



Village of South Russell

5205 Chillicothe Road
South Russell, Ohio 44022
440-338-6700

PLANNING COMMISSION MEETING Record of Proceedings February 11, 2021 at 7:30PM

Members Present: Steve Latkovic, Chairman, James Flaiz, Dennis Galicki, Mayor William Koons, Ph.D., Elisa Budoff

Other Officials: Bridey Matheney – Solicitor, Dave Hocevar, Building Official, Ruth Griswold, Board Secretary

Visitors: Jay Butler of Chagrin Valley Times, Christopher Woofter, Director of Operations for Chagrin Falls Schools, Dawn Marie and Roger Pahorskey, Catherine Hattenbach, Stephen Peplin, Chris Berger, Jerry Canton, Laura Springle, Greg Heilman

Meeting called to order by the Mr. Latkovic at 7:30p.m.

Ruth Griswold conducted roll call.

Mr. Flaiz motioned to approve the minutes from January 14, 2021. Mayor Koons seconded. On roll call vote, motion carried unanimously.

AGENDA ITEM 1: CASE# 21-PC-02: MR. ZACHARY MUCKLE, APPLICANT-PROPOSED INSTALLATION OF BAT BOXES AT GURNEY SCHOOL ATHLETIC FIELD

Mr. Latkovic welcomed Zachary Muckle and asked him to summarize his proposal before the board. Mr. Muckle introduced himself as a Boy Scout from Troop 241, and a Junior at Chagrin Falls High School. For his Eagle Scout project, he is interested in obtaining permission to install four bat boxes around the perimeter of the Gurney soccer fields. He said the reason for bat boxes is that bats are a natural predator to most insects, and that they are a safe alternative to using pesticides around people. He said they eat flies, mosquitoes and other bothersome insects, and that they are also useful for a healthy ecosystem. By building these bat boxes, he hopes to reduce the number of insects in that area and benefit the ecosystem greatly.

Mr. Latkovic asked if bats are native to the area, or would he be relocating them. Mr. Muckle responded that the bats are native to northeast Ohio, and that brown bats can be found in attics, or most commonly in dead trees.

Mr. Latkovic referred to the map that Mr. Muckle provided, showing where the four bat boxes would be located. Mr. Muckle indicated that they would be spread out evenly around the perimeter of the field.

Mr. Flaiz said he wanted to make a motion to waive the fee for this project. Mr. Latkovic seconded, and said that statement would be included in the approval.

Mr. Latkovic then addressed Mr. Woofter and asked him to speak about the proposed bat boxes. Mr. Woofter thanked the board for convening and went on to say that Zach has worked very hard on this project and is learning a lot about project management as well as bats. He said Zach has reached out to the administration and teachers at the school, since bats are something that are studied as a part of mammals and biology in some grades. They think it would be a nice thing to tie into the curriculum. He also said that Zach has gone to great lengths to track down the Ohio Department of Natural Resources bat expert and has talked with her on the phone a couple of times. This expert has also reviewed the project and has provided some email resources for the students. He said they even discussed the possibility of the expert coming out and showing students how to count the number of bats that are roosting, maybe next fall. He said he is very proud of the work Zach has been doing and the district thinks that it is a very good project for an Eagle Scout to do for them.

Mr. Latkovic asked Mr. Woofter what his role in the school district is. Mr. Woofter stated he is Director of Operations and Strategic Initiatives. He said he also works together with Boy Scouts that are working towards obtaining their Eagle Scout status. Mr. Woofter confirmed that the Board received a letter of support from Dr. Hunt, of the Board of Education. Mr. Latkovic responded yes; they are in receipt of that letter.

Mayor Koons asked Mr. Muckle to repeat his Troop Number; Mr. Muckle said he is from Troop 241, and that they are based out of St. Joan of Arc Church. Mayor Koons asked how high off the ground the bat boxes would be. Mr. Muckle said the mountings for the bat boxes are recommended to be on a post at least 10' off the ground, to protect the bats from predators.

Ms. Budoff asked if Mr. Muckle was expecting the bats to naturally discover the boxes, or did he obtain advice from the ODNR as to how to coax them in there. Mr. Muckle said the bats will, over the course of about a year, naturally find the bat houses. They cannot really be incentivized to roost there. Ms. Budoff asked how many bats he anticipates will find the area. Mr. Muckle said the ODNR expert said they would expect to have no more than a few hundred bats total, and they are about 2" to 3" in size. Ms. Budoff said she thinks it's a great idea and mentioned a bridge in Austin Texas where bats naturally sleep, and there is a somewhat of a night show when they come out at dusk and fly around. Mr. Latkovic said that was a lot more bats than he thought would find the boxes, even given their small size. Ms. Budoff said they are about the size of a big sparrow.

Mayor Koons mentioned another Eagle Scout as well as a number of Girl Scouts that he knows of, who are also interested in installing bat houses as part of their respective projects.

Mr. Latkovic made a motion to approve the bat boxes as presented, together with the waiver of any of the application fees that would otherwise typically be charged by the Planning Commission. Mr. Galicki seconded.

