

CITY OF KIRTLAND
PLANNING AND ZONING COMMISSION

MINUTES OF THE MEETING
MARCH 11, 2024

The meeting was called to order by Chairman Denk at 7:06 p.m. Present were Commission members Richard DeMarco, Michael Denk, Daniel Laux, Lita Laven and Joseph Vinciguerra.

Also present were Mayor Kevin Potter, Assistant Law Director Mark Marong, City Engineer Douglas Courtney and Council President Joseph Smolic.

MINUTES OF THE FEBRUARY 12, 2024 WORK SESSION

Mr. DeMarco moved to approve the minutes as presented, with the second by Ms. Laven. Upon roll call vote, the motion passed 4-0-1 (Ayes – DeMarco, Laux, Laven and Denk; Nays – None; Abstaining - Vinciguerra).

MINUTES OF THE FEBRUARY 12, 2024 MEETING

Ms. Laven moved to approve the minutes as presented, with the second by Mr. DeMarco. Upon roll call vote, the motion passed 4-0-1 (Ayes – DeMarco, Laux, Laven and Denk; Nays – None; Abstaining - Vinciguerra).

PUBLIC SESSION:

PUBLIC HEARING

Application for Zoning Map Amendment – 9501 Chillicothe Road
Parcel Nos. 20-A-014-0-00-007-0; 20-A-014-0-00-035-0; and 20-A-014-0-00-036-0

Chairman Denk advised that the parcels are a total of 27.38 acres of land on Chillicothe Road and the property owner is requesting a zoning map amendment to change the zoning from R-2A One and Two Family Residential to R-1 One and Two Family Residential. He noted that if the rezoning is successful, the property owner proposes a major subdivision on the westerly 14.04 acres to provide 31 single-family dwellings, in accordance with the R-1 zoning regulations; the remaining 13.34 acres would remain open space. Mr. Denk advised that the current R-2A zoning is minimum 1 acre lot area, and the proposed R-1 zoning is minimum 12,000 square feet lot area. He noted that R-2A minimum lot width and frontage is 100 ft. and for R-1 it is 60 ft.; front yard setback is 50 ft. for R-2A and 30 ft. for R-1; side yard setback is 15 ft. for R-2A and 5 ft. for R-1; and rear yard setback is 50 ft. for R-2A and 5 ft. for R-1. Noting that these are minimum requirements, Mr. Denk said the proposed development would have lots with minimum area of 12,600 sq. ft.; minimum 85 ft. for lot width and frontage; minimum 30 ft. for front yard setback; minimum 5 ft. for side yard setback; and minimum 20 ft. for rear yard setback.

With regard to the concept plan, Mr. Courtney said that currently that site is not sewerred and the lot sizes would not support septic systems. In order for this development to occur as proposed, the sewer would have to be extended on Route 306 to this site. He noted the proposed development area encroaches on the Forest Overlay District and the Soils Overlay District.

Mr. Marong advised that the public hearing is the opportunity for the public to give their thoughts on the proposed zoning map amendment; he noted that anyone wishing to speak should provide their name and address for the record. He noted that Codified Ordinance Chapter 1299 outlines the procedure.

Chairman Denk opened the public hearing at 7:13 p.m.

Martha Stankewicz of 7981 Pinehurst Drive stated concern about traffic, noting there is a hill there which makes it difficult to get in and out of her street already. She noted they were not allowed to have anything under one acre. She stated concern about bringing in smaller homes, along with the number of homes. Noting they have the option of having sewers, she inquired about the option of her street getting sewers.

Dave Freeburg of 8867 Shetland Court said that he believes the Charter requires a vote of the public to change the zoning. Mr. Marong confirmed that the zoning map amendment will need to be placed on the ballot. As outlined in Chapter 1299, Mr. Marong said the Planning and Zoning Commission will make a recommendation to City Council, and Council would make the recommendation to place it on the ballot.

