

REGULAR MEETING  
BRECKSVILLE PLANNING COMMISSION  
Community Room - Brecksville City Hall  
June 6, 2013 Page 1

Present: Phillip Badalamenti, Michael Harwood, Robert Hotaling, Mayor Hruby, Ron Payto,  
Kirk Roman, Dominic Sciria  
Others: Neil Brennan, Gerald Wise, and approximately 4 guests

Mr. Roman opened the Regular Meeting of the Planning Commission at 7:00 P.M.

APPROVAL OF THE REZONING FOR BRECKSVILLE ASSISTED LIVING PUBLIC HEARING MINUTES OF MAY 23, 2013

It was moved by Mr. Roman and seconded by Mr. Harwood that the Planning Commission Rezoning for Brecksville Assisted Living Public Hearing Minutes of May 23, 2013 be approved.

ROLL CALL: Ayes: Phillip Badalamenti, Michael Harwood, Robert Hotaling, Mayor Hruby, Ron Payto,  
Kirk Roman, Dominic Sciria  
Nays: None  
MOTION CARRIED

APPROVAL OF THE REGULAR MEETING MINUTES OF MAY 23, 2013

It was moved by Mr. Roman and seconded by Mr. Harwood that the Planning Commission Regular Meeting Minutes of May 23, 2013 be approved.

ROLL CALL: Ayes: Phillip Badalamenti, Michael Harwood, Robert Hotaling, Mayor Hruby, Ron Payto,  
Kirk Roman, Dominic Sciria  
Nays: None  
MOTION CARRIED

APPROVAL OF THE WORK SESSION MEETING MINUTES OF MAY 23, 2013

It was moved by Mr. Roman and seconded by Mr. Harwood that the Planning Commission Work Session Meeting Minutes of May 23, 2013 be approved.

ROLL CALL: Ayes: Phillip Badalamenti, Michael Harwood, Robert Hotaling, Mayor Hruby, Ron Payto,  
Kirk Roman, Dominic Sciria  
Nays: None  
MOTION CARRIED

SIGNS:

BURGER FRESH – 8121 CHIPPEWA ROAD

It was moved by Mr. Roman, and seconded by Mr. Harwood, that the Planning Commission approve modifications to the 15 sq. ft. permanent, wall identification sign with external illumination for Burger Fresh, 8121 Chippewa Road, included in the drawing revised as of June 6, 2013 involving the removal of logos from the sign and the modification of the electrical component.

ROLL CALL: Ayes: Phillip Badalamenti, Michael Harwood, Robert Hotaling, Mayor Hruby, Ron Payto,  
Kirk Roman, Dominic Sciria  
Nays: None  
MOTION CARRIED

REGULAR MEETING  
BRECKSVILLE PLANNING COMMISSION  
Community Room - Brecksville City Hall  
June 6, 2013 Page 2

REPORT OF COUNCIL REPRESENTATIVE

Mr. Harwood reported that at their last meeting City Council approved the Weigand Lot Split, the United Methodist Church Shed, Blossom Hill Overlay Zoning, the Cheerworld Conditional Use Permit, and the Katherine Drive Lot Split.

REPORT OF MAYOR HRUBY - No Report

REPORT OF CITY ENGINEER - No Report

The Regular Meeting closed at 8:40 p.m.

THE BRECKSVILLE PLANNING COMMISSION

KIRK ROMAN, CHAIRMAN  
DOMINIC SCIRIA, VICE CHAIRMAN  
PHILLIP BADALAMENTI, SECRETARY

Minutes recorded by Nancy Dimitris

MINUTES OF THE WORK SESSION  
BRECKSVILLE PLANNING COMMISSION  
Community Room - Brecksville City Hall  
June 6, 2013 Page 1

Present: Phillip Badalamenti, Michael Harwood, Robert Hotaling, Mayor Hruby, Ron Payto,  
Kirk Roman, Dominic Sciria  
Others: Neil Brennan, Gerald Wise, and approximately 13 guests

Mr. Roman opened the Work Session at 7:04 p.m.

