

AVON PLANNING COMMISSION REGULAR MEETING MINUTES 7-21-21

MINUTES OF THE PUBLIC HEARINGS HELD ON WEDNESDAY, JULY 21, 2021, IN COUNCIL CHAMBERS OF CITY HALL

The meeting was opened by Chairman Carolyn Witherspoon at 7:00P.M

AMEND THE CITY OF AVON PLANNING AND ZONING CODE SECTION 1294-LANDSCAPING AND SCREENING REGULATION TO AMEND 1294.08(C)(2) TO INCREASE THE HEIGHT TO 4 FEET AND THE OPACITY TO 70 PERCENT. The Chair opens the Public Hearing at 7:00P.M. There being no one present in the audience; Chairman Witherspoon closes the public hearing at 7:00P.M.

MINUTES OF THE REGULAR PLANNING COMMISSION MEETING HELD ON WEDNESDAY, JULY 17, 2021, IN COUNCIL CHAMBERS OF CITY HALL

Present: Bill Fitch; Bryan Jensen, Mayor; Jim Malloy; Scott Radcliffe; Carolyn Witherspoon, Chairman; Beth Fulton of CVE filling in for Ryan Cummins, City Engineer; Pam Fechter, Planning Coordinator; John Gasior, Law Director; Rick Schneider, Zoning Enforcement Officer and Jill Clements, Secretary.

MINUTES OF THE REGULAR MEETING-JUNE 16, 2021

A motion was made by Mr. Malloy, seconded by Mayor Jensen to dispense with the reading of the minutes of the Regular Meeting held on June 16, 2021, and to approve the said minutes as published. The vote was: "AYES" All. The Chair declared the motion passed.

ADDITIONS/DELETIONS

KAR PARTNERS, LLC-FIRST PRESENTATION-LOT SPLIT/CONSOLIDATION

Keith Riegelsberger, representing KAR PARTNERS, LLC is requesting approval of taking 4 lots and splitting and consolidating to create Parcel 2 being .6306 acres, Parcel 3 being .6306 acres, Parcel 4 being 35.6556 and Consolidated Parcel being .8618 to be located on Center Road and Riegelsberger Roads.

Pam Spinner, 35960 Riegelsberger is representing Keith Riegelsberger. Ms. Fechter says Ms. Spinner is the property owner on the corner representing Keith since he was out of town and couldn't make it back. Ms. Fechter says the staff have gone through the lot split and are good. She continues to say there are a few details that CVE have been working through with the surveyor to clean up. Ms. Fechter says if they do this split the barn on corner could need a variance. Ms. Fechter asks for contingent approval to work through outstanding engineering issues. Mayor Jensen asks what happens if they don't get the variance, Ms. Fechter says they tear the barn down.

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

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve taking 4 lots and splitting and consolidating to create Parcel 2 being .6306 acres, parcel 3 being .6306 acres, Parcel 4 being 35.6556 and Consolidated Parcel being .8618 to be located on Center Road and Riegelsberger Roads contingent upon final engineering. The vote was: "AYES" All. The Chair declared the motion passed.

CHESTER ROAD SUBDIVISION NO. 4-FIRST PRESENTATION-LOT SPLIT/CONSOLIDATION

Carl Frey representing NWQ JAYCOX I-90 is requesting taking a 2.6850 parcel, subplot 3 and splitting that into 2 parcels with subplot 10 being 1.555 acres and subplot 11 being 1.1295 acres located on Chester Road.

Carl Frey of Jacobs Group says this is consistent with the general development plan that was approved earlier this year with the anticipated outparcel development. Mr. Frey says this is the outparcel area in front of the former Movie Tavern site that has been graded. Mr. Frey says they were anticipating two restaurant users and down the agenda is that and the lot split to create their parcel. Mrs. Fulton says they have reviewed the plans and shared comments back and forth and all have been resolved.

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

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve taking a 2.6850 parcel, subplot 3 and splitting that into 2 parcels with subplot 10 being 1.555 acres and subplot 11 being 1.1295 acres located on Chester Road.

CHESTER ROAD AREA 2-FIRST PRESENTATION-FINAL DEVELOPMENT PLAN

Aaron Appell of Bramhall Engineering representing NWQ JAYCOX I-90 is requesting approval of the Site plan for the improvements of Area 2 for the proposed Chili's restaurant to be located within Chester Road Subdivision No. 4 on subplot 10.

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Carl Frey of the Jacobs Group says this is the work that the Jacobs Group will be doing for the Chili's project. They will be doing a little utility work to extend sanitary and water to the building and they will also be completing the driveway across the back of these parcels connecting from Main Event to the drive-in front of Duluth. Mr. Frey also says the drive connection parallel to Hassel Ditch to Chester Road and it is all consistent with the General development plan. Ms. Fechter says all staff comments have been addressed and recommend approval.

