

Minutes of the

Zoning Commission Meeting

May 5, 2022 – Makeup date from April 14th

6:04 p.m.

Zoning Commission Members: Ann Stalter, Bob Geist, Christine Horton

Others in Attendance: Dawn Frick (Township Legal Advisor) Max McConnell (Associate Economic and Zoning Administrator) Carolyn DiGiandomenico (Administrative Professional)

– Residents in attendance –

Ian Trefz of 1250 Farmington Ln. WCH 43160

Ross & Barb Apple of 99 Haines Rd. Xenia

Rich Phillips 1927 White Tail Ln.

Brad, Dan, Austin Phillips 620 Phillips Dr.

Glenn & Roslyn Gentry 1260 Upper Bellbrook Rd.

Meeting Called to Order

Roll Call – Mr. Geist; here, Ms. Stalter; here, Ms. Horton; here.

Agenda is read- Case 829, 829 and Housekeeping Meeting Minutes from previous meeting.

Ms. Horton – Makes Motion.

Mr. Geist -2nds motion.

Ms. Stalter – Questions, do we want to make a switch to the order in which we hear cases.

Mr. McConnell – I think that a good call. Asks if there is anyone present to hear Case 828 Active/Passive recreation?

No Residents present for case 828.

Ms. Stalter are members in agreement with this change.

Yes

Ms. Stalter - Do we need a vote?

Mr. Frick – Yes, you need to amend.

Ms. Stalter – Move to amend agenda to move Case 829 prior to Case 828.

Mr. Geist – Makes motion to accept that

Ms. Horton – 2nd Motion

Ms. Stalter – Ok, Vote please.

Ms. DiGiandomenico - Mr. Geist; Yes, Ms. Stalter; Yes, Ms. Horton; Yes.

Ms. Stalter – We have completed all procedures correctly, public announcements made timely.

Mr. McConnell – Yes

Ms. Stalter - Does anyone have any bias or concerns or conflicts of interest.

Members/Staff – No

Ms. Stalter – So what will happen next is notice will be read, staff report will be given, we hear from applicants and then we will open it up for the public portion so that anyone who has something to say can speak. So, there I some order to this.

Mr. McConnell - Public Notice and Staff Report for Case ZC-829 – Zoning Map Amendment Various Parcels – M-1 Mining is read. Makes note that CD&R (Community Development and Risk) is the applicant for this case and confirmed with both Phillips and Martin Marietta last year with creating this amendment. CD&R developed the parcel list, after further discussion Phillips felt that 3 parcels should be removed from the amendment. Several of the effected parcels are residences which are either owned or leased to the residents by Phillips or has a legal application to have the current resident to purchase the parcels once mining stops. Phillips may request to remove 3 of the smaller parcels on Phillips Rd. as current mining will slowly die out at which time the space would become Office and Storage area. The Larger Area is Martin Marietta which is still being mined. The 3rd group of parcels is owned by Phillips and has a wright of ownership. Once mining ceases in this location, the parcels will be reacclimated into a different district such as recreation or park. Staff does recommend approving this amendment.

Mr. McConnell – Shows Maps. The area which houses the current Redi-Mix parcels are I1 and is conforming to the I1 usage, which we would leave them as I1. 2nd Group is the area owned by the Martin Marietta area being mined. Along Haines & 35. 3rd is parcels which reside south of 35 along 35 and Xenia township. These are Phillips and Phillips controlled except for a couple of parcels which are owned by Martin Marietta. This is an idea of the land area being renamed. Once all mining is completed these area's will be reacclimated.

Ms. Stalter – I have a few questions to ask.

On Application proper is says initiated by CD&R. What is CD&R?

Mr. McConnell – Community Risk and Development, Planning/Zoning Depts. of Township Administration the Staff.

Ms. Stalter - What sections of the mapping are to remain as I1 and not rezone them.

Mr. McConnel - This right here (he shows those parcels on the screen) are the parcels which will not be rezoned.

Ms. Stalter - Water in the area if it remains. What is the plan for water liability? Would it put others at risk if no long-term plan is put in place?

Mr. McConnell – Eventually would be rezoned as something else. The Township has protocols in place specific to this area and water retention.

Ms. Stalter - Relationship to long term planning. If moving to a national resource, what timing does that look like for reclamation. As there may then be issue with liability to the township I believe.

Mr. McConnell – Reclamation would be State initiated timing. Each mining firm submits a reclamation plan to the state to agency that governs their license. I would need to consult to get information on reclamation for this area.

Ms. Stalter – Are there any other questions form members?

No other questions.

Mr. McConnell – Asks Mining representative to speak.

Mr. Brad Phillips – With Phillips company at 620 Phillips rd. We are highly governed by the ODNr already. We already have a reclamation plan in place. 3 Parcels on Phillips Dr. 2 have never been mined and never will. We have storage on these spaces. The larger parcel where the Redi Mix plant has not been minded for over 50 years, nor never will be mined again. We have a manufacturing site on that parcel. We have I1 and I2 so, are complying.

