

**PLANNING COMMISSION
CITY OF AVON
REGULAR MEETING AGENDA OF MARCH 15, 2023**

PUBLIC HEARINGS

Nagel Crossing; Special Use Permit; PL20230007

Request to recommend to City Council to create a Special Use Permit for Nagel Crossing for three buildings with outdoor seating and drive throughs at the northeast corner of Nagel Road and Just Imagine Drive.

The Chair opened the public hearing at 7:00 p.m. Ms. Fechter explained that the proposal shows three different restaurants with drive throughs. She said the applicant is aware of the City's concerns about drive throughs and they will be removed from the agenda to work on some details. The applicant would like to show the Commission the site plan to see if there are any issues that jump out to them at this time.

Robert Brown, Deville Developments, 3951 Convenience Circle, Canton, OH, stated that he is aware of the concerns about drive throughs in the City. He clarified that Starbucks will be the only restaurant with a drive through and the other two restaurants will have pick-up windows. Chipotle and Noodles will have their customers order and pay online and pick their food up when they are notified that it is ready. The restaurants with pick-up windows will have very little stacking, similar to their other locations. Both pick-up windows will have two designated waiting spaces in case the orders are not ready. Ms. Fechter added that both restaurants with pick-up windows show ten waiting spaces in addition to the parking spaces. Mr. Brown said the site plan for Starbucks has been altered to show a widened entrance to the drive through and they show 18 cars stacking spaces before getting into the parking area. He thought that would alleviate any backups on the site. He added that Starbucks thought having this location would take some pressure off the location at City Centre as well. Ms. Fechter appreciated the applicant going above and beyond to address concerns about traffic. Chairman Witherspoon closed the hearing at 7:05 p.m.

ROLL CALL

The meeting was called to order by Chairwoman Witherspoon at 7:05 p.m. in Council Chambers. Present: Bill Fitch, Bryan Jensen, Mayor, Jim Malloy, Scott Radcliffe, Carolyn Witherspoon Staff: Jill Clements, Zoning Enforcement Officer; Ryan Cummins, City Engineer; Pam Fechter, Planning Coordinator; John Gasior, Law Director; Duane Streater, Safety Director; Nicole Rambo-Ackerman, Planning Clerk

REVIEW & CORRECTION OF MINUTES

Mr. Malloy moved, seconded by Mayor Jensen, to dispense with the reading of the minutes of the regular meeting held on February 15, 2023, and to approve the minutes as published. The vote was: "AYES" all. The Chair declared the motion passed.

REPORTS & CORRESPONDENCE

ADDITIONS & DELETIONS

Ms. Fechter asked that items #2, #3 and #4 be deleted from the agenda at the Planning Coordinator's request. She also asked that item #6A be added to discuss improvements at SR-83 and Detroit Road and that item #1 be moved to item #6B.

Mr. Malloy moved, seconded by Mayor Jensen, to delete items #2, #3 and #4 from the agenda at the Planning Coordinator's request. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to add item #6A, the SR-83 and Detroit Road intersection widening project, at the Planning Coordinator's request. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to move item #1 to item #6B on the agenda at the Planning Coordinator's request. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to approve the amended agenda. The vote was: "AYES" all. The Chair declared the motion passed.

OLD BUSINESS

1. Referral to Council; Amend Planning and Zoning Code

Amend the Planning and Zoning Code, General Offenses Code and any other pertinent sections related to livestock requirements. Public hearing was held November 16, 2022.

Moved to item #6B.

NEW BUSINESS

2. R.E. Jacobs Group; Amend General Development Plan; PL20230005

Request to amend the general development plan for the R.E. Jacobs Group to include Nagel Crossing at the northeast corner of Nagel Road and Just Imagine Drive.

Deleted from the agenda at Planning Coordinator's request.

3. Nagel Crossing; Final Development Plan; PL20230003

Request to approve the final development plan for Nagel Crossing to construct three buildings, including a 2,554 sq. ft. Starbucks with outdoor patio with seating and drive through, a 7,164 sq. ft. multi-tenant retail building with outdoor patio with seating and drive through and a 6,784 sq. ft. multi-tenant retail building with outdoor patio with seating and drive through, parking and utilities, at the northeast corner of Nagel Road and Just Imagine Drive

Deleted from the agenda at Planning Coordinator's request.