On roll call vote, motion carried unanimously.

Mr. Latkovic wished Mr. Muckle good luck with his project and asked when he planned on installing the boxes. Mr. Muckle said he was hoping to build the boxes within the next month or so, and mount them in the spring once the ground has thawed.

Mr. Flaiz said he wanted to mention that the Planning Commission sees many professional architects, builders and developers who do not present as detailed plans as Mr. Muckle has. He said he is very impressed with his submittal and thanked him for his presentation. Mr. Muckle thanked the board.

AGENDA ITEM 2: CASE # 21-PC-03: 5210 CHILLICOTHE ROAD, UNIT D-MICHAEL CIPRIANI-OWNER AND APPLICANT-PROPOSED NEW TENANT- “PREVIOUSLY ADORNED”

Mr. Latkovic welcomed Mr. Cipriani and asked him to introduce the new business. Mr. Cipriani then introduced Dawn Marie Pahorskey, the business owner of Previously Adorned, and asked her to tell the board about her business. Ms. Pahorskey and her husband Roger were both in attendance. Ms. Pahorskey said she came across the shopping center a couple months ago, when she was looking to reopen her business. She had been looking for about six and a half years for the right spot, and this site ultimately fell into place for her. She said she’s been in the bridal business since she was 16 years old, and she will be turning 50 next month. She has owned two stores, one in Richmond Heights and one in Lyndhurst, and has also co-owned a shop in Maryland. She described her current shop as having a different spin, since it is couture consignment, in addition to offering special coordination of all events; bridal showers, baby showers, graduations, etc., along with all the décor rentals as well. She said her shop is not the traditional bridal shop because they offer so many different services, and she is looking forward to seeing how it will all unfold. She said her family is newer to the Chagrin area, having moved here six years ago.

Mr. Latkovic asked board members for comments or questions. Mr. Flaiz asked for confirmation as to where the shop would be situated in the plaza. Mr. Cipriani clarified that Previously Adorned would be right in between the existing Hair World and the new Hair World. Ms. Budoff asked if this would be where the former veterinarian clinic was, Mr. Cipriani said that is correct. Ms. Budoff asked Ms. Pahorskey if the shop would be for consignment or donation; Ms. Pahorskey responded that it would be a consignment shop. She went on to say she is very excited about how the shopping plaza is set up. Having Augie’s for the catering side, the styling piece coming from Hair World, as well as Sal’s Beverage, present a lot of dynamics so the businesses can help each other. She said she’s hoping Sleepy Rooster can also eventually offer catered events, showers and such. Ultimately it is such a good fit, with every business helping each other through the process.

Mr. Latkovic asked what the store hours would be. Ms. Pahorskey said generally the store hours would be 11-6, and closed on Wednesdays and Sundays, since those are the days she devotes to looking at event spaces with brides. When she is hosting special events, the store would be closed but that information will be on her website.

Mayor Koons made a motion to approve the application for Previously Adorned. Ms. Budoff seconded. On roll call vote, motion carried unanimously.

Mr. Latkovic congratulated Ms. Pahorskey, wished her success and welcomed her to the South Russell business community. He told Mr. Cipriani that the center looks great, and he hopes to see it continue to flourish. Ms. Pahorskey thanked the board and expressed appreciation, and said she is looking forward to getting things moving.

AGENDA ITEM 3: CASE #21-PC-04: MR. NICHOLAS MARINO, SURVEYOR, APPLICANT, OWNER’S REPRESENTATIVE-PROPOSED LOT SPLIT AND CONSOLIDATION

The property owners, Ms. Catherine Hattenbach and Mr. Stephen Peplin, were also present at the meeting. Mr. Latkovic asked Mr. Peplin to walk them through what the proposal is. Mr. Peplin explained that the original lot that they were on, 500 Laurelbrook, which is Cathy’s grandmother’s house, was like a square that had a 45°

corner missing. That's one piece-buying that little ½ acre triangle from Jared James of 600 Bell. A screen share showed the color-coded proposal. Mr. Peplin went on to say that this triangle is not even contiguous to Jared's property, it's behind his neighbor's property and only the point of the triangle touches his property, so it didn't mean anything to him. Mr. Peplin said then 22 Forest became available, which is a regular 1-acre square lot, right behind their house. And there's another parcel right next to that, then there's a third parcel, which is right behind their house. There is another parcel next to it, and then there is a third parcel that are the woods behind their house. Mr. Peplin said his fear was that this could get sold, the house get demolished, and all the woods knocked down and someone would put up a McMansion with a swing set right next to their swimming pool. Therefore, he said he is making a defensive move; he is not a developer, he wants to preserve the area. He went on to say that he did not want the house at 22 Forest, just the land. He has a friend who wants the house but not the land. The third piece, he said there is a really odd property line between 22 Forest and the lot immediately south. The weird angle of the lot has that front yard owned by 22 Forest. They are proposing a land swap so as to have those property lines make more sense. He said it was a fluke of the development. Ms. Hattenbach said that 22 Forest cuts right into the front yard since the line is at an angle. Ms. Budoff asked for clarification on which color represents their house. Ms. Hattenbach said it was the red color with the white house on it.

