

CITY OF KIRTLAND
PLANNING AND ZONING COMMISSION

MINUTES OF THE MEETING
JUNE 13, 2022

The meeting was called to order by Chairman Denk at 7:16 p.m. Present were Commission members Richard Blum, Richard DeMarco and Michael Denk; Joseph Vinciguerra was present by telephone. Daniel Laux was absent.

Also present were Mayor Kevin Potter, Law Director Matthew Lallo, City Engineer Douglas Courtney, Zoning Inspector Rick Loconti and Councilman Joseph Smolic. Also in attendance was Economic Development Director Eddy Eckart.

MINUTES OF THE MAY 9, 2022 WORK SESSION

Mr. Blum moved to approve the minutes as presented, with the second by Mr. DeMarco. Upon roll call vote, the motion passed 4-0 (Ayes – Blum, DeMarco, Vinciguerra and Denk; Nays – None).

MINUTES OF THE MAY 9, 2022 MEETING

Mr. DeMarco moved to approve the minutes as presented, with the second by Mr. Blum. Upon roll call vote, the motion passed 4-0 (Ayes – Blum, DeMarco, Vinciguerra and Denk; Nays – None).

PUBLIC SESSION:

PUBLIC REQUESTS

William Johnson – Proposed Minor Subdivision at 9034 Coudry Street

Since neither the applicant nor his representative were present yet, it was agreed this will be moved to the end of Public Requests.

Church of Jesus Christ of Latter-day Saints – Proposed Signage at 8980 Chillicothe Rd.

Sonia Jakse Barone of AECOM was present in this regard. She noted this is the location of the Joseph and Emma Smith Home. She reviewed the plans, noting the proposal includes two identification signs, an entrance information sign, an exit information sign and three interpretive signs. She noted that the location of the signs is shown on the plans. It was noted this property is zoned R-1.

With regard to the identification signs (ground signs), she noted that one is in front of the home angled toward southbound traffic, and one is at the corner of Conley Road angled toward the northbound traffic. She noted the sign will not cause site interference for those turning onto or off Conley Road.

Ms. Jakse Barone noted that the interpretive signs provide a brief explanation of the historic sites; she said the exact wording has not yet been put together. She said they do not want to overwhelm the historic nature of the site, while at the same time including the interpretation of the site.

Ms. Jakse Barone stated that she understands they will need to go to the Board of Zoning Appeals for the number of signs, the setback from the right-of-way, and landscaping. She said the quantity and

types of signs are proposed due to the historic nature of the site. She noted there will be no illumination of the signs. Discussion ensued regarding the proposed instructional signs. Ms. Jakse Barone noted that the interpretive signs would be within the fenced perimeter.

In discussion, it was noted that after going to the Board of Zoning Appeals, the applicant's plans should include the appearance, dimensions and locations of the proposed signs.

Answering Mr. Denk, Ms. Jakse Barone said the restrooms will have minimal signs, with men's, women's, and accessibility placards.

It was noted there is also an application for the temporary construction signs. Ms. Jakse Barone explained the location of the signs, as indicated on the plans submitted. She noted there will be two 4' x 4' signs, and they will be mounted on the construction fence. She noted that the signs will be replicated across the street at the Joseph and Emma Smith Store site; there will be two signs on each side of the street. Ms. Jakse Barone stated that for extra stability they are proposing additional concrete to the bars on the portions of the fence where the signs will be attached.

Mr. Lallo noted that Section 1286.09 addresses temporary construction signs in business and industrial districts, which would apply to the Smith Store site. He noted that Section 1286.08 relating to signs in residential districts, which would apply to the Smith Home site, does not prohibit temporary construction signs.

Mr. DeMarco moved to approve the temporary construction signs, as presented, for the Joseph and Emma Smith Home site at 8980 Chillicothe Road, for a period of 14 months. Mr. Blum provided the second. Upon roll call vote, the motion passed 4-0 (Ayes – Blum, DeMarco, Vinciguerra and Denk; Nays – None).

Church of Jesus Christ of Latter-day Saints – Proposed Signage at 8983 Chillicothe Rd.