4. Nagel Crossing; Special Use Permit; PL20230007

Request to recommend to City Council to create a Special Use Permit for Nagel Crossing for three buildings with outdoor seating and drive throughs at the northeast corner of Nagel Road and Just Imagine Drive.

Deleted from the agenda at Planning Coordinator's request.

5. Nagel Crossing; Lot Split; PL20230004

Representative: Aaron Appell, Bramhall Engineering, 801 Moore Road, Avon, OH
Request to split the 5.0235-acre parcel ending in -126 to create 2.2271-acre and 2.7964-acre parcels at the northeast corner of Nagel Road and Just Imagine Drive.

Ms. Fechter said the Nagel Crossing project will be on Split Parcel B shown on the plan. Mr. Appell said the existing 5.02-acre lot is being split into two parcels and Split Parcel B will be owned by Deville Developments. There is an access easement between the split parcels. Mr. Cummins said the lot split has been reviewed, there are no comments and recommended its approval.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to approve the request to split the 5.0235-acre parcel ending in -126 to create 2.2271-acre and 2.7964-acre parcels at the northeast corner of Nagel Road and Just Imagine Drive. The vote was: "AYES" all. The Chair declared the motion passed.

6. Concord Village Phase 3; Amend Final Development Plan; PL20230006

Representative: Jason Friedman, 3401 Enterprise Parkway, Beachwood, OH
Request to amend the final development plan for Concord Village to create 41 units in Phase 3 on the north side of Chester Road. The final development plan showing 72 units was previously approved on August 17, 2022.

Ms. Fechter said the Commission has already seen this project several times. Due to some wetland issues, the previously approved Phase 3 has been split into Phase 3 and Phase 4. She has received some email documentation that the applicant has gotten approval from the Army Corp but would like to get a copy of the permit. She talked to Mr. Friedman before the meeting and said they would not be able to go to Council to get approval for the revised Developer's Agreement until everything is in place beforehand. Mr. Cummins has outstanding engineering comments so he recommended that the Commission make the approval contingent on final engineering approval if they wanted to act at tonight's meeting. Mr. Gasior said the Developer's Agreement may be amended, Mr. Friedman said he understood.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to approve the request to amend the final development plan for Concord Village to create 41 units in Phase 3 on the north side of

Chester Road contingent on final engineering and legal approval. The vote was: “AYES” all. The Chair declared the motion passed.

6A. SR-83 and Detroit Road Intersection; ROW Improvements

Request to approve the widening of the Detroit Road and Center Road intersection and associated corridor improvements in cooperation with ODOT to improve public safety.

Mr. Cummins reviewed the SR-83 and SR-254 Intersection Improvement project that has been worked on for several years. The project started with a traffic safety study performed by the Ohio Department of Transportation and several recommendations were made to improve the corridor which basically stretches from Garden Drive past Avon Commons plus about 1,000 feet in either direction on SR-83. Avon applied for safety funding through ODOT to put towards the project. They are getting ready to begin property and right-of-way acquisition and there are a lot of strips of property that are needed along the project area. In general, through lanes are being added. Currently, there is one lane dedicated to go south on SR-83 and that will be increased to two lanes, which would merge back into a single lane south of the intersection. Starting by Garden Drive, the existing three-lane section has an area that merges into one lane near the Fire Station that will have two continuous lanes that will merge beyond Healthway Drive. Heading eastbound, there will be a single lane that will turn into two full through lanes by the Police Station that continue through Avon Commons and merges when you go over the hill to the east. A right-turn lane heading eastbound on Detroit Road to southbound SR-83. There will be two full left turns in the north-south direction from SR-83 onto Detroit Road. Heading southbound on SR-83 there will be two lanes heading south off the ramp which will be maintained to create a larger right-turn lane, those two lanes will continue past Detroit Road and merge into a single lane further south. Keeping those lanes through the large pole line on the north side, all the expansion is going towards the south. The City also owns a good deal of property on the south side, including the Fire Station, Police Station, Post Office and cemetery. Though there is widening in the cemetery area, the project will not disturb any graves. As the area widens out, modification will be required for the retention basin and underground detention basin in the corner of the City Centre parking lot. Public information was posted last August via the City's website and a letter was sent to adjacent property owners that the City needs easement or property rights from. ODOT recently completed their environmental review of the project successfully so they are at the step to start acquiring property. Mr. Cummins offered to sit down with anyone interested in getting more details about the project if they would like.