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

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve the site plan for the improvements of Area 2 for the proposed Chili's restaurant to be located within Chester Road Subdivision NO. 4 on subplot 10. The vote was: "AYES" All. The Chair declared the motion passed.

CHILI'S RESTAURANT-FIRST PRESENTATION-FINAL DEVELOPMENT PLAN

Carl Frey representing NWQ JAYCOX I-90 is requesting approval of the site plan for the proposed 4,320 sq. ft. Chili's Restaurant to be located on Chester Road.

Carl Frey of the Jacobs Group says there are another set of drawings that represent the site improvements that Chili's will be completing with their general contractor and the building details around the building. Mr. Frey says the work will be done concurrent this fall hopefully. Anticipated opening first quarter or second next year. Ms. Fechter asks how many employees they have. Ernesto is the project manager and says they have two shifts and likely there will be 10-15 employees and a manager. Ms. Fechter says all comments have been addressed and would recommend approval. Mayor Jensen asks when construction will begin. Mr. Frey says they would like to get building plans submitted soon and they hope to break ground in August then September for Chili's. Mr. Radcliffe says they notice to go and ask if there is a drive thru and Mr. Frey says no just a designated door. Mr. Gasior asks if they mentioned it going to be a lease and Mr. Frey says this is like the Longhorn.

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

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve the site plan for the proposed 4,320 sq. ft. Chili's Restaurant to be located on Chester Road. The vote was: "AYES" All. The Chair declared the motion passed.

WARD ORTHODONTICS-FIRST PRESENTATION-LOT SPLIT/CONSOLIDATION

Kevin Ward of Ward Orthodontics is requesting approval of taking 3 lots and splitting and consolidating creating Block D being .4213, Block E being .5749 and Block F being .6221 acres located on Detroit Road.

Leon Sampat with LS Architects says they are proposing an addition for Dr. Ward and in doing that they needed to split and consolidate to adjust the lot line to accommodate the addition. Ms. Fechter says when Dr. Ward came in, he wanted to reconfigure the 3 lots to make it best for everyone. On the original submittal, 2 of the 3 parcels were smaller than the 25,000 sq. ft. lot size requirement. Ms. Fechter says Dr. Ward did a lot of work and thank you for that and it ended up with one lot that is too small. That lot is roughly 3,000 sq. ft. too small even though its an existing lot, once its reconfigured it needs to conform. Ms. Fechter asks for a contingent approval pending ZBA variance approval.

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

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve taking 3 lots and splitting and consolidating creating Block D being .4213, Block E being .5749 and Block F being .6221 acres located on Detroit Road contingent upon variance being granted by the Zoning Board of Appeals. The vote was: "AYES" All. The Chair declared the motion passed.

WARD ORTHODONTICS-FIRST PRESENTATION-FINAL DEVELOPMENT PLAN

Kevin Ward of Ward Orthodontics is requesting approval of the site plan for the proposed 2,177 sq. ft. building addition to the existing building located at 36422 Detroit Road.

Leon Sampat of LS Architects are proposing an addition and will be redoing the exterior of the building and it will look like Dr. Schwartz' office next door. Mr. Sampat did purchase additional area towards the north to give more space to accommodate the parking requirements. Ms. Fechter says the final look needs to go through the architectural review board so when that is final, please send it to her so she can get it out. Mrs. Fulton says they have reviewed the plans and would recommend a contingent approval until

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final comments are resolved. Ms. Fechter says there are a couple comments on the lot split that need to make it to the final drawings. Mayor Jensen says it's nice to see the addition to the property there to see how it blends in with the French Creek District and it's a good sign business is doing good, and they can expand.

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

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve the site plan for the proposed 2,177 sq. ft. building addition to the existing building located at 36422 Detroit Road contingent upon final engineering and Architectural Review Board approval. The vote was: "AYES" All. The Chair declared the motion passed.

REFERRAL TO COUNCIL-FIRST PRESENTATION-AMEND PLANNING AND ZONING CODE
Per Article, VII, Planning Commission (D) Mandatory Referral of the Charter, Avon Planning Commission is recommending Council approval to the Ordinance amending The City of Avon, Ohio Section 1294 Landscaping and Screening Regulation to amend 1294.08(c)(2) to increase the height to 4 feet and the opacity to 70 percent.

Ms. Fechter says this is a housekeeping issue as going through the code and fences there have been some discussion about the fence height adjacent to the road, more specifically Norton Place. They have a landscape buffer in between and as we started looking in the code every where else is 4' with the 70% opacity so for the streamlining of it we would like to have the rear yard that is within the required setback but adjacent to a street have that be a little taller with some privacy but not interfere with the looks of the area.