Jerry Lesak of 9553 Chillicothe Road inquired if the change in zoning is contingent on the sewer. Mr. Marong advised that it is up to the Planning and Zoning Commission to make that determination. He noted that the lots, as proposed, would be too small for a septic system; but at this time the applicant is requesting a zoning change. He noted that the plan review and final development plan would come back before the Commission. Mr. Lesak inquired how a house could be built without a sewer, if the lots are smaller. Mr. DeMarco noted that without a sewer, the lots would have to be large enough for septic systems. Mr. Marong advised that the code addresses minimum requirements; the lot area would need to be increased for septic systems if there is no sewer. Mr. Lesak inquired about the cost of the sewer; Mr. Denk said it would be borne by the developer.

There were no further public comments, and Chairman Denk closed the public hearing at 7:18 p.m.

PUBLIC REQUESTS

Andrew Pisorn – Application for Zoning Map Amendment at 9501 Chillicothe Rd.

Andrew Pisorn was present in this regard. Answering Chairman Denk, Mr. Courtney confirmed he has met with Mr. Pisorn. The Chairman acknowledged receipt of City Engineer Douglas Courtney's review memo dated February 20, 2024.

Mr. Denk asked to hear from the applicant, noting that it would not be possible to have septic systems for the proposed lot sizes. Mr. Pisorn noted this was discussed briefly in the conceptual review, which was the first step of the process. He said their plan is to extend the sanitary sewer to this property, with private funds, and tie the proposed development into the sanitary sewer, allowing for smaller lots. He noted that the capacity and other specifics he would leave to the City Engineer. Answering Mr. Denk, Mr. Courtney said it would also be designed privately, and it would need review and approval from the City and from Lake County Department of Utilities. Mr. Marong noted that the improvement would be in the City's right-of-way, so the developer would be putting in a public trunk line; it would operate as a City sewer for any future sewer expansion or lateral connections. He noted the City Engineer would be involved in the inspection and sizing to assure the correct capacity. Mr. Pisorn said that is understood,

noting they met with the County and with the City Engineer before the conceptual plan review. Mr. Denk said that a concern is having the property zoned R-1 and not being able to put in a sewer.

Mr. Marong advised that the Commission will either recommend approval of the zoning change as proposed; recommend approval of the zoning change with comments and modification; or not recommend approval of the zoning change. He said that it will go to City Council, regardless of the Commission's recommendation. He noted that if the zoning map amendment is approved by the electorate, the applicant would have to come back to Planning and Zoning for specific site plan approvals.

Mr. Courtney commented on the proximity of sublots 9 through 11 to the top of the bank of the ravine, noting that those lots are within the Soil and Geological Conditions Overlay District; he said that a slope study would need to be done to make sure that foundations could be supported. He noted those lots may need to be moved away from the top of the bank. Mr. Pisorn said they have started the process to bring in a geotechnical engineer.

Mr. DeMarco asked about the process and time involved to bring in sewers. Mr. Courtney said if it is a private endeavor, the sewer extension can be included as part of the development plan. It would be reviewed by Lake County Department of Utilities and the City, and it would be part of their construction of infrastructure for the subdivision. With regard to capacity, Mr. Courtney said that the Route 306 sewer still has excess capacity and this development would take up some, but not all, of that capacity. He said the capacity is first come, first served.

Answering Mr. Vinciguerra, Mr. Courtney advised that the City would require that the pipe be sized according to the size pipe that is already in the ground and would support future expansion. Mr. Marong said it would function as a privately funded public improvement. Mr. Courtney said the sewer within the site and on Route 306 would ultimately be dedicated to public use at the end of construction.

Answering Mr. Denk relating to the purchase of capacity, Mr. Courtney advised that the capacity is paid for through the tie-in fees with Lake County Department of Utilities as each individual property develops. He noted that when the Route 306 sewer initially was installed, the City purchased some of the capacity and assigned it to the City Hall property; the City can control that capacity. Mr. Courtney noted that the City holds some of that capacity and the County holds some of that capacity.

Mr. Marong advised that procedurally, Mr. Pisorn can either ask the Commission to make a decision tonight or agree to table it and further look into the sewer.

Mr. Denk addressed the concern of having a property zoned for smaller lots that may not work due the hurdle of sewers. Mr. Pisorn said that coming into tonight's meeting, they were under the impression that there is capacity and that they could move forward extending the sewer line to service this development. Mr. Courtney confirmed that there is capacity.