Mr. Fitch asked if there would still be a left-turn only lane into the Commons. Mr. Cummins said there would be a single left-turn lane. Mr. Fitch asked if another turn lane could be added there. Mr. Cummins said that would be difficult to do, but this is what was warranted from the traffic study and the projected traffic over the next 20 years. Obstacles for adding an additional lane include the retention pond and underground detention storage to the south.

Mr. Malloy asked where the two southbound lanes on SR-83 would merge. Mr. Cummins said there would be two lanes heading southbound off the freeway which would continue through Detroit Road and merge into one lane south of City Centre. The idea is to have additional lanes through the congested areas and provide an appropriate amount of space for people to merge back into one lane. Mr. Malloy asked if there is enough room to have two turn lanes. Mr. Cummins said width will be added to the elevated area through there but will still meet at the toe

of the slope. He said there is quite a bit of right-of-way space on both sides. Residents on Old Center Road were concerned during the public comment period but no property will need to be taken from them because there is enough space there. The slope may get a bit steeper but the toe will not change that much. Mr. Malloy asked if this project would be done in phases. Mr. Cummins said the maintenance of traffic will be broken into four phases over the course of about one year. The entire section will not be ripped up all at once. There are some areas where jersey barriers and temporary pavement will be installed at times because they are trying to keep as many lanes open as possible during construction.

Mr. Fitch asked if there would be traffic lights coming out of City Centre, Mr. Cummins said there would be. Mr. Fitch asked if that would incur stacking for people to turn onto Detroit Road. Mr. Cummins said there would not be since there would be two full lanes. Mr. Fitch asked about the lane going into Key Bank and was concerned about people driving across multiple lanes. Mr. Cummins said the desire to connect Key Bank with the plaza would be outside the scope of this project but they would restrict the movements out of the Key Bank entrances like they currently do. Mr. Fitch was concerned about people wanting to go north on SR-83 having to go across multiple lanes from Key Bank, Mr. Cummins said they would need to go across four lanes.

Mayor Jensen thought the left-turn lane into the Avon Commons is being restricted into a third of what it is. Mr. Cummins thought there may be room to extend the turn lane into the striped area, though that length is what is called for by the traffic study. Mayor Jensen thought the one lane going northbound backs up through French Creek. He admitted funding is an issue but wanted to look at that again. Mr. Cummins thought space is an issue because moving the lane would require moving the lanes on the other side which would end up in the cemetery area. The signal timing will be improved to make the intersection more efficient and allow more vehicles through. Mayor Jensen has confidence in Mr. Cummins and knows he will continue to work on the project.

Ms. Fechter asked Mr. Gasior if Planning Commission needed to vote on the project or just be made aware of it. Mr. Gasior thought Planning Commission usually recommends approval of these projects because they involve the road. Mr. Gasior said the recommendation is a little after-the-fact but eventually City Council will need to pass a resolution to go out to bid for the project. Mr. Fitch asked if recommending approval of the project would lock the City into the plan presented. Mr. Gasior said no because Planning Commission would be recommending that improvements be made to the area identified. The big concept is that the intersection be widened and the minor issues discussed can be adjusted. Mayor Jensen said the property owners of Key Bank and the plaza are willing to talk about connecting their sites but the issue needs to be pushed a little harder to move forward. A light at the intersection will give them more leverage to work together for connectivity.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: “AYES” all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to recommend approval to City Council of the SR-83 and Detroit Road Intersection Widening and Corridor Improvements project with the allowance for some additional changes to be determined as discussed in tonight’s meeting. The vote was: “AYES” all. The Chair declared the motion passed.

