

CITY OF KIRTLAND
PLANNING AND ZONING COMMISSION

MINUTES OF THE MEETING
OCTOBER 12, 2020

The meeting was called to order by Chairman Michael Denk at 7:02 p.m. Due to the current state of emergency regarding COVID-19, the meeting was held virtually via Zoom. Present were Commission members Richard Blum, Richard DeMarco, Michael Denk, Rick Loconti and Joseph Vinciguerra.

Also present were Mayor Kevin Potter, Law Director Matthew Lallo, City Engineer Douglas Courtney, Zoning Inspector Wayne Baumgart and Councilman Joseph Smolic. Economic Development Manager Monica Drake joined later in the meeting.

MINUTES OF THE SEPTEMBER 14, 2020 MEETING

Mr. DeMarco moved to approve the minutes as presented, with the second by Mr. Blum. Upon roll call vote, the motion passed 5-0 (Ayes – Blum, DeMarco, Loconti, Vinciguerra and Denk; Nays – None).

PUBLIC SESSION:

PUBLIC REQUESTS

Melissa Laubenthal for James Rote and Barbara Kren – Proposed Minor Subdivision
Parcel 20-A-011-0-00-051-0 (7980 Eagle Road)

Melissa Laubenthal, of the law firm Giffen & Kaminski LLC, was present representing James Rote and Barbara Kren, Chairman Denk noted that this matter has been in front of the Board of Zoning Appeals and a variance was granted (Appeal No. 20-11). It was noted that this is a result of a court settlement between property owners. Mr. Denk acknowledged receipt of a letter dated October 5, 2020 from City Engineer Douglas Courtney, indicating that he has reviewed the lot split/consolidation and recommends its approval by the Planning and Zoning Commission.

There were no public comments or questions regarding the proposal. Upon review, Mr. DeMarco moved to approve the minor subdivision, as presented. Mr. Loconti provided the second. Upon roll call vote, the motion passed 5-0 (Ayes – Blum, DeMarco, Loconti, Vinciguerra and Denk; Nays – None).

TABLED REQUESTS

Andrew Loncar, Loncar Quality Construction – Application for Conditional Use Permit for
Streambank Stabilization at 9199 Chillicothe Road

Noting that there was an initial request filed by Mr. Loncar, Mr. Lallo stated there was a subsequent request filed by the property owner; it includes engineered plans and a temporary road. He noted that an administrative review was held on Friday with Mr. Courtney and others from the City, along with

the applicant's engineer. It was a productive meeting, and Mr. Courtney provided his comments to the applicant's engineer this morning, who will review the comments and provide revisions as necessary. Mr. Lallo stated he expects this to be ready for the Commission's discussion in November or December.

The matter remains tabled.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

WORK SESSION:

Communications and Bills

1. City Council Meeting Minutes – September 9, 2020 Council Meeting and September 21, 2020 Council Meeting
2. Board of Zoning Appeals Notices of Decision – Appeal No. 20-8, No. 20-10 and No. 20-11.
3. Board of Zoning Appeals Minutes of August 26, 2020.
4. Zoning Permits Report – September 1, 2020 to September 30, 2020.

Old Business

1. Sign Ordinance

Mr. Denk noted that he invited Kimberly Hoffman, owner of FastSigns to attend tonight's meeting for a discussion on signs; she will be joining the meeting shortly. He noted that she will be able to provide a different vantage point relating to sign requirements. He mentioned that he also thought of having discussion with a counterpart from another city at some point; brief discussion ensued in this regard. Mr. Loconti noted that Kirtland's sign ordinance is similar to other cities' sign ordinances, with the exception of some of the vague language. Mr. Loconti stated it comes down to the City's willingness to enforce the ordinance.

Discussion ensued regarding enforcement. Mr. Lallo advised that as it currently stands, enforcement is not under the purview of the Commission.