Mr. Vinciguerra stated concern that further in the process the developer may find that the cost to extend the sewer is prohibitive, resulting in the City having R-1 property with a plan that will not work. Mr. Pisorn confirmed that they do know the costs for the plan today.

Mr. DeMarco stated concern about putting this to a vote of the people without having a signed agreement that they have a commitment to install sewers. Mr. Pisorn said they have done preliminary budgets.

Noting that the development is based on 31 sublots, Mr. Laux inquired if there would be an impact if a lesser number of sublots were able to be developed. Mr. Pisorn said there is a quantity of payback that would dictate the feasibility.

Mr. Pisorn inquired if the Commission has requested a similar agreement from a large developer related to a zoning change. Mr. Denk said he is not sure that the Commission has ever had a similar situation.

Mr. Pisorn inquired about the downside of an R-1 zoned development that has larger lot sizes to support a septic system. Mr. DeMarco said he has concerns about placing something on the ballot and later finding out it cannot be done; it would result in property being incorrectly zoned.

Dustin Keeney of Polaris Engineering & Surveying said that this property is eventually intended to be sewerred as part of the master plan that the County and City developed. Mr. Courtney noted that this would provide 1500 feet of public sewer constructed at private expense.

Ms. Laven asked the applicant about the timeline for the project. Mr. Pisorn said it should be on the ballot by the end of this year, and they would start the project in 2025 or 2026.

It was noted that the Temple View Subdivision, which adjoins this property to the north, is zoned R-2A. Mr. Courtney said the lots do not conform to the zoning district, and he believes they existed before the zoning district was created; that subdivision is served by gravity sewers.

Mr. Marong advised that the Commission's recommendation to Council will relate only to the application for zoning map amendment; any approval would not be an approval of the development plan. If the rezoning is approved, the applicant will need to follow the usual subdivision approval procedures. Mr. Marong noted that if a zoning change is approved, the applicant should keep in mind that the Commission would not look favorably on any variance requests for the development plan.

Mr. Denk said there is some concern about the proximity to State Route 306 of sublots 18, 19 and 31, noting there might be some discussion about these sublots if and when a subdivision plan is submitted.

Discussion ensued regarding potential modifications of a recommendation of approval. Mr. Marong stated that the Commission should look to the applicant's concept plan in determining any modifications. Mr. Courtney noted that the conceptual plan is required with the rezoning application so the applicant can demonstrate they can develop the property as rezoned.

Mr. Vinciguerra expressed concern about how the property may be developed if it is rezoned and the proposed concept plan does not go forward for some reason. He asked what would happen if the property were sold and someone else wants to develop it differently. Mr. Marong said that the Commission could consider a different plan on the property.

Upon completion of discussion, Mr. Denk moved to recommend to City Council that the proposed zoning map amendment, from R-2A One and Two Family Residential District to R-1 One and Two Family Residential District, be approved with the following modifications: (1) that sanitary sewers be

extended along Route 306 to support the concept development plan; and (2) that a traffic impact study be performed prior to the electorate voting on the zoning map amendment. Mr. Laux provided the second. Upon roll call vote, the motion passed 4-1 (Ayes – Laux, Laven, Vinciguerra and Denk; Nays – DeMarco). Mr. Marong advised that the Commission’s recommendation will be forwarded to City Council for their consideration of the application.

David Bartulovic/Brendan Kearney – Building Sign at 9378 Chillicothe Rd.

Brendan Kearney was present in this regard for Crowley’s Dive Bar. Mr. Denk noted that at the February meeting, the Commission reviewed and approved a building sign for this location, and this application relates to a revision of the sign face for Crowley’s. Mr. Kearney said the sign is the same size as the one approved last month – 5 ft. x 3 ft. – and will be placed in the same location on the building. Mr. Kearney presented a photo simulation showing the revised sign on the building, including the single gooseneck light that was a condition of the Commission’s previous approval.

Mayor Potter said that the proposed sign change continues the group of investors’ branding effort, noting that there is another restaurant in Eastlake. Noting he has been in the Eastlake restaurant, the Mayor said it is clean and they have good food and good service. Mayor Potter said he believes the sign is appropriate, and he appreciates their investment in the community as a local business. Mr. Kearney said there will be another restaurant coming to Painesville, and possibly more restaurant openings in 2025.