6B. Referral to Council; Amend Planning and Zoning Code

Amend the Planning and Zoning Code, General Offenses Code and any other pertinent sections related to livestock requirements. Public hearing was held November 16, 2022.

Ms. Fechter explained that this was a referral from City Council. They were asked to look at the different code sections to determine if any changes needed to be made in relation to livestock. She spent several hours with Mr. Gasior and came up with the documents provided, especially to address the current moratorium. They looked at the R-1 and R-2 districts and have taken a farm of two acres or more with livestock and made it a special use instead of a permitted use. That gives them the ability to bring the residents in on a case-by-case basis to review their setup and discuss where their manure and buildings will be located and make appropriate decisions based on individual parcels and surrounding neighborhoods. They also updated some of the definitions and wanted to ask the Commission what they thought about the changes, especially the special use piece.

Mr. Gasior said they are making farming a special use in the residential districts, R-1, R-2 and R-3. Livestock, mainly horses, cows and animals similar to those are the issue that brought this ordinance on and whether they are permitted or not. They started to look at the definitions and how much of the residential land is surrounded by residential subdivisions. Any remaining vacant land borders residential subdivisions in many cases. There are some parcels on Stoney Ridge Road, Jaycox Road and Nagel Road that do not, but for the most part they do. They are trying to balance the desire to farm the larger parcels of land against the need for regulation closer to more densely populated subdivisions. To farm any part of your property without livestock, two acres will be required but will be permitted. Farms with livestock will need at least two acres and a special use from Planning Commission and City Council. That process involves notifying the neighbors so they can make reasonable requests. If the requests are reasonable, those conditions can be imposed on the special use permit. He thought this would solve any problems because there was no notification requirement when the use was permitted. Mr. Gasior said they are not preventing the use, but requiring the use be presented to Planning Commission and get an ordinance passed by City Council with conditions and giving neighbors the chance to voice their opinions. Existing Chapters 618 and 668 already have restrictions on permitted farms, including setbacks. Complicating the issue was that setbacks needed to be considered, along with nuisance conditions and reviewing the definitions. Mr. Gasior thought the documents presented are about 65% complete. He thought Planning Commission could recommend move forward as outlined with two acres or more with livestock as a special use and under two acres would be prohibited. He said fixing the definitions would be more of a cosmetic issue but they need added to the Planning and Zoning Code so they are cross-referenced. Section 1280.06 would have additional regulations and he wants to refer to Chapter 618 or 668 as applicable to make it simpler to read and avoid conflicts. He would like to take it to the April 3 City Council work session, have the first reading on April 10 and another work session on April 17. He wants to bring it back to Planning Commission on April 19 to make additional tweaks. The second reading would be April 24, a third work session May 1 and the third and final reading would be on May 8. After 30 days, it would go into effect. The moratorium is set to expire on June 30. Anyone currently farming will not need to make any changes since the use will be grandfathered. Anyone who buys a property in Avon and wants to farm it will need to get a special use permit. Grandfathered status can be lost if the property is not farmed for one year, but he did not think

that would impact many people in Avon. Willoway is a commercial farm on residential property. There is agricultural district land with at least five acres that get special tax treatment and they do not want to interfere with that. Mr. Gasior will split the proposed ordinance into separate ordinances to cover definitions in Chapter 1222, changing the use to a special use in Chapters 1262, 1264, 1270, 1274 and 1278; an ordinance for addressing the special use requirements in Sections 1280.04; Section 1280.05 to deal with special use requirements in nonresidential districts. He wants to make farming a special use in nonresidential districts with different acreage requirements. Another ordinance will be drafted for the regulations in Section 1280.06 and another ordinance to change the existing Chapters 618 and 668 to add the livestock concept. Chickens and poultry will be a subset of livestock. Having chickens will be a special use even if the property is under two acres and the size of the coop will be limited, thereby limiting the number of chickens allowed.