Mr. Flaiz said the initial submittal was somewhat confusing, and he appreciates the color coding of the different lots. He said he doesn't really have an issue with it, but he is concerned about creating a flag lot. He said he is more worried that if this was ever split in the future, it would create a flag lot off of Forest, which is something that is not supposed to be done. He noted the access to Forest, and asked Mr. Peplin why he left that access, and if he would ever build back there. Mr. Peplin said he has some ideas, who knows if they'll ever follow through on anything, but to maybe put up a pool house, or man cave, a barn or a garage expansion. He said the access to Forest could possibly have a driveway going out that way. Mr. Peplin said his original plan was to give the buyer of 22 Forest a half-acre and he would keep the whole acre to the right, but then he found out there is a one acre minimum, so he had to give her more land than she wanted. Mr. Flaiz noted that the 50' rear setback is preserved. He then asked Ms. Matheney if they could put a condition on the approval that the Forest lot can't be split off and create a flag lot. Ms. Matheney said yes you could put that condition on it, and she knows that flag lots are not looked upon favorably. Ms. Matheney then brought up her concerns, after talking to Dave Hocesvar, about the possible requirement to amend two plats, since two separate, platted subdivisions exist in this area. Mr. Flaiz said he and Dave had spoken about this as well, and that he looked through the subdivision regulations in the current zoning and because these were platted before our current ones, he didn't see anything in there that he thought would be a problem. Ms. Matheney asked if he thought we would have to amend those plats. Mr. Flaiz then asked what neighborhood it would be a part of.

Mr. Latkovic asked if the approval by the board wouldn't be considered an amendment of the plats; they have a lot split and consolidation agreement. He asked if there is a separate plat amendment process. Mr. Flaiz said there is a plat map that they submit to the County Planning Commission when a subdivision is platted. Mr. Latkovic asked if they were saying that this is not the appropriate way to amend two different plats at the same time. Ms. Matheney said she did not know, and asked Mr. Peplin if he had reached out to the County Planning Commission, or the County Engineer. She said with the lots being in two subdivisions, after the consolidation, which subdivision would the consolidated lot become a part of. Mr. Flaiz said that is a good point. Ms. Budoff said she would presume it would be the subdivision that you live in. Ms. Matheney said that might be a fair assumption, she just does not know.

Mr. Latkovic asked what the potential problems or consequences would be to the homeowners if they are approved by the Planning Commission and there had to be some other action at the County level. Mr. Flaiz said one of the reasons you want to keep things in their separately platted subdivisions is that there are different deed restrictions. Some questions that may arise; there is now a combined lot with frontage on Laurelbrook, what if they don't allow accessory structures exceeding so many square feet in their deed restrictions, but Rolling Ridge does; can they build a man cave/barn over there. Ms. Budoff asked if the HOA has approved this as well. Mr. Peplin said the HOA is inactive. Ms. Budoff and Mr. Flaiz commented that their respective HOAs would be

very interested in something like this.. Mr. Flaiz said also, with a platted subdivision, you have a density. And if you take land out of the platted subdivision, you are affecting the original density of the subdivision.

Mr. Latkovic said he is fine with the proposal and doesn't know if other Planning Commission members have questions or potential issues with it. He addressed Steve and Cathy and suggested that in order to avoid coming back before the Planning Commission, they may want to look into it at the County level if any plat amendments are required. He asked if any surveyors had investigated this.

Mr. Marino of Marino Surveying said he spoke with Maria Palmisano of the Geauga County Planning Commission and asked her if there were any red flags. He said she told him it was pretty much whatever South Russell wanted to do. She also said she does not need to see it or approve it, so he then proceeded to submit the survey to Geauga County so their surveyor and his assistant would look at it and catch any typos or see any necessary revisions. He said it is also pertinent that there were sublots in each subdivision that are not the original subplot, one of them being the house that Steve and Cathy live in now. It is part of subplot 14 because they changed some property lines in the past. The same goes for the house at 22 Forest, and the vacant lot next to it, which is part of this. Also Justice O'Neil's house, which is the next one north; those are all part of the sublots. He said that both of these subdivisions have been chopped up a bit in the past, and nothing was done about it, probably because it did not create any issues or no one raised any concerns when this happened. He went on to say that in the past, through Geauga County, if you were changing the property line by the subplot, you would have to vacate the subplot. It was then a process that you had to go through to vacate the subplot from the subdivision, and they don't do that anymore. Basically, he gave Geauga County what they needed, indicating it did not violate any zoning as far as minimum acreage, setbacks or side yards. As for the issue of which subdivision it is in, one or both, he said he doesn't know what to do about that. He gave the example of some properties that are in both Geauga and Lake counties with the line running through the house. He does not think this would create issues with any subdivisions. He said he walked the lines with the neighbors involved and everyone is happy with the proposed changes.