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

A motion was made by Mr. Malloy, seconded by Mayor Jensen to give a positive recommendation to Council for approval to the Ordinance amending The City of Avon, Ohio Section 1294 Landscaping and Screening Regulation to amend 1294.08(c)(2) to increase the height to 4 feet and the opacity to 70 percent.

FURTHER DISCUSSION ON HOME OCCUPATION

John Gasior says this has been talked about in prior meeting and he said they would consider putting together legislation that would require a home occupation permit. We have home occupation regulations covered in Sections 1262.08(g) and what we would do would simply require a permit to be obtained by anyone who wants to conduct a home occupation. Mr. Gasior says there is a draft ordinance that will come back next month with the Public Hearing and will take comments but what is not there is he would want to grant a 6 month or 1 year grace period for anyone who is currently operating a home occupation to get the permit before they would be cited. Mr. Gasior says the key is to require the permit, its his suggestion is same cost as a zoning permit which is \$15.00. He says we will prepare an application form and the person would come pay their fee, fill out the application and show a floor plan with the proper amount of area being used and indicate there are no outside employees, nothing flammable going on that could be hazardous and then he believes the ZEO could approve the plan on the spot and issue the permit. Mr. Gasior says if it takes more time, we can do an investigation and they could come back and get the permit. Their operation will need to be consistent with 1262.08(g) if they follow that, they have no problems, if they fall out of compliance or we get complaints from neighbors then it will require a visit from the Zoning Enforcement Officer to find out what's going on and if they are ok or not. Mr. Gasior continues to say they could have their permit revoked, if the permit is revoked and they continue to operate then there will be a penalty clause which could be second- or third-degree misdemeanor, \$500-\$750 fine, still a few things that need to be added. Mr. Gasior says he must deal with the penalty and deal with the grace period for existing to be notified so with those two things its almost complete. Mr. Gasior says it's unfortunate we must do this, but we have gotten some complaint from various residents in the area, and we must protect our residential property owners. People pay good money to live-in single-family homes with the expectation of a single family home next door not operating businesses where you're having deliveries, customers and clients coming in and blocking mailboxes, garbage cans, and driveways. Mr. Gasior says if you get enough complaints, the city must act. Mr. Gasior says Councilman McBride talked to him and must bring something in. Mr., Dudziak asks if they are going to limit them to an occupancy load? Mr. Dudziak asks if they can revoke the permit at any time. Mr. Gasior says he is putting provisions in there looking at other Cities with a general clause based on several complaints, request they address them and if they don't fix it revoke the permit. Ms. Fechter asks if the same rule about the only people who is still can work in your home base business are your relatives that live in your

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house. Mr. Gasior says they must be members of the household and can't bring their sister who lives someplace else in to work. Mr. Gasior says for an example if you are a CPA and your spouse works with you, that is not a problem. Its when you bring in, if you're a lawyer, you bring in your paralegal and they must drive to your house, park then start working, that is against the law. Mr. Gasior says the problem is we don't know who's operating out there unless there is a permit process. Mr. Gasior says the largest part of the permit process is to hand them the law and if they stay within those parameters, you are good. He says probably most people who operate a home business haven't looked to see what our code says. Mr. Gasior says this is the least restriction for the permit and that allows us to hand them the rules and let them know how to operate. Mr. Gasior says he has looked at local communities and some of them do it like we do, have it in the law and go on. Some others require permits, and some have more advanced permits and requirements for some of the reasons we have talked about. Mr. Schneider asks if these will be yearly permits or 3 or 5 years or renewable. Mr. Gasior says some do one year permits and require them to be renewed, some Cities do 2, 3 or 5 years and we need to specify a duration. Mr. Gasior says some allow the permit to stand forever if you're not in violation, it's a one time only. The permit will not be transferable to anyone else, if you move and the new resident does a home occupation, they will need to get their own. Mr. Gasior says this doesn't include those who work for a company but are allowed to work from home, that is not a home occupation. Mr. Gasior says it for those who do their primary work from home and on the tax side its nice to know what business is being done in their homes. Mayor Jensen asks if we are voting on this tonight and Mr. Gasior says no, we will have a Public Hearing in August then get it to Council in September. Mr. Fitch suggest that it be a one-time fee, so it doesn't look like we are trying to get the money, we just want the information and so they know. Home day cares were briefly discussed, and it was determined those have state regulations that they need to follow.

COMMENTS

ADJOURN

A motion was made by Mr. Malloy, seconded by Mayor Jensen to adjourn. The vote was: "AYES" All. The Chair declared the motion passed. The meeting was adjourned at 7:42P.M.

ATTEST

CHAIRMAN

DATE