was just that modular buildings were considered equipment so they were considered not taxable by real estate. He added that he was in the business for 30 years. He stated that he wasn't objecting but was just pointing it out.

Member Schumann asked if the building itself wasn't taxable.

Council Liaison Abens stated that was correct.

Member Schumann asked if the improvements of the property would be taxed.

Council Liaison Abens stated yes, probably, but not the building itself.

Chairman Smolik asked if the existing underground retention had enough capacity for the additional impervious area.

Mr. Weickert stated that the additional storm collected on two different retention ponds on the south side of the Aldi Plaza and it was a very minimal impervious area that they were adding, based on the overall asphalt parking lot that was out there.

Chairman Smolik asked if there was excess capacity.

Mr. Weickert stated that there was enough room for it for what they were adding.

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

Council Liaison Abens commented that he did like the idea that they would have a walk-up window as well.

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

Director Lieber stated that she appreciated the applicant and that they moved that building in every possible configuration given the odd little size of that scrap of green space that was left, plus utility easement and an existing parking lot and they were not deterred. She remarked that they finally discovered a layout that met the queuing, met the bypass, met the setbacks and worked with them on some landscape enhancements and she appreciated that they made all the additional revisions and submitted additional information. She stated that it looked like a good project.

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

Holly Swenk, 36259 Center Ridge Road, North Ridgeville, OH 44039.

Ms. Swenk asked if it was coming out of Ranger Way, had there been consideration to school traffic and bus traffic and what if cars had to block to get in.

Director Lieber stated that they currently showed 10 space stacking but that was still well within the site. She stated that if cars were to stack beyond that, and she didn't know if they had done a study regarding how many they could contain, but it was vastly more than that. She discussed that because of where the curb cut was to Ranger Way, as shown on the plan, where the entrance started and how far in the site that was from where the actual curb cut was, she didn't believe that there was a likelihood that they would ever get to the point where that traffic was actually all the way out onto Ranger Way with their quick service time of quick coffee versus food and those types of things.

Chairman Smolik asked if it was just coffee or if there would be food as well and what was the average service time.

Mr. Sertich stated that they had a limited food menu mostly consisting of breakfast items. He discussed that they offered a variety of bagels, muffins, donuts and breakfast sandwiches, which would be the basic ham, egg and cheese kind of oriented sandwiches. He stated that the majority of the business would be coffee-based drinks. He commented that the average service time was about three and a half minutes.

Chairman Smolik asked if it was three and a half minutes per car.

Mr. Sertich stated that it was from ordering to departure.

Chairman Smolik asked where the order location was.

Mr. Weickert stated that it was roughly four cars back from the drive-through window. He stated just to the right side of the rock, as shown on the plan, the bioswale area, it showed the menu board and that was roughly at the fourth car. He mentioned that it was kind of their sweet spot for getting an order and being able to process them through by the time they got to the window. He discussed that from the point of order to the point that they would be leaving the drive-through, was roughly three and a half minutes.

City Engineer Eavanson stated that it wasn't a split but was part of the shopping complex and asked if that was correct.

Mr. Kirallah stated that was correct.

City Engineer Eavanson asked if regarding cross access, easement and shared utilities, was there an agreement.

Mr. Kirallah said there was.

City Engineer Eavanson stated that when they made their final submission to give her a copy of that as well.

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

None were given.

Moved by Graupman and seconded by Ali to approve the application as presented.

A roll call vote was taken and the motion carried.

