

Minutes

Central CEDA Regional Planning Commission

Regular Meeting ~ 4:00 pm.
Thursday, January 9, 2014

Springview Government Center
3130 East Main Street
Springfield, OH 45505

Mr. Michael Hanlon, Vice-Chairperson of the Central CEDA Regional Planning Commission of Clark County Ohio, calls the meeting to order at 4:03 pm.

Present: Mr. Michael Hanlon, Mrs. Charlene Roberge, Mr. Dan Kelly, and Mr. James Smith.

Absent: Mr. Gene Barnett, Mr. Mike Spradlin, and Mrs. Kim Marshall.

Minutes

Mr. Neimayer stated that due to the number of Board members available to vote to approve the minutes from December 5, 2013, approval of those minutes will have to be postponed until the next meeting. Because Mr. Kelly did not attend the December 5th meeting, he would not be able to vote.

S-2014-01: Rezoning Case ~ Tom Owens; Pat's Properties LTD ~ 14.39 acres ~ Located at 925 Upper Valley Pike ~ Rezone from R-1(Single family Residential District) to B-3 (General Business District)

Mr. Neimayer, Senior Planner, presents the case and states that the proposed use would be automobile and RV sales.

As noted in the staff report as part of the original zoning map for the Springfield Township, adopted in December 1964, the subject property and surrounding area have been zoned R-1 (Single family Residential District). The Applicant would like to rezone the subject property from R-1 to B-3 (General Business District).

The subject property consists of 14.39 acres. The B-3 development standards are:

Min. Lot Size	Min. Frontage	Min. Setbacks (in ft.)		
		Front	Side	Rear
15,000 sq. ft.	90 ft.	25	(E)	(G)

- (E) None required unless adjoining a Residential District, then shall not less than 15 ft. on each side, or ¼ the sum of the height and depth of the structure, whichever is greater.
- (G) None required unless adjoining a Residential District, then shall not be less than ¼ the sum of the height and width of the structure, but in no case shall be less than 20 ft. If use is to be serviced from the rear, a yard shall be provided not less than 4 ft. deep.

Mr. Neimayer stated that the site plan that is referred to in the Staff Report was submitted with the prior rezoning application. There was no new site plan submitted with the current application. He noted the Applicant and the Applicant's attorney were present. They can comment and respond to questions regarding the site plan.

Mr. Neimayer presents the site plan and shows that approximately 7.2 acres on the east (Upper Valley Pike) side of the subject property, about ½ of the property, is located in floodplain. A letter dated December 3, 2013 from Mr. Thomas Hale, County Flood Plain Administrator, indicates the floodplain regulations do not prohibit the intended use. However, any permanent development would have to go through the floodplain development permit process. Mr. Neimayer stated that under Springfield Township Zoning, commercial use in floodplain is not a permitted use.

Mr. Neimayer showed a slide identifying the soils on the subject property and referenced the August 15, 2013 letter from the Soil & Water Conservation District. The soils on the property have characteristics that are unfavorable for development. In addition, the SWCD letter points out the property has two natural springs "that will flow continuously throughout the year". These springs will need to be addressed in the future development of the property.

Mr. Neimayer concludes stating that the rezoning request is not supported by the CROSSROADS Land Use Plan and the proposed use in the floodplain is not permitted by the township's zoning regulations. For these reasons, Staff recommends the Applicant's request to rezone the subject property from R-1 to B-3 as presented be denied.

Mr. Neimayer then commented at the September 2013 CEDA meeting the Board discussed rezoning a smaller portion of the property on the north side with minimal impact to the floodplain and preserve a buffer area from the residential area to the west.

Mr. Neimayer asks if there are any questions from the Board.

Mr. Smith asks Mr. Neimayer if he has a map of the entire floodplain area. He would like to know if the businesses that are to the north are located in the floodplain.

Mr. Neimayer stated that the businesses referred to are in the floodplain. He displays the county GIS showing the subject area with the floodplain overlay. He reminds the Board that the current floodplain maps were effective as of February 2010. Those businesses would have most likely been there prior to that date.

Mr. Neimayer asks if there are any other questions for Staff. There were none.

Vice-Chairperson Hanlon asks if the Applicant would like to speak.

Mr. John Emerich, whose address is 545 Trotwood Street, stated he is an attorney associated with Mr. Jim Peifer, attorney who represents the Applicant, Mr. Tom Owens. Mr. Owens, tenant of the property, is also present.

Mr. Emerich stated that when Mr. Peifer filed the new application he purposely deleted the site plan from the submittal. The site plan is something possibly for the future depending on how the business grows, not for the immediate future. The thought being the floodplain goes right in front of the existing building that the old golf course operated from. Mr. Owens would operate out of that building. The floodplain also extends into the parking lot of Rite Rug {property to the immediate north}. Mr. Owens and property owner would be amenable to rezoning just a portion of the northern part of the property.

Mr. Emerich also stated he does not feel that the CROSSROADS Land Use Plan map is up to date with the way Upper Valley Pike is developing commercially. He refers to the letter from Mr. Thomas Hale, County Floodplain Administrator that states nothing prohibits the parking of cars, RV's, etc to be parked in the floodplain. Mr. Emerich presented the Board a map of the floodplain that he had.

