

**ALLIANCE CITY PLANNING COMMISSION
MINUTES OF MARCH 15, 2017
4:30 P.M.**

Attendance: Mayor Andreani, Mark Locke, Kim Henderson, Brad Goris, Cheryl Lundgren, Mike Dreger, Curtis Bungard and Theresa DeUnger.

1) Minutes from February 15, 2017 meeting

Lundgren made the motion to accept the minutes from the February 15, 2017 meeting. Henderson 2nd the motion. All are in agreement.

Conditional Use for a Multiple Family Development located at the SW Corner of Brayton Ave and State St, Alliance OH 44601 Parcel #113889 submitted by Hettler Engineering (20170562PC). **Public hearing at 4:31pm.**

Lundgren made the motion to move from the regular agenda into a public hearing. Henderson 2nd the motion. No one to speak in favor of the multi-family development.
No one to speak in opposition of the multi-family development.
The public hearing is closed and the commission moved back to the regular agenda.

2) Letter requesting withdrawal of a Conditional Use for a Multiple Family Development located at the SW Corner of Brayton Ave and State St, Alliance OH 44601 Parcel #113889 which was tabled at the 2/15/2017 meeting (20170155PC).

Lundgren made the motion to remove the conditional use for a multiple family development that was tabled last month (Feb. 15, 2017); Goris 2nd the motion. All are in agreement.

3) Conditional Use for a Multiple Family Development located at the SW Corner of Brayton Ave and State St, Alliance OH 44601 Parcel #113889 submitted by Hettler Engineering (20170562PC). Public hearing at 4:31pm.

Hettler explained a conditional use is being requested for a site plan on Brayton Ave. This multi-family building will contain 5 units and has adequate parking, detention area, green space, open space, as well as all setbacks and density have been met.

Bungard has no new comments on conditional use. The issues that were problematic last month have been corrected with the new plans. The use is consistent with everything around there so Bungard recommends approval of the conditional use.

Mazzola recommends approval.

Dreger made the motion to approve the conditional use for a multiple family development located on the SW corner of Brayton Ave. and State St. The Mayor 2nd the motion. All are in agreement.

4) Site Plan for Montrose Auto Group located at 2490 W State St, Alliance OH 44601 Parcels #7700752 & #7700756 submitted by GGJ, Inc. (20170563PC).

Irving B. Sugerman, Attorney with Brouse McDowell, 388 S. Main St. Akron OH was sworn in. Sugerman is presenting a site plan that meets and exceeds all of the requirements listed in the planning and zoning codes. Sugerman addressed the third drive on the east side of the lot. He stated at this time Montrose will not be proceeding with this driveway.

Robert Jurs, President of GGJ Engineers, consulting engineers for Montrose, was sworn in. Jurs stated this will be an overflow lot. The submitted lighting plan has adjustable light heads and cannot spill out of the parking area.

Bungard's comments are as follows:

- a. The third driveway added on the east side of the lot makes sense and would improve ingress and egress. I am not sure if the easement sited for drive access would allow this. Please verify that the Carnation Mall owners approve this. Provide a signed letter from them followed up by an easement.
- b. Please provide a legend of the symbols on the utility sheet and clarify where the sanitary lateral is located. If the building has been unoccupied, the owner should televise the lateral to make sure it is in good condition and copy the Engineering Dept.
- c. Please verify that the area of disturbance is less than one acre.
- d. The proposed parking space dimensions do not meet our requirements. However, I am told the area east of the building will be used for inventory parking only, so I recommend waiving the requirement. If the area is used for customer/ public parking in the future, the striping will have to be changed.
- e. The lighting chosen does not appear to be sufficiently shielded on the sides and the heads appear to be angled upward in the direction of traffic on State St. Note: 1160.01(h) *Glare or Heat*. Glare or heat from any process shall not adversely affect any adjacent property; exterior lighting shall not produce a glare on rights-of-way or adjacent property. And 1180.19 (j) *Exterior Lighting*. All exterior lighting fixtures are designed, arranged and shielded to minimize glare and light trespass, prevent night blindness and vision impairments, and maximize security.

Bungard recommends approval.

Mazzola likes the landscaping and stated they did a fine job. He also likes the design of the building. Mazzola recommends approval.

Attorney Lisa Ferguson is representing Carnation City Mall. Ferguson stated she did not receive notice for the meeting concerning the conditional use. She would like the conditional use reconsidered since she was not present at the meeting. She stated another law suit was filed today (3/15/17) against Michael Thompson as trustee, who is the owner of the property. The mall is the plaintiff this time. Ferguson continued to talk about the explanation regarding the easement and Montrose unloading their vehicles in the mall's parking lot.

Lundgren verified that the conditional use was approved and the mall was not notified of the meeting in November of 2016.

Dreger asked if the 3 easements for the ingress/egress are all in dispute. Ferguson stated yes, all 3 are in dispute because of the use of the property.

Locke verified with Morris that it is possible to reconsider the approval of the conditional use if there is something new. Locke also re-verified with Morris that it is possible to approve a site-plan with pending litigation. The commission is able to approve the site plan but there could possibly be a problem with Montrose moving on with this project if it is in litigation with the mall.