Sonia Jakse Barone of AECOM was present in this regard, noting this relates to the Joseph and Emma Smith Store. She said they are proposing one interpretive sign on this site in front of the fence, noting it is her understanding that a variance will be needed for the setback from the right-of-way and the landscaping. She pointed out there is a property a little further south, owned by the City, that has a fence that is a little closer to the curb than proposed for this site. It was noted that the property is zoned HTC.

Mr. DeMarco moved to approve the temporary construction signs, as presented, for the Joseph and Emma Smith Store site, at 8983 Chillicothe Road, for a period of 14 months. Mr. Blum provided the second. Upon roll call vote, the motion passed 4-0 (Ayes – Blum, DeMarco, Vinciguerra and Denk; Nays – None).

Mr. and Mrs. Persolja – Informal Discussion for Proposed Rezoning at 8360 Euclid Chardon Rd.

Angelo Persolja was present with his attorney, Todd Cipollo. Mr. Cipollo said they are attending tonight's meeting pursuant to the requirement for an applicant to appear before the Commission to informally discuss the proposed rezoning, prior to submitting an application.

Mr. Cipollo said the Persolja's have owned the property since 2004 and have been operating their tree service business at this location for 18 years. He said he has been operating his business there periodically without objection from the city, noting that in 2004 there was a complaint regarding some maintenance issues; it was dismissed with the understanding that he would be making some improvements. Mr. Cipollo noted that in 2010 and in 2014 the issue was brought up regarding running a business out of a residential district. He said that in both 2010 and in 2014, the city withdrew and permitted him to continue the business in the residential district.

Mr. Cipollo said that the event that brought this back to the city's attention was a burning incident in late October 2021, and the city again made objections to the commercial business in the residential district.

Mr. Cipollo stated that the county has this as a commercial property, and the property owner is paying those property taxes; he has been operating the business with the knowledge of the city for all this time. Mr. Cipollo noted the property owner has also been paying net profit tax to the city, and he has also done some tree work for the city, invoiced from the address where his business operates. Mr. Cipollo said the business operation is not viewable from the road or any adjacent property.

In order to be in compliance with the historical utilization of the property, Mr. Cipollo said the application will be for Limited Industrial; he is utilizing the property for a small shop, an office, and storage of contractor equipment. He said that his employees come onto the property, park their cars, and leave the property in the tree service trucks; at the end of the day they come back to the property, exit the tree service trucks and exit the property.

Mr. Cipollo said they are looking for a continuation of the utilization of the property that he has had for 18 years. Noting that there is a matter in the Willoughby Municipal Court, Mr. Cipollo stated that rather than trying to fight whether they have a grandfathered utilization, they are seeking the city's approval to continue the utilization of the property. Mr. Cipollo stated it is a financial benefit to the city, noting that the fire was a mistake by an employee who is no longer employed with the business. He said that the property owner is in good standing with all his neighbors.

Mr. Denk read Section 1299.03(a) noting that the Commission will not be voting on this matter tonight. Mr. Denk noted that a public hearing will be held after the application is submitted. Mr. Cipollo said they are in the process of having the survey completed.

Answering Mr. Denk, Mr. Courtney advised that he visited the site once with Mr. Fornaro shortly after the fire incident.

Mr. Lallo clarified that the business use of the property is not a grandfathered use. There is a greenhouse on the property, and it was previously permitted as a retail structure only for items that were grown on that property, which was the only grandfathered issue permitted on that property. Mr. Lallo explained that the city has zoned out agricultural uses, noting that at one time the zoning allowed a property owner to cultivate their property for agricultural purposes and sell the agricultural product on the same property.

Answering Mr. Denk, Mr. Cipollo confirmed that the greenhouse has been cleaned up recently. Mr. Cipollo noted that the property is in Patricia Persolja's name.

In discussion, Mr. Denk stated he has some reservations in changing the zoning of the property, noting it would be considered spot zoning, as it is surrounded by residential property. Mr. Denk noted that it would require a referendum.

Mr. Cipollo noted that although the property is residential, it is in between a strip of Limited Industrial properties and some Retail Business properties along Route 6.

