

KIRTLAND CITY COUNCIL MINUTES

January 16, 2024

**Combined Meeting with the Planning and
Zoning Commission and the Board of Zoning Appeals**

The combined meeting was called to order at 7:27 p.m. Council members present: Ronald Fenstermaker, Scott Haymer, Matthew Schulz, Joseph Smolic, Julie Symonds and Eric Ziegler. Absent: Suzanne Grazia.

Planning and Zoning Commission members present: Richard DeMarco, Michael Denk, Daniel Laux, Lita Laven and Joseph Vinciquerra.

Board of Zoning Appeals members present: James Palec and Denise Quiggle. Absent: Mark Bailey, James Davis and Harry Keagler.

Administrative personnel present: Mayor Kevin Potter, Law Director Matthew Lallo, City Engineer Douglas Courtney and Service Director Joseph Fornaro. Attorney Mark Marong, the newly appointed Assistant Law Director, was also in attendance.

The minutes of the meeting, prepared by the Planning and Zoning Commission Clerk and approved by the Planning and Zoning Commission, are attached. The meeting adjourned at 8:37 p.m.

President of Council

Clerk of Council

CITY OF KIRTLAND
MINUTES OF COMBINED MEETING
JANUARY 16, 2024

PLANNING AND ZONING COMMISSION
CITY COUNCIL
BOARD OF ZONING APPEALS

The meeting was called to order at 7:27 p.m. by Planning and Zoning Commission Chairman Michael Denk. Present were the following Planning and Zoning Commission members: Richard DeMarco, Michael Denk, Daniel Laux, Lita Laven and Joseph Vinciquerra.

The following Council members were present: Ronald Fenstermaker, Scott Haymer, Matthew Schulz, Joseph Smolic, Julie Symonds and Eric Ziegler. Absent: Suzanne Grazia.

Present from the Board of Zoning Appeals: James Palec and Denise Quiggle. Absent: Mark Bailey, James Davis and Harry Keagler. Law Director Lallo noted that a quorum of the Board of Zoning Appeals is not necessary since the Board members are invited to attend.

Administrative personnel present: Mayor Kevin Potter, Law Director Matthew Lallo, City Engineer Douglas Courtney and Service Director Joseph Fornaro. Attorney Mark Marong, the newly appointed Assistant Law Director, was also in attendance.

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Upon the request of Chairman Denk, Mr. Marong introduced himself, noting that he is the current Law Director for the Village of Glen Willow, and his law firm assists many municipalities. He is Vice President of the Northeast Ohio Regional Law Directors' Association. Mr. Lallo advised that Mr. Marong will be handling matters pertaining to the Planning and Zoning Commission and the Board of Zoning Appeals, and will assist in any special matters as needed. He noted that Mr. Marong brings a wealth of knowledge and information to the City; he is fully immersed in municipal law.

It is noted that a Power Point presentation prepared by Planning and Zoning Commission Chairman Denk had been provided by email this afternoon to the attendees, who were asked to bring a laptop or notebook to the meeting to follow the presentation.

Mr. Denk began the presentation by reviewing highlights of the public requests from the Planning and Zoning Commission meetings in 2023. He reviewed various matters that were brought before the Commission throughout 2023, some of which were conceptual reviews only. Mr. Denk noted the Commission held three public hearings – the Comprehensive Plan Update, proposed amendments to Sections 1468.05 and 1468.06 relating to solar and geothermal energy systems, and an application for a zoning map amendment. With regard to the zoning map amendment, Mr. Vinciquerra noted that the property is one of the nicest properties in Kirtland, with a great deal of privacy.

With regard to the Zoning Inspector, Mr. Denk noted that during the five-year period before the current Zoning Inspector, 21 violations were issued; the current Zoning Inspector issued 110 violation notices in the past 19 months. He noted there has been a lot of cooperation from residents and business owners. With regard to signs, Mr. Denk noted there was a sunset law for pole signs; currently the only pole signs that remain are the two that have variances.

Mr. Denk noted that the Commission denied a request for a very large barn structure in a residential neighborhood. He noted that the resident was represented by an attorney, and the Commission had some guidance from the Law Director. Mr. Denk reviewed some of the concerns and issues from a planning standpoint, and noted there were many concerns and objections from neighbors. Mr. Lallo noted that the applicant, through his attorney, filed an administrative appeal in Court from an adverse decision of the City. Mr. Lallo said that in this case, it was able to be handled by briefs, noting that the City submitted over 90 exhibits. Mr. Denk noted that Judge Culotta, in a decision at 1:15 p.m. today, ruled that the Planning and Zoning Commission's decision was affirmed. Mr. Denk noted that Mr. Schroeder, the property owner, passed away recently; he expressed his condolences to the family.