TONINO'S BISTRO – 8918 BRECKSVILLE ROAD

Mr. Dan Canestraro, Attorney, was present representing the request of Tonino's Bistro for an outdoor patio at the rear of the building to serve food and liquor. The patio would be in the parking area which is City property zoned local business. Mr. Canestraro assured the Commission that he had spoken to their insurance broker and been informed that the City would be covered from any liability related to the patio.

Mr. Jerry Payto of Payto Architects passed out several drawings of the proposed patio, which featured a latticed fence along the parking area and hedge screening from the view of the square. He described how the dimensions of the fence and hedge would both insure privacy yet provide a view of the square. The patio would have diffused, LED lighting.

Mr. Ron Payto recalled when the subject of a patio in the same location came up several years ago there was some controversy regarding the serving of liquor and he wondered if the Law Director had commented on the current request. He thought the purpose of any enclosure around the patio would be to keep the patrons consuming liquor from wandering off the patio. Both Messrs. Payto and Roman thought a hedge would not be an adequate barrier. Mr. Badalamenti thought the large planters along the wall restricted the seating capacity of the patio. Mr. Jerry Payto responded that the owner wanted to keep the area gardenlike and intimate by restricting it to about 24 seats.

Mr. Brennan indicated that the location of the proposed patio is actually on City owned property currently zoned as "Parking District", a classification which does not permit a restaurant use. As such, the location of a patio for that purpose would require a change in zoning to "Local Business", to be consistent with the zoning of the building. Mr. Brennan spoke to the Law Director about the patio, however, and it was Mr. Matty's opinion that under local business zoning all consumption of food and beverage had to be within the building, further complicating the process by which the patio could be approved under the current zoning regulations. In either case, a proposed outdoor area for food and liquor would involve a change of use, which could not be considered by the Board of Zoning Appeals and would require approval by the electorate. The Mayor cited many outdoor patios in the area, including Honey Hut, Sakura, Paneras, Courtyard, Creekside, Burger Fresh, and Austins. He thought outdoor patio seating was good for the City and cited the new tenant in the Red Brick Store as another potential request for outdoor seating.

Mr. Hotaling asked if there would be a contract between the City and the restaurant owner. Mayor Hruby said all the property owners in that area were granted an easement to use the parking lot provided by the City. Mr. Hotaling advised that in order to insure insurance coverage to protect the City there would have to be a contract between the City and the Restaurant. Mr. Badalamenti asked if the situation would be solved by the restaurant annexing the property; however it was pointed out the zoning would not change. The Mayor wondered if the City leasing the space to the restaurant for a nominal amount would make a difference in the liability issue. Mr. Roman agreed that in that case the City could be listed as an additional insured party in a policy. Mr. Hotaling added that the City would need to review any insurance policy to make sure there was adequate coverage, especially concerning the liquor use.

There was a generally positive response to the idea of a patio for the restaurant. Mr. Harwood advised that Mr. Matty, the City's Law Director, would get in touch with Mr. Canestraro to review the legal issues to address before the proposal could move forward for further consideration.

FOGG-BRECKSVILLE DEVELOPMENT RESUBDIVISION NO. 3 – SOUTH EDGERTON ROAD

Mr. Mike Merle was present representing Fogg-Brecksville Development Company's request to vacate a portion of South Edgerton Road, consolidate eight parcels of land, and improve the new South Edgerton Road. At the Commission's request from the May 9<sup>th</sup> meeting a traffic study was being done and due for completion on June 24<sup>th</sup>. Mr. Merle said there were significant Federal tax incentives, totaling about 22% of the project costs, if the road could be completed by December 31, 2013. Working backward from that deadline Mr. Merle said the project would need City Council approval by their August 20<sup>th</sup> meeting, which would mean final approval consider by the Planning Commission at their August 8<sup>th</sup> meeting. Mr. Merle was asking the Planning Commission to schedule a public hearing for its July 11<sup>th</sup> meeting. He wanted the Commission to consider the shortening of the road and replating of the land. If the Commission's view on those issues was favorable, Fogg was willing to assume the risk of undertaking the engineering drawings before the completion of the traffic study. Mr. Merle added that Fogg thought the development of Rambus might draw other similar, R & D business to the area and that was another reason they were pursuing the road at this time.