Sugerman stated the easement that Ferguson is referring to only relates to the 3rd driveway shown on the site plan. Morris gave his opinion that the other 2 egress/ingress are proper. Sugerman explained they were removing the 3rd driveway from the table so it should not be an issue with the site plan being approved.

Henderson asked if you do not have the easements, is there a way in and out of the property? Jurs explained the contention is, even though there are easements, the property could only be used as a savings & loan so the property would be a land locked.

Sugerman requests the site plan be approved today and if there are any other issues, they are dealt with in the appropriate form.

Lundgren verified the case was dismissed voluntarily the day before the November 16, 2016 meeting. She feels the mall was at a disadvantage with not being able to respond to the dismissal of the case. Lundgren feels this is a case between the Mall and The Stars of Cleveland.

Dreger asked if the mall would prevail, the construction has started and there is no egress or ingress, what would the city have in terms of recourse? Sugerman stated there is a case law. If you do not stop a project before it starts, you have waived your right to stop the project. Morris stated if the mall is intent on stopping this, there should be an injunction but he cannot predict the future.

Goris is upset there was no notification to the mall. Morris said they were notified at the initial hearing and also it was posted on the service board and published in the paper.

Dreger asked Ferguson if there were any other issues besides the view of the mall, why there should not be a conditional use. Ferguson stated the frontage to the mall would be blocked for Elder Beerman's.

Tyrone Beagle, partner with D & L Ferguson, was sworn in. Beagle is concerned as Montrose has violated city codes on the use of this specific property. Beagle stated they have painted and repaired cars on the property. Beagle feels they will continue to disregard the city's codes with the use of this property. Dreger asked Beagle, besides the conditional use for the property, if he has any other issues. Beagle said that Montrose will not use the property for the specific use they are stating. Dreger stated that would be a problem in and of itself and what was voted on was using this property for a car lot instead of a bank. Ferguson continued on about the types of vehicles that are parked there as well as parking on the grass. Dreger asked if there were any specific issues she had with the conditional use other than the view of the mall. Beagle asked about the provisions for the storm sewer and Dreger would like to verify this as the visual out front is not very attractive.

Rob Jurs explained why they are proposing a grass swale. Jurs explained McDonald's also has a grass swale. When it is wet, the swale drains slowly and as the swale dries it can be mowed for maintenance purposes. Jurs recognizes the view to the mall is important and he plans on replacing the pine trees out front with a lot of greenery and color. He also explained they detained the retention with a 3 to 1 side slope which is walkable and mowable. Jurs said this will be to the north side of the property and will not affect the mall.

The Mayor stated something needs to be done with this item. The options are to approve, deny, or table the site plan. In order for this to happen, he said it needs to be introduced with a motion. The Mayor made a motion to approve this site plan based on what has been presented tonight. Dreger 2nd the motion.

The voting results are as follows:

The Mayor, Mike Dreger and Mark Locke vote in favor of the site plan for Montrose Auto Group. Cheryl Lundgren and Kim Henderson voted no for the Montrose Auto Group's site plan. Brad Goris abstained from voting.

5) Replat of Lot 4450 and Lot 4451 located on Pike St centered between Green Ave & Oak Ave, Alliance OH 44601 submitted by Akins Land Surveying (20170559PC).

Vanessa Akins, 776 N. Union Ave, with Akins Land surveying was sworn in. Habitat for Humanity purchased some lots. Akins is not sure when they intend to build at this point. They would like to combine these lots into one lot.

Mark Locke will not be able to vote as he is on the Habitat board. He did state the building of 2 homes is set to start this spring.

Bungard and Mazzola recommend approval.

The Mayor made the motion to send to council. Henderson 2nd the motion. All are in agreement.

6) Replat of Lots 6917, 6918 and 6919 located at the SW corner of Pike St and Oak Ave, Alliance OH 44601 submitted by Akins Land Surveying (20170560PC).

Akins stated this replat is for the same reason. Habitat for Humanity purchased lots that need to be combined. Akins did note there were 2 incorrect dimensions. They have been corrected and the original mylar will be correct.

Bungard and Mazzola recommend approval.

The Mayor made the motion to send to council. Henderson 2nd the motion. All are in agreement.

7) Other business

The Mayor made the motion to excuse Harry Paidas. Dreger 2nd the motion. All are in agreement.

Morris stated it is unfortunate the mall was not notified for the November 2016 meeting. This was listed on the agenda and posted on the public notice board. The mall was not required to be notified. It was a requirement for them to be notified at the time of the conditional use because they were an adjacent property. The mall did appear and testified. Morris stated there was nothing new with that the mall presented today. This item could have been voted on previously as Morris had stated. Lundgren and Goris would like the parties to be informed. Dreger, Lundgren, and Goris had a discussion regarding the Mall and Montrose Auto Group.

Goris made the motion to adjourn. Henderson 2nd the motion. All are in agreement. Meeting adjourned at 5:35 pm.