When we get to Haines Rd and Upper Bellbrook Mining Parcels that's a different story. About 195 Acres owned by Phillips. Apples own 45 acres. Phillips owns another 100 Acres in Xenia Township which is already zoned as mining as well.

Mr. McConnell – In Xenia they have this area zoned as a mining designation as well. Which fits in well with surrounding zoning.

Ms. Stalter – Does the Bike Path run alongside any of the associated parcels.

Mr. Brad Phillips – On Rt 35 property there is a bike path that runs behind our property. There is a 6' fence between the parcels and the Bike Path.

Ms. Stalter – Would like to open the Public to ask any questions. Are there any in Support of the Application. No

Ms. Stalter – Are there any against. No

Ms. Stalter – Are there any neither for nor against but have something to say. Yes just 1.

Mr. Gentry – How close will the mining come to our property. Will it come right up to our back yard?

Mr. McConnell – Mining of 6' or shallower, there is a 100' from residential parcel buffer. If going deeper, they must have a 250' buffer. If blasting it is further. Mr. Phillips reports there is no Blasting that occurs. So could be as close as 100'. There would also need to be a berm, fencing required as well.

Ms. Stalter – Are there any other residents who would like to speak.

No

Ms. Stalter – Ok we will talk amongst ourselves for a few mins.

Mr. McConnell – Before making a motion. I recommend that we amend the agenda to remove the affected 3 parcels from consideration. Dawn, would we need to read each individual Parcel in its entirety.

Ms. Stalter – Could we modify to exclude those 3.

Ms. Frick – That’s what I was going to say. I think it would be easier since those were in the parcel.

Mr. McConnel – I’m going to hand the list to you (Ms. Stalter) so you can read off the 3 Parcels in entirety which need to be excluded.

Ms. Stalter – You quite certain that these are the proper there as this will be a binding map.

Mr. Phillips – Yes

Ms. Frick – Make a motion to approve the application with the exception, of the 3 parcels that will be excluded.

Mr. Geist – Set the application with the exclusion of parcels B03000200350010900, B03000200330009200 & B03000200330009100.

Ms. Stalter – Anything else in that language that you need.

Mr. McConnel – No those are the only changes.

Ms. Stalter – And do we need to add anything about development/revision of map.

Mr. Geist – No, this is it.

Ms. Horton – Seconds motion.

Ms. Stalter – Ok we are ready to Vote.

Ms. DiGiandomenico - Mr. Geist; Yes, Ms. Stalter; Yes, Ms. Horton; Yes

Mr. McConnell – Thank you board. Ok so these parcels will be recommended to the Trustees for rezoning. Another notice will be sent out for the Trustee meeting of the 23rd, or another date if Trustees so choose. Thanks for being here and you are all welcome to stay for the next meeting.

Ms. Stalter – Next on the Agenda is Case 828.

Mr. McConnel – Reads Public Notice. CD&R is proposing text addition for new articles for Passive and Active Recreational use. Also reads Staff report. GS1 Active & GS2 Active recreation areas. Examples of G1 Active would-be Ankeny Soccer Complex, Hopson Freedom Park were team sports and more rambunctious recreation occurs that may interfere with Passive recreation. GS2 passive examples would be Glenn Thompson and The Narrows where there is more of a Nature scenery enjoyment. We are not asking for any rezoning currently. Enables matching zoning map area as well as Greene County Mapping. Supports During research there was a demarcation between the active and passive area’s so felt it appropriate to define the two differences. Regional planning had a recommendation in their

recommendation to change 'Religious Use' to 'Assembly'. Any kind of assembly of people. Just about people getting together.

Article Text has been included. A couple of other notes to talk. Previous working session was conducted and believe that we have met the requested outcomes of that meeting with this proposal. I will be asking you to make amendment the proposed sections:

32.2.1 Permitted uses for Active Rec - Would like to add a use Section M to add 'Assembly 'With Sound or With Out sound'.

32.3 - Typo – Title is GS2 Active. The purpose statement states GS1 Active. The purpose statement needs to be changed to GS2.

32.3.4 G1 – Typo – Signs and bulletin boards shall be permitted provided they are no larger than 'four (6)' square feet. Needs to read 'six (6)'.

We did recommend, as previously discussed the change from Regional Planning and have added purpose statements to each of the articles to clearly define the differences of each as requested by Tom Kretz.

Mr. McConnell – Do you have any questions.

Ms. Stalter – I have two questions.

Ms. Stalter - Ms. Horton do you have any questions. No

Ms. Stalter - Mr. Geist do you have any questions.

Mr. Geist – When you were talking about the religious assembly was that in section 32.2 GS1 where was this statement.

Mr. McConnell – We changed it without doing any strikeouts, so you won't see it.

Mr. McConnel – It was in 32.3.1 F – "Assemblies" with no sound amplification. Was, "religious services" with no sound amplification.

Mr. Geist – Ok just curious to where it was and what it looked like now

Ms. Stalter – Back to the purpose.

Mr. McConnel - Of the first one for Active Recreation,

Ms. Stalter – Yes. I see the words "observable use" several times in the document but see no description for what that means. Can you help me understand that?

Mr. McConnel – That is what use one could currently observe if they went to the area.