Mr. DeMarco moved to approve the revised building sign as presented, including the single gooseneck light directly above the sign. Mr. Vinciguerra provided the second. Upon roll call vote, the motion passed 5-0 (Ayes – DeMarco, Laux, Laven, Vinciguerra and Denk; Nays – None).

TCE Kirtland Lodge, dba Kirtland Creamery – Proposed Accessory Use Structures (Playground Equipment) at 9304 Chillicothe Rd.

Attorney Erik Walter was present on behalf of the applicant. He said he spoke to Law Director Lallo last week, who said the accessory use is acceptable for the Creamery. He said they have noticed that children are running into the road, and these are meant to keep the children safe and give them something to do, and ease the parents’ worry about their children running into the street. It was noted that the structures will be placed in back of the building, and they meet setback requirements. Answering Mr. Denk, Mr. Walter said there are no plans for lighting the structures.

There were no comments from the public regarding the proposed structures. Mayor Potter said he believes this is a great idea, especially if there have been issues with children near the road. He said it is a great investment, and he thanked Mr. Christopher for his many investments in the City of Kirtland.

Ms. Laven moved to approve the accessory use structures at 9304 Chillicothe Road, as presented. Mr. Laux provided the second. Upon roll call vote, the motion passed 5-0 (Ayes – DeMarco, Laux, Laven, Vinciguerra and Denk; Nays – None).

Shane Kuhn, Dominion Energy – Conditional Use Permit Application and Preliminary Development Plan for Gas Utility Station Replacement at 8909 Euclid Chardon Road

Shane Kuhn was present in this regard. Chairman Denk said he heard about a name change in recent news; Mr. Kuhn confirmed that it is Enbridge Gas Ohio. The Chairman acknowledged receipt of City Engineer Douglas Courtney’s review memo dated March 6, 2024.

Mr. Kuhn advised that the existing gas utility station is up for replacement due to its aging condition; it was originally installed in 1961 when the pipelines were laid. He noted it is part of their infrastructure replacement program for these sites.

Chairman Denk reviewed the contents of the application, noting that it includes a 24” x 30” wall sign, a regulation building, and an air building. With regard to building color, Mr. Kuhn said their buildings are usually green with white trim. The buildings will be metal.

Mr. Denk noted that several options were submitted for the fence. Mr. Kuhn said they recommend changing it like for like, but they are open to discussion for alternatives. He said the existing fence is a 6 ft. steel frame fence with slats.

Mr. Denk noted there is a proposed planting plan with 123 plantings. Mr. Kuhn said it is a mixture of trees, shrubs and bushes to encompass the property.

Referring to the lighting plan, Mr. Denk said it appears there are 29 light fixtures on the site, from those mounted on the building to those surrounding the perimeter. Mr. Kuhn said the lighting will not be left on; the lights will be run off switches and photocells and will be turned on when there is a call for the site for maintenance. He noted that the site is remotely operated and monitored.

Chairman Denk opened the meeting for public comment.

Mark Bailey of 10650 Bayshire Trail said he is not aware of any lights currently on the site. Mr. Kuhn said there are some small lights on the building and one light by the street, but they are on only when needed for maintenance. Mr. Bailey said this is a major modification, and he believes that when it was built it was not used to the extent that they want to use it now. He noted there are two large buildings proposed, with a lot of equipment in them. He said there are wetlands on the property, and there is noise pollution related to this facility. Mr. Bailey said the noise is supposed to be only 150 decibels, and it exceeds that now. Mr. Bailey said the site is an eyesore, and if this proposal is allowed, the neighboring property values will decline. He noted that the City has an obligation to the residents. Mr. Bailey said there is a sign on the building indicating there is asbestos, and he does not see an asbestos abatement plan. He said the only outside maintenance he has seen was the replacement of the fence. Mr. Bailey stated concern that the facility will carry more gas to other places than it does currently. He noted there are eight emergency exits in the new plan. He also stated concern about water drainage, due to the increased amount of concrete.