Mr. Denk stated it would be more palatable if it adjoined commercial property and was an expansion of that commercial property. Mr. DeMarco agreed with Mr. Denk, noting that he understands the neighbors don't have a problem with the current business, but changes in ownership of the neighboring properties could result in an objection to the commercial use.

Mr. Blum inquired about the size of the lot and the adjoining properties. Mr. Persolja advised that his property is 14 acres, and the property to the west is 10 acres. He said he is in good standing with all the neighbors. Mr. Lallo noted that the neighbors will receive notice of the public hearing that will be held by the Commission for the application; they will have an opportunity to express their support or their concerns. Mr. Lallo advised that the Commission will then make a recommendation to Council, and Council will also hold a public hearing. Council will ultimately make a decision to either approve or deny the application; if they approve it, then it goes to referendum for the voters to decide.

Answering Mayor Potter, Mr. Persolja said the name of the business is Tree Service Now, Inc.; he confirmed there is a post office box in Wickliffe. The Mayor inquired if the company is registered in Kirtland or in Wickliffe; Mr. Persolja was not sure, and Mr. Cipollo said they would have to look into that.

Mr. Blum noted there is another tree service company at the corner of Route 6 and Route 306.

Mr. Loconti stated that his concern is the perpetuity; if the zoning is changed to Limited Industrial, when the property is sold in the future, anyone can open an industrial business on the property. He noted it could result in a machine shop between two residences. Mr. Loconti noted that the zoning change would not limit the property to the existing use in perpetuity. Mr. Loconti said that he appreciates the work that has been done on the greenhouse to improve its appearance, but there are other issues including stormwater management, grading, removal of trees, etc. Mr. Courtney confirmed there is a stream that runs west to east through the property; it looks like it has been buried. Mr. Courtney said it is within a riparian setback. Mr. Persolja said there is a culvert, noting it was like that when he purchased the property; he said there is no obstruction of water flow. It was noted there is a small pond in the back of the property.

Mayor Potter inquired if the logs on the property are a function of the business. Mr. Cipollo said that primarily logs are only stored temporarily on the property; they are taken off the property and mulched, and some are chopped for firewood. He stated the logs are not on the property permanently, noting that it benefits the company financially to move them off the property. Answering Mr. Lallo, Mr. Cipollo said the logs are primarily brought in from off-site. Mr. Lallo noted that when the

employees return at the end of the day, they would need to use equipment to move those trees. Mr. Cipollo said that sometimes the wood is delivered from sites to JTO where it is mulched, and on occasion the logs are brought to the site and have to be unloaded.

Answering Mr. Denk, Mr. Persolja stated they have 8 to 10 vehicles for the business.

Mr. Denk inquired who is living in the house on the property. Mr. Persolja replied that a family member lives there.

Responding to Mr. Persolja, Mr. Lallo advised that only items grown on the property can be sold in the greenhouse; items cannot be brought in from elsewhere and sold on the property.

Referring to Section 1299.03(b), Mr. Denk reviewed the application requirements.

Mr. Courtney stated that in looking at aerial photographs, there are likely some sediment and erosion control issues and some riparian setback issues.

In summary, Mr. Persolja stated they have not had any complaints from their neighbors. He said he wants to continue to run his business, noting that he is not hurting anyone with his business. Mr. Cipollo thanked the Commission for taking the time to meet with them.

William Johnson – Proposed Minor Subdivision at 9034 Coudry Street

Since neither the applicant nor his representative were present, Mr. Blum moved to table the matter. Mr. DeMarco provided the second. Upon roll call vote, the motion passed 4-0 (Ayes – Blum, DeMarco, Vinciguerra and Denk; Nays – None).

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

WORK SESSION:

Communications and Bills

1. City Council Meeting Minutes – April 18, 2022 Work Session and Council Meeting; April 25, 2022 Special Meeting; May 4, 2022 Council Meeting; May 10, 2022 Special Meeting; May 16, 2022 Work Session and Council Meeting.
2. Board of Zoning Appeals Minutes – February 2, 2022 Meeting.
3. Board of Zoning Appeals Notices of Decision – Appeal No. 22-2 and Appeal No. 22-3.
4. Zoning Permits Report – May 1, 2022 to May 31, 2022.