There was discussion regarding the Dollar General sign that was approved in 2006. Mr. Denk noted that the Clerk provided copies of the permit and application. Mr. DeMarco noted that initially a black and white sign was installed, and they came back approximately two years later requesting the yellow sign.

With regard to enforcement, Mayor Potter stated that he and Mr. Baumgart met a few weeks ago to discuss a plan for moving forward. He noted that Mr. Baumgart is building an inventory of temporary signs, and a plan of action is being discussed that will balance the need for

consistency but recognizes the effect that COVID has had on businesses. The Mayor said that Mr. Baumgart has put together some sample letters, noting that the intent is to move forward with enforcement of the temporary signs first.

Mr. Denk noted that Ms. Hoffman has now signed onto the meeting. Mr. Denk provided Ms. Hoffman with some background information regarding the Commission's review of the sign ordinance.

Kim Hoffman introduced herself, noting that she owns FastSigns, located in Mentor; she has owned the business for approximately five years, and it has been in existence for over 20 years. Ms. Hoffman stated she has been in the sign industry for approximately 24 years, working for other companies prior to owning FastSigns. She stated she has worked with many of the cities in and around Lake County.

Mr. Denk noted one of the items the Commission has discussed is multi-tenant signs. Ms. Hoffman stated that most of the multi-tenant signs she deals with are already in place and she modifies them as the tenants come and go. For a new sign structure, she stated she checks the city's ordinances to determine the maximum size sign that is permitted, and then a portion is allotted to each tenant in the building. She noted that she typically works with the landlord, but if she is working with a tenant, the landlord must approve it.

Responding to Mr. Denk, Ms. Hoffman stated that banners are a large part of her business, noting that many cities allow banners for a temporary period of time. She stated she believes 30 to 60 days is a reasonable amount of time for a new business or a business under new management.

With regard to cost, Ms. Hoffman stated that the most economical signs are corrugated plastic signs and banners. Mr. Denk inquired about composite signs, sandblasted for texture. Ms. Hoffman stated she would consider those to be classic signs, noting that they fit well into landscapes that look more historic. She stated the materials are either cedarwood or a high-density foam; some are still sandblasted, and almost all are hand painted. She stated that the monument sign with brick pillars or base has become more popular in the past ten years.

Ms. Hoffman inquired about the City's intent with older signs, such as pole signs. Mr. Denk explained that pole signs were prohibited in the ordinance, with a sunset rule. He stated the Commission is trying to bring people up to code, noting that pole signs have received attention.

Mr. Loconti asked for Ms. Hoffman's opinion regarding artwork (such as a mural) vs. signage on a building. Ms. Hoffman stated that if the artwork pertains to the building and does not exceed the allotted square footage of signage, and is not offensive, then she believes it is fine. She stated that artwork is difficult to define.

Mr. Denk asked about sign ordinances in general, and whether it is becoming more difficult to put up a sign. Ms. Hoffman stated that the procedure is similar for most cities. She stated she does not believe ordinances are becoming more restrictive, although they are getting away from

very large or very tall signs. She noted she does have to be a registered contractor in every city.

Ms. Hoffman noted that the City of Mentor allows ground flags for a short period of time for new businesses or businesses under new management.

Mayor Potter inquired about replacement of older signs, such as pole signs. Ms. Hoffman stated there were two instances where she helped remove a sign, and those were structurally not good anymore. With regard to replacement, she stated the new sign would be made in compliance with the code.

Answering Mr. Denk regarding electronic reader signs, Ms. Hoffman stated she does not have an electrician on staff. She stated there is also the issue that the electronic signs fail eventually. She stated for large cities, they can be useful in the right atmosphere, but she would not favor them for downtown Kirtland due to its historic nature.

For multi-tenant signs, Mr. DeMarco asked if her experience has been that they equally divide the available signage among the tenants, or if certain tenants get a larger portion of the signage. Ms. Hoffman said that it depends on the situation, but in many cases the larger suites in the building get a larger portion of the sign, and the rest is equally divided among the remainder of the tenants.