Dan Smith of 10660 Bayshire Trail said his back yard abuts their fence. He said he has four boys aged 8 and under and they moved from Mentor to Kirtland for the view, which they do not have because of this facility. He said the proposed buildings are much larger and there would be a lot more concrete; he noted his yard is already wet and this will make it worse. He said there are ten emergency exits, and as a firefighter he is concerned that this facility, in a residential neighborhood with many children, will be more dangerous. He stated concern about the safety of his children and the value of his home. He asked if the facility could go somewhere else or scaled down so it is not so large. Mr. Smith also noted that they smell gas back there all the time.

John DeGreen of 10665 Bayshire Trail said he is in the civil engineering profession and appreciates the discussion. Noting that his concerns are similar to what has already been spoken, he said he wants to

make sure the proper process is followed and emergency plans are addressed. In looking at the plans, he noted there are a lot of errors and omissions that would not allow him as a professional to sign off on these plans. Mr. DeGreen said they are changing the intent of the land; it is currently gravel and they are going to concrete. They are adding larger buildings, which will change the stormwater runoff situation, and there are also wetland concerns. Mr. DeGreen said when they operate the plant, it is loud, and he has heard a hissing sound; he suggested that a safety noise decibel study be done. He said there are odors when they purge. He suggested that they send out notifications to the community before they operate the plant in that manner.

Gianni DiFranco of 10680 Bayshire Trail said he is directly east of the station and shares his neighbors' concerns. He said he did not see anything submitted relating to demolition of the existing building, and he stated concern about the asbestos in the roof. Mr. DiFranco said the noise levels concern him, and he hears the whistling noise; he hopes they are proposing a quieter plan. He said the building they are proposing is 16 ft. in height, with the East Ohio Gas green color. Noting that the property is zoned residential, Mr. DiFranco said the structure should look more like a residential building. He noted that the only specs they submitted were for the 20' x 20' building, and not for the larger building. He said the building will be directly behind his and his neighbors' lots, and they will be looking at a big green building.

Dave Freeburg of 8867 Shetland Court said his property is along the fence on two sides. He said he is the HOA President for Rocking Horse Farms. Mr. Freeburg said all of the residents are concerned about the aesthetics, including the building and the fence. He said the residents would like to see some type of plantings that will obscure the building altogether. There is also concern for the entire development in regard to water runoff, noting that the development has a system of ponds. He noted he has spoken with Mr. Courtney to see what would make their system work better, because it is not a good system to control water runoff. He said that if additional water runoff is added into that system, it will create a problem for the development.

Mark Bailey of 10650 Bayshire Trail said this would not be approved to be built there today as a new facility. He said they are not generally in residential areas, and when the City allowed the development around it, that station's usage was probably a lot lower.

Toni Freeburg of 8867 Shetland Court said 2/3 of their property abuts the facility, since they are on a cul-de-sac. She said her pond is close to the fence line, and recently Dominion took down some trees and cleared past the fence. She is concerned about how far they will extend. She said a bright green building would be abominable in their back yards.

There were no further comments from the public, and Chairman Denk thanked the residents for their input.

With regard to stormwater runoff, Mr. Courtney said that this is a preliminary development plan, so it is not yet to that point. He advised that stormwater management will need to be addressed in the final development plans; they will need to do the appropriate studies and submit a report advising how stormwater will be handled.

Council President Smolic asked if the utility station could be moved to a location across Route 6. Mr. Kuhn said they already have facilities running through the Metroparks. He said Dominion already owns

the two one-acre parcels. He noted they own multiple properties across the state, and they always replace on the site they already own. He said the supply comes from the south; this station is a delivery point distributing to Kirtland, Chardon and Ashtabula.

Mr. Vinciguerra asked about the hissing noise mentioned by the residents. Mr. Kuhn said it would be the natural sound of the gas running through the pipe. He said the new set-up has sound attenuation, so the noise goes away. Answering Mr. Denk, he said a similar set-up is in Streetsboro. Mr. Kuhn said the system is being brought up to new standards.

Mr. Denk asked about enclosing some of the equipment in a building to keep the noise down. Mr. Kuhn said the main piece is already enclosed in the larger building, and there are extra precautions in place to keep the noise down. He said there will no longer be residual noise from the outside piping system. With regard to the noise, he said they follow OSHA guidelines. Answering Mr. Denk, Mr. Kuhn said the regulators are above ground and are inside the building.