Mr. Merle indicated that to sell a location for industrial development a road had to be in place. In the land Fogg owns between Snowville and Miller Road they would like to retain a significantly sized parcel for a large user. Earlier drawings show a road running from Snowville to Miller Road that would preclude development of a large parcel for one client. Fogg would like to shorten the road by ending it in a cul-de-sac that would provide the flexibility to enable them to develop the land to its economic potential. He maintained that if the large parcel were developed for one user a connecting drive to Miller Road would be an option. Mr. Merle commented that Fogg was also restricted in what it can do by the alignment of Edgerton Road and the restrictions imposed for crossing the gas easement on the property.

Mr. Payto wondered about the parameters for the traffic study. Mr. Merle expected the traffic study would have to conform to set standards and cover a twenty year period. Questions were raised on why all the traffic was being funneled to West Snowville, when the majority of traffic would be seeking I-77 access, and at what point would West Snowville be overtaxed by traffic from the development. The point was made that if a drive to Miller Road were developed on the land of the large user would traffic from businesses along the street use and overtax that drive. Mr. Payto wondered how much credence should be given to a traffic study when the results were usually favorable to the project employing the study.

The Mayor wondered if the road were put in would it end the use of the land for grazing by the horse farm. Mr. Merle thought that under the cul-de-sac plan 95% of the grazing land would remain intact and they should be able to continue their agreement for the time being with the horse farm.

Mr. Wise commented he was missing submittals and had only conceptual plans to analyze. He needed to see a traffic study, as would the safety forces. Mr. Merle assured Mr. Wise that if the project moved forward he would comply with the issues mentioned in Mr. Wise's June 4, 2013 letter to Mr. Brennan and all City standards. It was determined that the road was not a dedicated right-of-way so no process to undedicate the road would be required.

Mr. Sciria questioned the wisdom of scheduling a public hearing before any of the customary submittals were made for the Commission's review. He didn't see how the Commission could give support to a project without the submittals every other applicant was required to make. Mr. Sciria pointed out that Fogg was a well-established and experienced company in the City and they were well aware of the City's planning and approval process. He noted they should have started months ago in the submittal process. He didn't like transferring the Commission's review responsibilities to the City Engineer, Safety Forces, Law Director or others because of missing submittals.

Mr. Merle maintained that preliminary engineering and a topo were submitted at the May 9<sup>th</sup> meeting and they were just missing utility easements and covenants. Mr. Wise had not reviewed the engineering in the initial submittal. He looked at the plat and it did not reflect their intentions. He viewed the submittal as only conceptual. Mr. Merle suggested that the public hearing could be delayed until the Commission's August 8<sup>th</sup> meeting; however they would need both preliminary and final approval at that meeting. He realized that assumed the submission of all the required materials.

MINUTES OF THE WORK SESSION  
BRECKSVILLE PLANNING COMMISSION  
Community Room - Brecksville City Hall  
June 6, 2013 Page 3

Mr. Harwood remarked that Mr. Merle said if a large company located there a driveway to Miller Road might be developed. He also reminded the Commission that at the May 9<sup>th</sup> meeting Mr. Merle committed to Fogg tearing out the road and making it right if it didn't work for the development. Mr. Merle suggested the Commission could consider the cul-de-sac plan a Phase 1, and if there were issues that required a change it would be another phase

Mr. Brennan noted that Fogg would be doing the same initial engineering work up to a point whether there was a cul-de-sac or the road went through to Miller. If the traffic study came back with negative results on a cul-de-sac then the engineering would probably be done to run the road through the Miller Road. The comment was made that there seemed to be little risk to Fogg on beginning the engineering work. Mr. Merle expected to have the traffic study results and other required submittals for the July 11<sup>th</sup> meeting.

The Work Session closed at 8:40 p.m.

THE BRECKSVILLE PLANNING COMMISSION

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