Mr. Flaiz pointed out that regarding the plat, even though we are a municipality, any lot split is submitted to County Planning Commission, so if they have a problem with the plat, it would be up to them to reject it. Ms. Matheney agreed. Mr. Flaiz then spoke to the issue regarding the importance of HOAs being made aware of lot splits or removing a lot from a subdivision. He asked Mr. Peplin if they had approached Rolling Ridge HOA for consent. Mr. Peplin said he did not know anything about that, they have lived there for 14 years and never knew it existed. There was some question and discussion as to whether or not Rolling Ridge was an active HOA. Ms. Hattenbach said they do pay \$75.00 per year. Ms. Budoff said they should check with them, because in Lake Louise if you build on a lot now, you have to pay association dues going all the way back to when the subdivision was incorporated. She said it would be a good idea to check with them, in case you have to pay any fees to take property outside of their domain. She went on to say that she thinks it is a great plan, and she likes it a lot.

Mr. Latkovic asked Mr. Peplin and Ms. Hattenbach if they had already purchased all the land, to which they responded yes. He then said usually an HOA will reach out to the owners when there is a deed transfer and asked them if they had been contacted. Mr. Peplin said received something and he gave the document to his tenant. Mr. Flaiz asked if the lot would be dues exempt. Mr. Peplin said that was a good question; he was not sure. Mr. Flaiz said he thinks this is a great plan, and his only hesitation is that the HOA is not aware of it. He thinks splitting a lot in an HOA without their knowledge is problematic to him, but other than that he thinks it's great.

Mayor Koons asked Ms. Matheney if they could make a motion to approve pending HOA approval or should this be tabled until the next meeting. Ms. Matheney said it is whatever the commission feels comfortable doing.

Mr. Latkovic said although he understands Mr. Flaiz's concern about removing a buildable from a subdivision, he feels that it has been vacant for so long that it should not be an issue. Ms. Budoff said she liked the mayor's

idea. Mr. Latkovic said it's not that the HOA shouldn't know, it's whether it's appropriate for Planning Commission to hinge their approval on something from a private HOA. He said that is his concern, that it puts a lot of power into the HOA, and they might not have the right to approve this anyway.

Ms. Budoff asked Ms. Matheny if Planning Commission should approve this and the HOA gets wind of it and has a problem, would they be able to come back to the Planning Commission with the issue, or is that a private matter between the landowners and the HOA. Ms. Matheny said it probably would not come back to the Planning Commission, although by discussing it now they are putting everybody on notice. Mr. Flaiz said if the HOA came in and raised a valid objection, even though he thinks it's great, he would take into significant consideration the opinion of the HOA and vote no on it. Ms. Budoff agreed with Mr. Flaiz.

Mr. Flaiz said he would also hate to approve it conditional on their approval, if the HOA were at the meeting to weigh in, it would be beneficial. Mr. Latkovic asked the owners if they knew who ran the HOA, Mr. Peplin said they did not; but they did receive a directory that he gave to the tenant.

Ms. Budoff asked Mayor Koons if there was an association list for the subdivisions that have HOAs in the Village. He said we do not have a list, but that he is trying to contact a friend in the Rolling Ridge HOA to find out some information.

Mr. Flaiz asked Ms. Matheny if the board could approve it conditioned upon the HOA raising an objection within 30 days. Ms. Matheny said they could do that.

Mr. Latkovic said he would just approve it tonight, however, depending on how all the members feel, that option is better than having it tabled or denied. Mr. Latkovic asked members to weigh in.

Mr. Galicki said he feels comfortable with the conditional approval as last discussed, but to Jim's point, it sure would have been nice to have someone present from the HOA to weigh in on this.

Mayor Koons said he would make a motion to approve, conditional on HOA approval, and within the next month we find out of there is an HOA and if they approve or not.

Ms. Matheny asked if that would be on the Village, or the applicant, to reach out to the HOA. Mr. Flaiz said he thinks the Village should notify the HOA and find out if they have an objection. He also said if the HOA disagrees with it, then they should come to the next Planning Commission meeting to be heard.

Discussion followed about how to conditionally approve the submittal.

Mr. Flaiz made a motion to approve the submittal with the condition that if the HOA objects prior to March 9, 2021, the Planning Commission will then hear their objections and make a final decision at the meeting on March 11, 2021. Mr. Latkovic seconded.

Mr. Latkovic asked the owners if they understood the motion. Mr. Peplin said yes, he understands and if the HOA doesn't want to approve it, he still owns the land; it's just a really zig-zagged cut up mess and was even more so before they straightened out the corners. He said his fear is that someone with a little bit of power may impact his proposal. Ms. Budoff said their by-laws should detail how they would handle it, they can't just make things up. She said they will know they have a 30-day condition, and they would have to call the HOA together in order to make any changes. Mr. Flaiz said that Chagrin Lakes has by-laws that do not allow their lots to be sub-divided, and it is in the deed restrictions.

Mr. Latkovic asked Mr. Marino if he had looked at this aspect at all. Mr. Marino said he did not even give a thought to an HOA; it's a one-page platted subdivision from the 50s and he had no indication that it would be a problem. Mr. Latkovic confirmed that the lot was platted in the 50s and has been vacant all along. Mr. Latkovic feels that Mr. O'Neil will probably be quite happy that there is no longer a buildable lot next to him.