Yes – 5 No – 0

Zoning Code Update

Proposed amendment of Chapter 1292 Nonconforming Uses

Director Lieber stated that many of the City's chapters existed from the 1960's and that was a good example of one that needed a fresh look and seemed kind of like low hanging fruit. She stated that she wanted to present it to the Commission as a first look for either their continued discussion or recommendation to Council. She discussed that some of the concerns that came up in regards to some properties in the City that currently had property maintenance violations against them, was that if a structure were destroyed by fire, that currently per that chapter, could start to rebuild within one year and could be completed within two years. She explained that it was very unusual for communities to allow non-conforming structures to be fully rebuilt up to two years after they're destroyed when by nature, a non-conforming building or structure didn't belong in that district. She added that it might have been grandfathered in or predated a code, but to allow complete reconstruction of a destroyed building was not really current planning in terms of how they thought about addressing non-conforming structures. She stated that the other concern was the voluntary discontinuation of uses which was also two years or more. She mentioned that it was a very long period of time to allow for voluntary discontinuation. She added that at one year and eleven months and eleven days that that use could resume. She discussed that the non-conforming chapter was there to be an outlet for uses that existed legally at the time they were built or implemented but then because of changes in zoning, had created a situation where those uses or structures would no longer meet code. She stated that the goal was to allow that property owner continued usefulness of their land or the building, but not to also provide for a transition for that use or that building to become conforming in the future. She stated that she found some of the time frames and some of that language to just open the door way too wide and that might not ever result in that hoped for compliance. She added that some of the language dated from 1966 and it felt like it was time to have a set of fresh eyes on it. She mentioned that it continued to allow non-conforming use to continue after the effective date of the proposed ordinance, so long as it was maintained and otherwise in compliance with the City's ordinances. She stated that the next section she proposed talked about how non-conforming structures can continue to be used or modified. She discussed that repair, maintenance and alterations could be done, so long as no new non-conforming condition was created or made worse. She gave the example of a building encroaching into a setback and that one could alter it but they couldn't further encroach into the setback or get closer to the property line, closer to the neighbor. She added that if a non-conforming structure would be moved, that it would also have to be made conforming at that point. She stated that regarding the removal or reconstruction, a more typical standard rather than that completely demolish and could still build in two years, tended to be 50 percent or more of the total floor area. She mentioned that that was what she was proposing in that case, or 50 percent of a replacement value. She added that if there was a fire or storm and something was damaged beyond that, it would then lose its non-conforming status. She stated that unique situations always occurred and rules were made for the majority but there would always be a time where there might be something of historical significance that would be considered non-conforming, and if it were damaged by more than 50 percent, it might be a compelling reason for the BZBA to grant a variance for example, to allow the continuation of that building or use. She stated that the other 99% of the time that would allow them to move towards greater compliance in the buildings and uses. She discussed that she separated out structures versus uses. She explained that not every non-conformity was about a building but could also be about how a property was used or other features of that property. She stated that the

use section talked about changes in use and that voluntary discontinued uses would shrink that two-year window down to one year. She commented that it gave examples of what voluntary discontinuance would be, which were vacancy, disconnection of utilities or removal without replacement of equipment and furnishings that would be related to that use. She stated that there was also a little section about accessory uses and explained that they couldn't continue an accessory use to a non-conforming use, if that principle non-conforming use has been discontinued. She remarked that it made sense that the accessory was an accessory to a principle and if the principle was no longer there, the accessory should also be discontinued. She stated that it was the first look that the Commission had regarding the proposed changes and she welcomed their questions and conversation and ultimately, if they felt comfortable, could make a recommendation. She added that if they wished to discuss further or had questions, they could come back, revisit and make amendments. She stated that there wasn't an urgent matter driving it, it was just simply brought to her attention and it felt overdue for a little attention, which was why it was before the Commission.

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

Mr. Schumann asked who would determine the 50 percent.

Director Lieber stated that the floor area was a calculation that they could do based upon their records. She explained that regarding construction value, she imagined a contractor would submit that and the Chief Building Official would review and determine if that seemed like adequate documentation.

Mr. Schumann asked if it would include a building that was neglected to the point where it was 50 percent.

Director Lieber stated that she supposed it could.

Council Liaison Abens asked as it pertained to businesses that operated or opened up in non-conforming zoning areas, could that be used to force them out or cease operations.

Director Lieber explained that the chapter dealt with uses that were otherwise legal at the time they were established. She mentioned that if there was a business that opened in a district where it never should have opened in the first place, that would be an illegal non-conforming use and the City could take action on that business regardless of that chapter. She stated that if the business existed legally and then the district was changed, then that chapter would come into play and they would be protected by that chapter, up until they discontinued or demolished or moved or that kind of thing.

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

None were given.

Chairman Smolik asked if the Commission wanted additional time on the subject or were they ready for a motion. He asked if they wanted to have discussion on it.

Member Graupmann stated that he thought Director Lieber explained it pretty well and didn't think there was much left to discuss.

Chairman Smolik stated that he agreed. He mentioned that he thought that she did a good job on that

chapter just like the previous chapters and appreciated it.

Assistant Law Director Morgan stated that she wanted to make sure that there wasn't anything in the ruled or by-laws that prevented them from acting on it.

Deputy Clerk of Council Wieber stated that there was not.

Mr. Schumann stated that he felt very comfortable voting at that time.

Moved by Graupmann and seconded Schumann by to approve the proposed amendment of Chapter 1292.

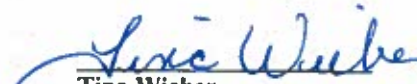
A roll call vote was taken and the motion carried to approve Chapter 1292, Nonconforming Uses.

Yes – 5 No – 0

ADJOURNMENT:

The meeting was adjourned at 7:55 PM.


James Smolik
Chairman


Tina Wieber
Deputy Clerk of Council

Tuesday, July 11, 2023
Date Approved