Mr. Baumgart inquired about the approximate cost of a 4 ft. x 2 ft. two-sided permanent sign. For a new sign, Ms. Hoffman stated she would recommend wood posts or a plastic or metal frame kit; a 4 ft. x 2 ft. sign would cost approximately \$500 to \$900, depending on the type of frame. If there are existing posts, and only the sign needs to be replaced, the cost would be approximately \$150 to \$250 for a 4 ft. x 2 ft. sign. She stated that there are a lot of different materials that can be used, and that will vary the cost.

Answering Mr. Denk regarding sign illumination, Ms. Hoffman stated she designs signs with internal illumination, noting that she hires her electricians to install them. She stated the cost of an internally illuminated sign would start at \$5,000; it would be close to \$10,000 for a larger structure. Ms. Hoffman stated if the sign is externally illuminated it should save a little on the cost.

Chairman Denk thanked Ms. Hoffman for taking the time to attend the meeting and engage in discussion with the Commission.

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Mayor Potter addressed the Commission with regard to the Charter amendments on the November 3 ballot. The Mayor confirmed that the three amendments will be voted on individually.

With regard to the amendment relating to residency, Mr. Lallo stated that an Ohio Supreme Court case outlawed cities from having residency requirements for its city employees or those appointed by the

city; therefore any residency requirement enacted by the City is null and void, and it is unenforceable. Mr. Lallo stated that currently Kirtland's Charter contains those residency requirements for a number of different department heads, and the Charter amendment removes that requirement since it is invalidated by the Supreme Court of Ohio.

Mr. Lallo stated the second proposed amendment to the Charter relates to when the Mayor can appoint and Council can confirm the Charter Review Committee. He noted that ten years ago and previously, the Charter provided that the Mayor must appoint a Charter Review Committee at least once every ten years. He stated that ten years ago, the language "at least" was removed and it now reads every ten years. The Charter Review Committee recommended reinstating that provision and cleaning up the language so that every decade, the Mayor must appoint a Charter Review Committee to address the Charter, and the Mayor has the option to appoint a Charter Review Committee anytime within that decade as well. Mr. Lallo stated the Committee believed this is important, especially with the situation and challenges this year, for the Committee to be able to reach all of their goals. It would allow a Charter Review Committee to be convened again. Mayor Potter noted that with the current language, it is possible that a Mayor could serve two terms without having the ability to address issues that may come up with the Charter.

With regard to the third proposed amendment, Mr. Lallo stated the Charter currently provides for a mandatory zoning referendum. He noted that any zoning reclassification of property must go to the voters. Procedurally, it first goes to Planning and Zoning, there is a public hearing and residents are notified according to code; then the Commission makes a recommendation to Council. Council also holds a public hearing, notifying the same property owners; then City Council will either approve or deny the change in zoning. If approved by Council, according to the current Charter, it must be submitted by referendum to the voters and it must pass by 55 percent in order for the property to be rezoned. The proposed Charter amendment will eliminate the mandatory referendum; once Planning and Zoning has a public hearing and City Council has a public hearing, Council can vote to authorize the zoning change. However the Charter Review Committee inserted a provision in the Council's powers in Article I prohibiting Council from passing any zoning change by way of emergency; therefore the legislation would not go into effect until 30 days has passed, giving the citizens an opportunity to file for a referendum on that zoning change.

Mr. Lallo noted that the Charter Review Committee met with Monica Drake, the Economic Development Manager, in this regard. They also obtained opinions from real estate attorneys who deal with these issues, and they indicated that because it takes a much longer time for the rezoning requests to go through, a lot of businesses will not choose property in a City that is subject to mandatory referendum. Mr. Lallo stated that the Charter Review Committee tried to balance the desire to rezone property in a more expeditious manner, but also to protect the citizens by still giving them an opportunity for referendum.