Mr. Lallo said that, as a matter of practice, he appreciated that each Commission member gave the legal reason they voted no, and it was rooted in the Ordinance. He noted that one of the City's arguments was that it was proper zoning, but not proper planning; and the Commission based their decision on the planning Ordinances. Mr. Marong added that the standard, because of municipal home rule, is that the decision cannot be unreasonable, arbitrary, or capricious.

Mr. Denk noted that Rick Blum resigned from the Commission in 2023; he commended Mr. Blum for his contributions to the Commission and to the City.

Mr. Denk advised that, according to City Charter, the Commission spent some time reviewing the Zoning Ordinances. He noted that the Planning and Zoning Commission will be sending some proposed Ordinance changes to Council. Mr. Denk said the proposed changes are mostly housekeeping, to organize the ordinances to be easier to navigate. He noted that certain regulations will be listed in one section and will be referenced in other sections, rather than listing them again.

With regard to definitions in the Zoning Ordinance, Mr. Denk reviewed the definitions that the Commission has been discussing and possible amendments to some of those definitions. Those definitions include: bed and breakfast, sign, domesticated animal, stable and barn. He noted that "domesticated animal" is not defined, although it is mentioned in the code as an accessory use in residential districts. Mr. Marong noted there is Ohio Revised Code law relating to small livestock. Mr. Denk noted that the code does not define "barn" but there are instances when "barn" and "stable" can be used interchangeably. He said that the Zoning Code only mentions horses in the definition of a stable, therefore where a stable is allowed, a horse would be allowed.

Mr. Denk reviewed several slides in the presentation that indicate the deleted language and the added language within the zoning districts; he noted that the listed uses are not actually being eliminated, but will be cross-referenced to other sections.

With regard to similar uses, Mr. Lallo said it must first be determined by the Planning and Zoning Commission to be a similar use, and if it is determined to be a similar use, then a conditional use permit is needed in accordance with Chapter 1285. He noted that the current zoning code is not clear in this regard. Discussion ensued regarding various uses and conditional uses in the different zoning districts.

Mr. Haymer inquired about the status of recreational use marijuana; Mayor Potter noted that legislation was passed by Council placing a six-month moratorium on dispensaries. With regard to medical marijuana, Mayor Potter noted that legislation was passed prohibiting the cultivation, processing, and sale. With regard to the recent passage of the ballot issue relating to recreational marijuana, Mr. Marong advised that the state has to make the laws and rules. He noted that the first permits will not be issued until fall; if the City is satisfied with the state regulations, then it can permit the use.

Mr. Denk noted that each zoning district contains landscape regulations; the proposed new language will provide a cross reference to Section 1284.04.

Mr. Denk advised that a minor amendment is proposed to Chapter 1292 relating to wireless communication facilities so that the language will reflect the current Ohio Building Code.

With regard to riparian setbacks (Chapter 1294), Mr. Denk noted that Chagrin River Watershed Partners has a model ordinance, which has been reviewed by the City Engineer. Mr. Courtney advised that he completed his review and provided the ordinance with his mark-ups to the Law Director. Mr. Courtney explained there are restrictions in the riparian area, noting that certain uses are permitted with the approval of the Planning and Zoning Commission.

Mr. Denk noted that a proposed change to the outdoor lighting chapter (1296) is to remove old terminology and require that all lighting will have full cutoff.

In the last slide of the presentation, Mr. Denk said he noted some concerns. With regard to Airbnb, the code has a definition for tourist home. Mr. Lallo noted that when the Commission discussed this matter, there was proposed legislation to remove from municipalities the ability to regulate short-term rentals. Mr. Lallo said that to his knowledge, that has not passed.

Mr. Denk addressed the issue of conflict of interest for the Commission members with regard to discussion and voting on matters that come before the Commission. Mr. Lallo said if a member has a business relationship with someone, it would appear to be a conflict of interest and he would recommend that the Commission member recuse himself or herself. Mr. Lallo said that simply knowing someone personally is not a conflict of interest, noting that is bound to happen with Kirtland being a small community. Brief discussion ensued.

Mr. Denk noted that the Commission will review a list of the businesses in the City, prepared by the Zoning Inspector, with regard to the various uses in the commercial and business districts.

In summary, Mr. Denk said the presentation should give Council an idea of some of the proposed ordinance changes that will be coming to them from the Commission. Mayor Potter suggested that

Council members attend some Planning and Zoning or Board of Zoning Appeals meetings, and he noted that the Commission and Board members are welcome at the Council meetings. Mayor Potter thanked Chairman Denk for the great job on the presentation.

There was no further discussion, and the meeting adjourned at 8:37 p.m. upon the motion of Mr. Laux and the second of Mr. DeMarco.

CHAIRMAN

SECRETARY