Answering Mr. Vinciguerra regarding the larger building, Mr. Kuhn said they do not yet have engineered drawings for that building. He said there is sound attenuation in the building and in the equipment that is being installed.

Mr. Smolic inquired about the requirements for a utility to harden the facility for security purposes, such as enclosure with brick walls. Mr. Kuhn said he would have to defer that to someone in the company that has that expertise.

Mr. Laux inquired if there are any employees on site. Mr. Kuhn said it is not manned 24/7 and that it is remotely monitored. Regarding the emergency exits, Mr. Kuhn said they have corporate security standards that govern what they do.

Mr. Denk asked if there is an option to put the facility somewhere else, such as having it handled at the Streetsboro facility or any other facility. Mr. Kuhn said the system around this site is modeled based on what this site can do at this location.

Mr. Denk inquired if the upgrades are to enhance the service to process more gas through this facility. Mr. Kuhn replied that the site is from 1961 and it is time to bring it to current standards. He said he does not know what the capacity was in 1961 and cannot speculate on the capacity today.

Noting that the Commission is hearing from the residents for the first time tonight, Mr. Marong asked Mr. Kuhn if they would be willing to hold a neighborhood meeting with the HOA, since they are concerned about noise and the odor of gas. He noted the residents have voiced a desire for some screening and aesthetics. Mr. Kuhn said they would be open to meeting with the HOA. He said they can work their timeline around the Zoning Commission and the approvals. Mr. Marong suggested that the Commission may want to table the matter to let the discussions with the HOA occur.

Answering Mr. Denk, Mr. Kuhn said they have a lot of sites that are located in residential areas. He noted there are ways to handle the noise, and the water runoff will be approved through the County. He said if there is a gas smell, residents should call right away; he noted there are telephone numbers posted on the site. The residents said the smell is frequent. Mr. Kuhn said the upgrade will help with the smell.

Mr. Denk inquired if the fence can be pulled in a bit to allow for more plantings to create a physical screen and sound barrier for the facility; he noted that might also help with the gas smell. Mr. Kuhn said they have done vegetative buffers before. He said they will take comments from the Commission and the residents to determine what will work best for the design.

Mayor Potter offered the use of Council Chambers for Dominion to hold a neighborhood meeting with the HOA.

Mr. Vinciguerra said he would like to understand how the facility is changing from what was done in 1961 until now, in terms of its purpose and capacity for distribution. He would like clarification on whether the new facility is expected to do something different; or if it is replacing the existing facility with the same intent and the same amount of gas distribution with newer and better equipment.

Ms. Laven requested examples of how other upgrades have been done at other facilities.

With the consent of the applicant, Mr. DeMarco moved to table the conditional use permit application and preliminary development plan, noting that the applicant is willing to hold a neighborhood meeting. Ms. Laven provided the second. Upon roll call vote, the motion passed 5-0 (Ayes – DeMarco, Laux, Laven, Vinciguerra and Denk; Nays – None).

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

WORK SESSION:

Communications and Bills:

1. City Council Meeting Minutes – February 5, 2024 Work Session and Council Meeting; February 21, 2024 Work Session and Council Meeting.
2. Board of Zoning Appeals Meeting Minutes – November 1, 2023.
3. Board of Zoning Appeals Notices of Decision – No. 24-1 and No. 24-2.
4. Zoning Permits Report – February 1, 2024 to February 29, 2024.

Old Business:

Review of Zoning Ordinances

The Commission members agreed that a public hearing will be scheduled to be held during the next regular Commission meeting regarding the proposed amendments to the zoning ordinances.

New Business:

It was noted that the next regular meeting is scheduled for Monday, April 8, which is the date of the eclipse. There was discussion regarding the expected increase of traffic and issues that may arise. Mr. Marong noted that the Charter requires the Commission to meet once per month, but the date of the

meeting can be changed. The Commission members agreed to change the April meeting from the usual second Monday of the month, to be held on Tuesday, April 16, 2024 at 7:00 p.m.

Adjournment

There was no further business before the Commission, and Mr. Laux moved to adjourn. Mr. Vinciguerra provided the second, and the motion passed upon unanimous vote. The meeting adjourned at 9:25 p.m.

CHAIRMAN

SECRETARY