Don Myers, 4015 Stoney Ridge Road, was at the public hearing. He did not think his concerns were addressed but has gotten a lot of feedback from his side in the meantime. He received a copy of the documents provided to the Commission and there are two sections. He is impressed with the definitions that have been proposed. He thought a lot of the sections need a lot more work than what is being proposed. Mr. Gasior thought one of the biggest sections that needs addressed is Section 1280.06 but he wanted everyone to see how they were going to change Sections 1262.03 and 1264.03 to make sure they are on the right track with the special use for farms and commercial farms. They would be treated as special uses in every district because there are still houses next to vacant land that could be impacted by farming. The fee for the special use permit would be \$25 and \$15 for the zoning permit. Mr. Myers was okay with moving forward with the special use but still had concerns about what was not addressed yet. Mr. Gasior suggested meeting next week with Mr. Myers to address his concerns beyond the special use concept. Mr. Gasior further explained that the use would not be prohibited but the applicant could get the use with reasonable conditions. If an unreasonable condition is placed on the special use, the applicant could go to the court, but Mr. Gasior did not think anyone would want to place an unreasonable condition on the property. Mr. Myers pointed out that a line in the proposed legislation said it would apply to current and future owners. Mr. Gasior said current permitted farm owners still need to comply with Chapters 618 and 668 about nuisances and horses. The general offense code will continue to apply to everyone. The Planning Commission is just looking at the Planning and Zoning Code to make the use a special use, allowing them to add reasonable conditions on future farms. The property maintenance code would also apply to residential properties. Mr. Gasior thought Mr. Myers' comments were helpful and looked forward to sitting down with him.

Kathy McNally, 3964 Center Road, asked to be included in the meeting with Mr. Gasior and Mr. Myers. She is concerned about the setbacks and permanently grandfathering properties. Mr. Gasior said the new requirements would not apply to her property if she continued the use and new owners of her property continue the use. Ms. Fechter said they ran into different setback requirements when doing the review which needs to be made uniform throughout the code. Mr. Gasior confirmed that nothing Council passes would affect her setbacks.

Dave Cupar, 33603 Hawkesbury Court, reviewed the proposed legislation and thought it was very thoughtful and well-written. He thought the special permit makes a lot of sense going forward. He wants to avoid surprises and thinks maintaining the status quo makes sense in Avon.

He thought the least they could do is require an owner that wants to change what they are doing with their property to get a special permit that requires them go to their neighbors and have them be heard. Mr. Cupar thought it makes sense to be proactive before someone single-handedly decides to be like the Tiger King and have boa constrictors without telling their neighbors. He does not like the idea of having turkey vultures flying over his property because someone single-handedly decided to do what they wanted with their property.

Dan Kierce, 33607 Hawkesbury Court, has been an Avon resident for 18 years. He thought the work Mr. Gasior has done so far has been terrific. This has been a hotbed issue. Farming is part of Avon's culture so there should be no change for those that have been farming. He is looking to avoid something different in his backyard overnight. He looks forward to future discussions about setbacks.

Mayor Jensen appreciated the comments. He said the Commission was nervous about how to make this fair. He thought there are some issues that can be worked out if neighbors come to discuss the issue in front of the Commission reasonably. The City wants the ability for neighbors to discuss changes without having to get into legal battles. Mayor Jensen was pleased with the hard work Mr. Gasior did on this proposal. Mr. Gasior added the Ms. Fechter and Ms. Rambo-Ackerman also contributed to the proposal. After the vote, Mayor Jensen noted that grandfathered properties could get a special use permit for their property to help ensure the use would continue to be permitted if not used for a year.

Mr. Malloy moved, seconded by Mayor Jensen, to recommend to City Council approval of farms and commercial farms as a special use in residential and other nonresidential districts. The vote was: "AYES" all. The Chair declared the motion passed.

COMMENTS

ADJOURN

Mr. Malloy moved, seconded by Mayor Jensen, to adjourn the meeting at 8:13 p.m. The vote was: "AYES" all. The Chair declared the motion passed.

Carolyn Witherspoon, Chair

Nicole Rambo-Ackerman, Clerk

Date