Responding to Councilman Smolic, Mr. Lallo clarified that the proposed Charter amendment does not mandate three readings before Council of a proposed rezoning; it mandates only that it cannot be passed by emergency.

Mr. Vinciguerra inquired how many signatures would be required for the referendum request. Mr. Lallo noted that the number of signatures is equal to 10 percent of the electors that voted in the preceding general election.

There was discussion regarding a proposal a few years ago relating to possible rezoning of property at the Route 6 and Route 306 intersection. Mayor Potter noted that the current procedure for rezoning can take anywhere from 9 to 19 months.

Mr. Vinciguerra inquired if the applicant can proceed if the Planning and Zoning Commission does not vote in favor of a proposed rezoning. Mr. Lallo stated that Planning and Zoning provides a recommendation to Council.

Responding to an inquiry from Ms. Drake, Mr. Lallo stated that the ordinances could be amended to require three readings of Council for any rezoning, but there is nothing in the Charter that specifically limits the waiving of the three readings; the Charter limits only the emergency measures.

Mayor Potter noted that the mandatory zoning referendum was one of the highlights that Ms. Drake brought to the joint meeting between Planning and Zoning and Council.

Ms. Drake stated that the proposed Charter amendment would shorten the time frame for the rezoning process because it eliminates the mandatory referendum; it shortens the process from 9 to 19 months to 4 to 7 months, while still vetting through two public hearings, affording the citizens to have their voices heard. She stated it has been well vetted by the time Council votes, but if the citizens feel that their voices still have not been heard, they have 30 days to collect signatures and place it on the ballot for referendum, which would stop the process at that point.

Ms. Drake stated that the mandatory zoning referendum has a direct impact on developers coming into a city, noting that it is good for cities to consider removing this step in the process. She discussed the favorable impact that eliminating the mandatory zoning referendum has had in Eastlake with regard to new business, including the immediate creation of 100 jobs in one facility, with approximately 350 jobs slated for that facility.

Mr. Smolic noted that if a rezoning does not pass, it cannot be placed on the ballot again for 365 days. Ms. Drake stated that another issue is the 55 percent majority passage requirement, noting that a rezoning will fail with 54 percent voting in favor. She stated that businesses are not interested in pursuing rezoning if there is a mandatory zoning referendum; they will go elsewhere. Ms. Drake stated that the super-majority passage requirement and the 365 day wait to be placed on the ballot again are the biggest challenges with the mandatory zoning referendum. She also noted that due to the cost, zoning referendums are usually on the general election ballot, which can further extend the time period.

Ms. Drake stated it can be very costly to put an issue on the ballot. There was discussion regarding the costs involved and who would be responsible for paying those costs.

Responding to an inquiry from Mr. Vinciguerra, Mr. Lallo stated that if the City wishes to initiate a zoning change, a Resolution must be adopted to refer it to Planning and Zoning, according to Section

1299.05. The public hearing process would be followed by Planning and Zoning, and then by City Council, before Council votes on the zoning change. Mr. Vinciguerra noted that a majority of Council could pass a zoning change, as long as they follow the proper procedures.

Ms. Drake inquired if rezoning would require a super-majority vote of Council, to which Mr. Lallo advised it can be adopted by concurrence of a majority of the full Council, which would be four out of seven. Mr. Lallo noted that the Commission could recommend that the ordinance be changed to provide that if the Planning and Zoning Commission recommends denial of a rezoning request, five out of seven votes of Council would be required to pass it. Mr. Lallo noted that if the Charter amendment passes, the Commission may want to consider recommending the ordinances be amended to provide more safeguards relating to rezoning of property. Discussion ensued regarding issues that may arise in the process of rezoning.

New Business

None.

Adjournment

There was no further business before the Commission, and Mr. Vinciguerra moved to adjourn. Mr. DeMarco provided the second, and the motion passed upon unanimous vote. The meeting adjourned at 9:10 p.m.

CHAIRMAN

SECRETARY