On roll call vote, motion carried unanimously.

Mr. Peplin asked if he should try and contact the HOA. Mr. Flaiz said that should be on the Village. Ruth Griswold will contact the HOA regarding this issue.

Mr. Latkovic took a short break before proceeding with old business.

Mr. Latkovic said regarding the solicitor's audit, although it had been touched on last time, the board decided to take a step back and not really discuss much until there was time to go through the report. Within each of the 19 items, there was something that caught Bridey's attention, some gray areas, some not so gray, and he would like to go through the items one at a time. If there is something that they could retroactively approve, they should do that. As for the fees that were not charged, it is probably unlikely that we would go back and collect them now. This is as much about cleaning up the records as it is about understanding what happened. If the Mayor can contribute that would be great, and we'll talk about what to do with each one of these, and throughout the process maybe come up with steps forward. Mr. Latkovic recognized a couple members of the Building Committee present, he said he appreciates them joining. He said it's important to allow the Planning Commission to get through these items and have their discussion. He said he's sure they'll have thoughts, but given that this is the first opportunity, after a high-level overview, to have the Planning Commission talk about this, he asks that the building committee members just listen for the time being.

Mr. Latkovic said he will start in order from oldest to most recent.

The first item: The ATM at Citizen's Bank, Permit #3022 at 1194 Bell Road. The fee was not paid, the application could not be located. They did appear before Planning Commission.

Mr. Flaiz said he knew they were going to go through the items in order, but that he has one over-arching issue with that area. He went on to say that he is partially at fault with this. Obviously, Augie's has been there since that plaza was built. He said he was talking to Dave about when Sleepy Rooster went in, they didn't discuss the fact that restaurants are not a permitted use over there. He understands that Augie's has existed for a long time and that there was a lawsuit that allowed the shopping center to go in. But we let Sleepy Rooster in and it's not a permitted use. It's not even a listed conditional use for B-2. B-2 is Residential, Offices or Personal Services. Sal's doesn't fit into Personal Services, Augie's doesn't and Sleepy Rooster technically wouldn't. He originally thought they should grant a Conditional Use permit, because Augie's is expanding, so it's arguably back on the table. He said maybe we could grant a Conditional Use permit to Sleepy Rooster. He said what he does not want to see happen is the restaurant changing hands, becoming a biker bar and maybe staying open to 2:30am and serving alcohol. He said he was thinking they should change the zoning for just the strip shopping center from B-2 to B-1. B-1 allows Residential, Offices, Retail and Personal Services. We could then issue Conditional Use permits for the two restaurants and have some control over that. He said we are not following the B-2 zoning at all at the strip center, so instead of trying to put the genie back in the bottle, we should allow retail and issue Conditional Use permits for the restaurants. These are just his thoughts, that we could rezone just that parcel to B-1. Ms. Matheney said you could definitely do that as an amendment to the zoning code. She said another way would be to have them go before the BZA to get variances. Mr. Latkovic said, to Jim's point, it doesn't fix the issue at hand if there's actually two restaurants there, one might be okay, and one clearly didn't get any approvals at all. He said he thinks Jim's idea is a good one. Mr. Flaiz said they approved Sleepy Rooster; that it should have been caught but it made it through all the fail safes. Technically it should not have been approved, but it would also be unfair to bring the people back to the board. He asked if we should allow Retail and Conditional Use restaurants in the shopping plaza, and that's the issue for Planning Commission. Mr. Latkovic said he believes that is an appropriate place to put that, and to Jim's point, he agreed that while Sleepy Rooster is great, a Panini's may not be the right fit. Mr. Flaiz went on to say that with a Conditional Use, they could regulate hours, outdoor music, etc. Mr. Latkovic said that everyone over there is grandfathered in, but if it was rezoned, and the restaurant changes hands, they would be subject to the new zoning. Mr. Flaiz said that by changing it to a B-1, then they could approve, without appearance, a Conditional Use for Augie's because they're expanding. They could then issue a Conditional Use Permit to Sleepy Rooster, and if the restaurant ever

changes hands, or if somebody want to put a different restaurant in there, the Planning Commission has the ability to have some limitations on it.