Ms. Stalter – Ok, that's what I thought, it's very basic. I just wanted to make sure there was no legal language to be added around that should be added,

Ms. Mc Connell – Do you think there needs to be a change to that.

Ms. Frick – No I think the plane language definition of that is alright.

Mr. Geist – I understand the concept of the two different recreations. How do we ensure people understand and follow what it is and how is it policed?

Mr. McConnel – We can only point people to the direction that they are not abiding by zoning laws. The Township does not have the ability to enforce or police. The township does not have any park ownership. The County Parks and Trails has ownness of the park system.

Mr. Geist – Is there any signage. Should signage be added to some areas to call out Passive vs Active Recreation?

Mr. McConnell – If someone comes to us, asking to do something in a passive area that is truly active we can say they must go to an Active recreation area.

Ms. Stalter – We talk about Assembly. Do we need to define Assembly?

Mr. McConnel – I think by call out With Sound Amplification vs No Sound Amplification to help define.

Ms. Stalter – It makes sense. I don't like anything being prescriptive. I'm ok with the way it is just thinking about it.

Ms. Frick – Ankeny use to do a Haunted Walk/Trail. Do you believe that the conditional use of Organized activities, carnivals, musical, drama, production movies and assemblies cover you there?

Mr. McConnell – Let me look at the permitted uses because I want to say.

Ms. Frick – See I don't think that the "permitted uses" fits anywhere.

Ms. Stalter – That's where I'm going, with some of this too, like what's the purpose. I don't think it really matters because there is probably signage up that states you shouldn't be there after dark most parks close.

Mr. McConnell – The Township doesn't own the parks. It's County Parks and Trails. So that why we didn't talk about times to be there. Does the conditional use, really work?

Ms. Frick/Ms. Stalter –Something like 'included but limited to' would cover everything that it should.

Mr. McConnel – Thanks I really like that.

Ms. Stalter – Any other additions/changes we can think of.

Mr. McConnel – I have not additions.

Members discuss

Mr. McConnel – Max is working on building a list of amendments to be made so that whoever crafts the motion has something to read from.

Ms. Stalter – You can have a few minutes to do so. Thank you for those. At this point we need to decide if we're going to accept the changes brought forward with the following changes.

Ms. Statler to Ms. Horton - Do you have any questions. No

Ms. Statler to Mr. Geist – Do you have any questions – No

Ms. Stalter – Accept motion brought forward with the following changes for case 828 accept the recommendation set forth by staff with language presented to us with the following changes.

32.2.1 M – ‘Assemblies’ with or with sounds amplification.

32.2.3 B – Organized activities ‘including but not limited to’ needs to be added to this section.

32.3 – Changes ‘GS1 Active’ Recreation to ‘GS2 Passive Recreation’ in purpose statement.

32.3.4 - G1 replace the word ‘four’ with the word ‘six’.

Mr. Geist – So Moved

Ms. Horton – Second.

Ms. DiGiandomenico – Mr. Geist; Yes, Ms. Stalter; Yes, Ms. Horton; Yes

Mr. McConnel – Thank you Board

Ms. Stalter – Meetings from previous meeting.

Ms. DiGiandomenico – These were the meeting notes from April 14th which were to report that ZC cases that were to be heard that evening (828 & 829), were not heard by request of the Applicant’s due to having only 3 members present to vote.

Ms. Stalter – This was for a work session correct.

Mr. McConnel – These were to report that the meeting that should have taken place did not take place as there was no quorum. and was moved to the next ZC date of 5/2.

Ms. Stalter – So we need a motion to approved meeting notes of 4/14/22.

Mr. Geist – I make motion

Ms. Horton – I second.

Ms. DiGiandomenico – Mr. Geist; Yes, Ms. Stalter; Yes, Ms. Horton: Yes

Mr. Stalter – Anything else we need to do.

Mr. McConnel – I would like to pass out Proclamations for each of you as Volunteers of the Boards and recognizing BZA, Zoning Auxiliary recognizing volunteers as part of volunteer’s week. This is the Townships and Max’s personal sentiments. Thank you for all you do. We do appreciate all you do.

Ms. Statler – Is there anything else.

Ms. Frick – Will be supplying a summary on a Supreme Court case she heard from last week resolving some of the questions on the “Read Case” where if you must read the sign to decide,

that's problematic. So there has been a change that will allow for making a difference between "off premises" or "on premises". They stated that, "No" that is not a problem. Only one step to clarify the issue but will need to look at to see if there is any need to make an amendment.

Mr. McConnel – Will this be of benefit to us.

Ms. Frick – I think it will be helpful in the fact that there were questions that arose for "off premises" or "on premises" especially for temporary signs.

Ms. Stalter – Any other business

Ms. Statler – Want to clarify. We are all sworn in and have no problems with such?

Mr. McConnell – The only change was with Seth whose term ended in March and due to time constraints, he is not renewing. We will be embarking on a campaign to find new members. If you have any leads or suggestions on recruitment, we would love to hear them.

Ms. Stalter Makes motion to adjourn.

Ms. Horton – Seconds motion.

Mr. McConnel – All in favor.

Aye

Closes 7:15PM