Old Business

1. Alternative Energy Ordinance – Ord. No. 18-O-31. Mr. Lallo stated he has been working with Mr. Godwin on his recommendations for editing the ordinance. Mr. Lallo noted that once he

completes the editing, he will meet with Mr. Godwin before presenting the proposed document to the Commission.

2. Review of Zoning Ordinances. No discussion at this time.
3. Comprehensive Plan Review. Chairman Denk noted that Economic Development Director Eddy Eckart is in attendance to discuss this matter with the Commission. Mayor Potter noted that Dione DeMitro will be working with Eddy Eckart in this regard, noting her involvement during the strategic planning process. The Mayor suggested that a survey can be done to determine if the City's assessment reflects the community's concerns and input. Mayor Potter noted that the previous comprehensive plan set some goals, but it did not create a path to make those things happen.

With regard to the previous comprehensive plan and the strategic planning, Mr. Eckart stated there are some common threads. He stated that Ms. DeMitro can help set points to implement the objectives, noting he has asked her to provide a proposal. Mr. Eckart said they will likely prepare an overview showing what worked with the previous plan, along with open items that still need to be addressed. He said they will look at the overlap between the previous plan, the 2019 strategic plan, and the recent survey. Discussion ensued regarding the process and steps for developing the new plan. Mayor Potter noted that, once completed, the goals of the plan should be measured twice per year to stay on task.

Mr. Eckart stressed the importance of involving the community and requesting feedback, noting he and Ms. DeMitro will put together a package to send out to the community.

There was discussion regarding the downtown area and the Route 6 and Route 306 intersection area, including the need for sewers at the intersection. Mr. Courtney explained the issues with capacity and the amount of flow the City can put into the system.

New Business

1. Zoning Inspector – High Grass Maintenance Proposal. It was noted that the Zoning Inspector presented a high grass abatement proposal to the Commission. Mr. Loconti advised there is a provision in the exterior maintenance code regarding abatement of violations. He noted that he does not want to add any work to the Service Department in the abatement of high grass violations; this is an effort to take the onus off the Service Department and hire a private contractor to facilitate cutting of yards without incurring cost to the City or overwhelming the Service Department. Mr. Loconti stated there are approximately 50 yards that currently are not in compliance with regard to grass maintenance, and 10 to 15 that are constantly out of compliance. He noted that the Ordinance currently allows the City to add 15 percent to the actual cost of bringing a property into compliance, for inspection and administration costs. Mr. Loconti proposes that it be increased to 25 percent above the actual cost to cover the administrative costs to implement the program.

Noting that the proposal outlines 10 steps, Mr. Loconti said these are the steps that have been implemented in other communities to facilitate the program. He stated he believes the City

needs a program to address this consistently. Relating his experience in other communities, Mr. Loconti stated that a notice is posted at the front door of the house, and if it is not brought into compliance within three days, the contractor is sent out to cut the grass. He noted that the contractor then follows up and cuts the grass every week if the property owner does not cut it. Mr. Loconti noted that the contractor puts a ruler in the grass, takes a picture and time-stamps it, with the address in view. The contractor bills the city, then the city bills the property owner; if the owner does not pay, it is placed on their property tax bill. Mr. Loconti noted that typically it is a front yard cut.

Mayor Potter noted that requiring the grass to be cut within three days may not allow sufficient time if a resident is away on vacation. Discussion ensued.

Mr. Lallo noted that the Commission would need to address the proposed increase from 15 percent to 25 percent above the city's costs. Chairman Denk requested that the proposed amendment to the Ordinance be presented to the Commission at the next meeting for a recommendation to Council.

2. Summer Meeting Schedule – Rescheduling of July Meeting. It was noted that the July Planning and Zoning Commission meeting will need to be rescheduled, because Council will meet on the second Monday of July before their summer recess. Upon agreement of the Commission members, the July meeting was rescheduled to Monday, July 18.

Adjournment

There was no further business before the Commission, and Mr. Blum moved to adjourn. Mr. DeMarco provided the second, and the motion passed upon unanimous vote. The meeting adjourned at 9:30 p.m.

CHAIRMAN

SECRETARY