Mr. Latkovic said this discussion, as part of the process that we are going through, is a great example of having a checklist when things come before the Village. If that had been in place, the issue at hand would have been picked up. Ms. Matheney asked if they were looking to rezone just that one parcel, or to change the whole district from a B-2 to a B-1. Mr. Flaiz said just the one parcel. Ms. Matheney cautioned against having spot-zoning. Mr. Latkovic asked about the district size, and members referred to a zoning map. Mr. Flaiz said the district covers the Village property, the Art Studio, all the way to the cemetery, and then it goes down to the Leachman building and the orthodontist, then it goes to the other quadrant with the barn and the dentist office. The other side is the gas station, the medical building and the daycare. He went on to say there is that odd B-4 vacant parcel. Ms. Budoff said the gas station is also retail and they sell food and questioned if they are zoned properly. Ms. Matheney said they were subject to a judgment entry. Mr. Flaiz said the gas station would not be an allowed use under B-2 but that he thought it was grandfathered in under Conditional Use and then it got transferred. He recalled that the Village was going to terminate it when the BP closed, but they didn't. Ms. Matheney asked for Dave's thoughts on this, but Mr. Hocevar was no longer in attendance. She went on to say that the Agreed Judgment Entry from 2016 does have certain conditions. Mr. Flaiz recalled the gas station coming before the Planning Commission and they granted them a Conditional Use and set guidelines. Ms. Matheney said there was then litigation. Mr. Latkovic recalled the Planning Commission denied it and then there was the lawsuit. Ms. Matheney said she could send the 2016 Agreed Judgment Entry, outlining things like landscaping, hours of operation, etc. but she did not see anything regarding signage, which she said is a whole other issue and can be talked about later. She said to her, that means the regular zoning code would still apply. She said it may have been granted a Conditional Use at some point, but that there is a whole other layer on top of that with the AJE that needs to be considered.

Mr. Latkovic said since there is a lot to cover tonight, and he'd like to take this up at another meeting as part of a broader solution, after gaining an understanding of what they could change and what they want to change. In looking at the zoning map, there are two areas that are zoned B-2, and he feels it would be odd to just slice the one parcel out of the map and change it to a B-1. He said maybe before the next meeting, Ms. Matheney could look into rezoning just a parcel, and provide more clarity as to what happened with the gas station, so the board could address it.

Ms. Budoff inquired as to the status on the sign issue at the Bell station. Ms. Matheney said a violation letter has been sent to the owner regarding the sign, and that they must come before the Planning Commission and BZA, since they need a variance for the rolling electronic sign. Ms. Griswold confirmed that they have ten days to respond to the violation notice.

Mr. Latkovic returned to the audit and the issue of the **ATM at Citizen's Bank, 1194 Bell Road**, stating that it seems to be a record keeping issue, indicating they came before Planning Commission and were approved. He said better record keeping is needed. Mr. Flaiz agreed that it was not an issue from their standpoint, having seen them before the Planning Commission a number of times.

Mr. Latkovic said he would keep going through the audit items one at a time.

The next issue was concerning a fee for the outdoor classroom at **1155 Bell Road, Gurney School**. Mr. Flaiz recalled them coming before Planning Commission and getting approval. Ms. Matheney said the issue was that the fees were waived. She went on to point out that sometimes with schools, while they are not exempt from zoning, they have to show reasonable efforts to comply with zoning. The issue was that Dave Hocevar waived the fees, instead of Planning Commission doing so, as was done earlier tonight for the Eagle Scout. **Mr. Flaiz motioned to waive the fees for the Gurney School classroom. Mr. Latkovic seconded. Motion passed unanimously.**

It was decided to go through the items individually and vote on each one. Mr. Flaiz suggested rather than having a roll call after each vote, having members say aye or nay. After checking with Ms. Matheney if that would be procedurally correct, for Mr. Latkovic agreed.

The next issue was **5210 Chillicothe Road, The Vapor Dashery**. Mr. Flaiz recalled them withdrawing their application before the meeting, and asked Ms. Matheney what the problem with this one was. Ms. Matheney said there is not necessarily a problem, she just pulled everything and did an analysis of everything that was pulled. Mr. Latkovic said the issue with this one is that the computer-generated receipt shows \$500.00, but the zoning receipt shows that \$400.00 was refunded. Mr. Flaiz said he thinks it's obvious that the bookkeeping was a disaster. Any fees being waived should be waived by the Planning Commission, but accounting issues outside of that should be addressed by council. Mr. Latkovic said with the fee being refunded and not waived, no action needed to be taken on this one.

The next issue was **Muvel at 524 East Washington**. This is a gray area as to if this should have come before Planning Commission for the storefront sign when they changed from Cultivate. Mr. Flaiz asked Ms. Matheney to confirm that the only signs that should come before Planning Commission in the commercial district would be ground signs. Ms. Matheney referred to Section 3.04, and said if it is an enlargement or an erection of a structure, and if it's not just a change of occupancy, it pretty much sounds like it should come to Planning Commission. She said there is no exception in the code that would allow for only ground signs and not wall signs. You could look at the word and say, what is a "**structure**". A sign is definitely included, and it would take a definite amendment to the zoning code to make that clearer. She went on to say that the Muvel sign is the exact same font and size as the original sign so maybe it wasn't an enlargement of a sign. Mr. Latkovic asked, if Planning Commission didn't review the sign, who would. Ms. Matheney said she thought the ARB reviews all signs, but she is not sure if this went to ARB and mentioned that it would be helpful if Dave Hocevar was present to ask. Mayor Koons said he does not recall it going before ARB, but that he would check. Mr. Latkovic said from his perspective, if the ARB is reviewing these types of things, he wouldn't think it should come before Planning Commission. Mr. Flaiz said that historically, the Planning Commission reviewed ground and monument signs for businesses, because they have to look at traffic flow. He went on to say that he doesn't ever remember the Planning Commission reviewing a wall sign, as ARB reviews the signs and looks at their specific guidelines for a sign from an architectural standpoint, whereas Planning Commission looks at slightly different things. Ms. Matheney gave the example of the rolling electronic sign at the Bell Station, which is technically a wall sign but they are not at all permitted in the Village. She said they have to appear before BZA for a variance, and ARB, and she also thinks they should also come before the Planning Commission. Mr. Latkovic said there has to be some clarity brought to the issue of signage in the Village. He said the Village wants to attract good businesses, and one of the things that is frustrating when you are starting a business is the paperwork involved. He said he is able to look at it from a different perspective due to the fact that he is both a landlord and a tenant, and he finds it confusing. He feels it makes little sense why Planning Commission may review one type of sign because it's structural, or has to do with the road, and then not another sign because it's just aesthetics. He feels it should be reviewed broadly across the Village, from an ordinance perspective. Ms. Matheney said the Bell Rd sign went before ARB, so it did go through one process with the Village. Mr. Flaiz said that he thought the Bell Rd station was operating under a Conditional Use, and if that were the case, the wall signs would come before the Planning Commission. Mr. Latkovic said, at least for the Muvel sign, it was fine that they did not appear before the Planning Commission.

The next issue was **Reset Lounge at 530 East Washington**, and the problem is that no application was found, and fees appear miscalculated. Mr. Flaiz recalled approving the **Reset Lounge**. Mr. Latkovic noted it was another records issue.

The next issue was **477 Industrial Parkway (513 E Washington)** which was an application for a new sign. This did not appear before Planning Commission, and Ms. Matheney said since this is an erection of a new sign and arguably an extension of an existing sign in the business district, per Section 3.04 this would require

developmental review from the Planning Commission. Mr. Flaiz said they should have come before Planning Commission, but that they shouldn't be made to come before them after the fact and asked Ms. Matheney if they should be approving something like this, or just let it go. Ms. Matheney said the cleanest process would be to approve it, unless somebody had objections. Mr. Flaiz indicated he would like to see a picture of the sign. Mr. Latkovic said he wished Dave hadn't left, so he could better understand why it was only sent to BZA and not to Planning Commission.

Mr. Galicki asked if much of this discussion was really kind of pointless without the zoning official present. Mr. Latkovic asked why Dave left. Mayor Koons said he wasn't sure the audit was going to be gone through and that the Building Committee would represent the Village instead of Dave or another employee. Mr. Galicki said that unfortunately, the Building Committee is not the zoning expert. Mr. Latkovic noted that Dave is the one who signed the form. Discussion followed about why Dave was permitted to leave when it had been made clear that the audit was going to be addressed. Mayor Koons said that he did not go over the audit with Dave and that they were not prepared to answer these questions tonight. Mr. Flaiz commented that this has nothing to do with the Building Committee, and that the Planning Commission is willing to go through all of these issues and fix all the mistakes, which they are happy to do, but there is no point in doing that without Dave present to answer questions.

Mr. Latkovic expressed frustration and said that this is a Planning Commission issue, they are dealing with their own applications, and that as far as he was concerned, the Building Committee did not sign or approve any applications. If the Building Committee wants to fix processes based on what Planning Commission decides, that's fine. He said he was very disappointed that Dave was sent home, and asked Mayor Koons how he proposes moving forward.

Mayor Koons said the thought was to have the Building Committee go through all nineteen items and come up with a response for each one. He said the Building Committee, Dave and himself had planned to come tonight and be a part of this discussion. Mayor Koons said he thought the Building Committee was not to be included tonight. Ms. Matheney said this is a special meeting of the Building Committee and the Planning Commission, and she thought there was going to be an actual discussion with them tonight. She said Mr. Berger made the request to Danielle to Sunshine it as such. Ms. Matheney said she does not recommend it be delayed to another meeting, since we are here and ready to go through this. Mr. Flaiz expressed astonishment that the Mayor purposely made the zoning inspector unavailable tonight. He went on to question why the Mayor seems to have made this into an adversarial process, where the Village is represented by two members of council, who he picked for the committee, and by himself who is a member of the Planning Commission. He said he doesn't care what the Mayor or the Building Committee has to say about zoning opinions; the solicitor gave the legal opinion for the Village, so what type of response is he talking about.

Mayor Koons said that the Building Committee, the zoning inspector and himself were going to get together and go through each item individually and present the findings to the Planning Commission. Mayor Koons said that the last email he was aware of between Chris Berger and Steve Latkovic, was that the special meeting was cancelled.

Mr. Flaiz asked Ms. Matheney to clarify the difference between a special committee meeting and a special council meeting, since members of the committees are all on council as well. She said if there were four council members, then it would be a special council meeting. She said this has gone back and forth as to whether or not this would be a special meeting of the Building Committee or a joint meeting of the Building Committee and the Planning Commission. It was decided that since the Building Committee would be present to discuss the Planning Commission audit during the regular meeting of the Planning Commission, the cleanest way to present this was to have it as a special meeting of both the Building Committee and the Planning Commission. She said she believes a request was made by the building chair to Danielle.

Mr. Latkovic said his objective from the beginning was to try to get to a place where we could find a path forward, and to do that we needed some answers, He said he met with the Mayor and was told they would be working on this, but that didn't include having a formal Building Committee report. He said, since the Planning Commission was looking to the Mayor and Dave to try and explain what happened in certain instances, and how we could move forward, if the Mayor was not prepared to do that, it would have been nice to know that before the meeting. He said there were emails between him and Chris where he clearly said he did not want a joint meeting but welcomed the Building Committee to attend. He said he was looking forward to their comments after the Planning Commission went through the items, but clearly, without Dave present, the whole thing is thrown up in the air. He said that, whether he intended to or not, the Mayor has created an atmosphere that feels hostile and adversarial, and it just seems like something is trying to be hidden. He said that open communication about preparedness would have been good. He said he agrees there is no point in continuing to go through things without Dave present.

Mr. Flaiz said that the Planning Commission is willing to approve items retroactively to bail the Village out from their giant screw up due to mismanagement, for at least two years, of the Building and Zoning Department which is ultimately 100% on the Mayor, but to have the Mayor hide Dave from them so they can't even ask him questions just makes it all a complete waste of time. He suggested delaying yet another month.

Mr. Latkovic said he recognizes that Dave is doing something that he does not have to do, and that fact is not lost on him. The fact that he approves some sign without it going Planning Commission, that's fine. He said Dave has called him at least twice since this process started for his thoughts on sending something to the Planning Commission. He's trying to make sure he's doing the right thing. He said he truly appreciates Dave still being involved with the Village.

Mr. Flaiz said that Dave has done more for this Village than anybody who has been on council, including himself, or is serving on council now, and that he has done a ton of great things for the Village. He said all his support was stripped away from him, and that there were employees in the department that did a disservice to the Village, that being the root cause of the problem. As a contract employee, he doesn't expect Dave to be keeping track of all this paperwork, Dave was put in a terrible position, and the mismanagement doesn't fall on Dave, it falls on Bill. He said he is not interested in attacking Dave either but that he has a base of knowledge that none of them have, which is important for having this discussion.

Mr. Latkovic said he respects Dave's knowledge tremendously and would value his input. He asked Mayor Koons if he would have a response at the next meeting. Ms. Matheney said she thought the Building Committee already had a report to present, and asked Mr. Berger and Mr. Canton if that was the case. Mr. Berger replied that after talking to Steve, the answer is no. Mr. Latkovic asked what he meant by that. Mr. Berger said their intention was to provide a report of the Building Committee's discussion from last week, but we do not have an item-by-item report. He said he will commit to putting together that report and will provide it to the Planning Commission members a week before the next meeting. He said that Dave will be available at the Planning Commission meeting next month, and he can amplify any of the answers and respond to any of the issues. Ms. Matheney said that there must be a specific request for Dave Hocesvar to attend the meeting. Mr. Latkovic said he would, as Chairman of the Planning Commission, formally contact Dave. Mr. Latkovic told Mr. Berger that they look forward to his report and he thinks it can be helpful to ensuring that the ordinances and regulations of the Village are being followed.

Mr. Latkovic asked members for any other business.

Mr. Flaiz brought up the discussion regarding food trucks. He said at some point, the Planning Commission has to address this since the weather will be getting warmer. Ms. Matheney agreed and said that the Farmers Market will be here soon and that they have donuts and the Hawaiian Barbecue vendor. Mr. Flaiz said he has some different ideas for the food trucks that he wants to lay out and get everybody's input on. He said he would like to differentiate between Village owned property versus HOA or private property food trucks, versus

something that we don't want such as Sal's bringing a food truck every weekend to sell tacos in the parking lot. He doesn't think it's necessary to crack down on somebody having a food truck for their birthday party, and we want the Village Fall Festival and the Farmers Market to be able to utilize food trucks on Village property, but what we really want to try and discourage is businesses having a kitchen out in the parking lot.

Mr. Latkovic asked what action would have to be taken. Mr. Flaiz said they would have to get a Conditional Use Permit. Ms. Matheney said they could look at just amending the definition of Retail and referred to Definition 106 Retail, Section 2. Mr. Flaiz said he is preparing a report that he has been working on to present to the Planning Commission, and he has looked at zoning in other communities. Discussion followed about zoning classifications, Retail vs Personal Services, and possible actions to take.

Mr. Latkovic confirmed that Mr. Flaiz will be researching other communities and will have information for the Planning Commission in order to move forward with decisions regarding food trucks.

Ms. Matheney asked if the Planning Commission would ever consider a special meeting to address the audit. Mr. Flaiz suggested starting a regularly scheduled meeting earlier to dispense with the matter, prior to scheduled applicants. Mr. Latkovic said they could decide that when it is determined how many other applicants will be attending the next meeting.

There being no further business, Mr. Flaiz moved to adjourn the meeting at 9:27pm. Mr. Galicki seconded.



Steve Latkovic, Chairman

3/12/2021

Date



Ruth Griswold, Board Secretary

3-12-2021

Date