Mrs. Roberge asks Mr. Emerich if the current request is still to rezone the entire 14.39 acres.

Mr. Emerich stated that is correct. In negotiations with the various people involved there could be the possibility of rezoning just a portion of the property.

Mr. Kelly asks Mr. Neimayer if there has been any negative feedback from the neighbors.

Mr. Neimayer stated this CEDA meeting is not a public hearing. He is not aware of comments from neighbors. However, Mr. Jeff Briner, Springfield Township Administrator/ Zoning Officer who is present, could possibly elaborate on that.

Mrs. Roberge asks how a person would go about rezoning just a portion of the property. Would a lotsplit be required?

Mr. Neimayer stated that without a lot split you would have split zoning on the property. From a planning point it is not a good thing to do. A lot split would be the better way to go. Because Springfield Township administers their own zoning, that will be up to the township. Split zoning can create problems for either properties.

Mr. Kelly asks Mr. Owens if there are currently any plans to build on the property.

Mr. Owens stated that presently there were no plans.

Mr. Kelly stated that he hates to deter new business when the risk lies with the owner. He asks if there are neighbors that are rebelling.

Mr. Jeff Briner, Springfield Township Administrator/Zoning Officer, stated that there have been three public hearings concerning this property. They {the Property Owner and Applicant} have been told to cease operation of the business immediately. There are a fair amount of residents that are opposed to the rezoning.

Mr. Kelly questioned what kind of complaints had been made to the township. Were the complaints about lights, noise etc. Were the complaints legitimate.

Mr. Briner stated that there were complaints about noise and also other general complaints. He also stated that when he originally met with Mr. Owens, he suggested that he consider just rezoning part of the property and not all 14.39 acres. I do not think any of the residents surrounding the property are for the rezoning.

Mrs. Roberge stated she is all for business and bringing business to our community, but it should be accomplished on commercial property. We are talking about a residential lot and the surrounding residents should be considered.

Mr. Kelly stated that it could be considered a residential lot. If you look at the adjacent properties they are commercial. He feels that the property is a prime area for commercial business.

Mrs. Roberge stated that everything before us shows that it is a residential lot. It is not a commercial lot and if the neighbors are saying no to a business being in a residential area then the business should be on a commercial lot.

Mr. Smith stated that the other businesses to the north are farther away from the residents that would be opposed to the rezoning.

Mrs. Roberge stated that she could be in favor of rezoning a small portion but not the entire 14.39 acres.

Mr. Kelly stated if he was a resident whose property was adjacent to the subject property, he would not want the rezoning because it could affect his property. He did not want Walmart behind his house but it is there. Who wants change, but change is a reality.

Mrs. Roberge stated that the Board hears a lot of cases but not always do you get people complaining or opposed to the rezoning. They would not complain if they did not have a legitimate reason.

Mr. Kelly asks Mr. Briner if the complaints about noise were about projected noise.

Mr. Briner stated that the complaints were in the summer. Four-wheelers and smaller-type vehicles that were making noise later at night.

Mr. Kelly asks Mr. Owens what his business hours were.

Mr. Owens stated that his business hours were 9-6.

Mrs. Roberge asks Mr. Owens if he in fact was running four-wheelers on the property after business hours.

Mr. Owens stated no. Any noise that would occur from my business would not be any louder than that of any road.

Mr. Emerich asked Vice Chairperson Hanlon if he could ask Mr. Briner a question. Vice Chairperson Hanlon allowed Mr. Emerich to proceed.

Mr. Emerich asks Mr. Briner how the golf course was allowed to operate there for so many years when it was zoned Residential.

Mr. Briner stated that they were grandfathered in because the original owner started the business in the 1950's. We have not been able to pin down an exact date. Springfield Township started zoning in 1974. The last owner declared bankruptcy. It then went into receivership and sat vacant for three years. The policy is if a property is left vacant for more than two years it loses the grandfather clause. There were a lot of calls on the property during the time it was vacant and I explained this to anyone that called. I am not sure where the confusion came up. The Owner and Applicant have been misinformed or failed to check to see if the grandfathering was still in place.

Mr. Emerich asks if the portion of the property where the pro shop was, the northern part, had trees to serve as a buffer to the surrounding residents.

Mr. Briner stated that there were a fair amount of trees and overgrowth to serve as a buffer as long as Mr. Owens leaves it all in place. He states that any of the properties within the floodplain, if looking for further development, would have to comply with the floodplain regulations.

Mr. Kelly asks Mr. Hale what the repercussions would be of Mr. Owens building within the floodplain.

Mr. Thomas Hale, County Floodplain Administrator, stated that the repercussion of building in the floodplain is what does it do to everyone else around you. That is why you have a floodplain development permit.

Mr. Kelly asks Mr. Hale if the houses surrounding the property are 70 feet higher than the floodplain, how can they be affected.

Mr. Hale stated that those houses may not be affected. It would be properties on down the street. Currently with autos and RV's there is nothing in adopted county floodplain regulations that prohibit them being parked there because they can be moved. The land that is in the floodplain cannot be disturbed in any way. The lay of the land, the way it is right now, is ok to park cars on it. To change the land would be substantial. Now, you are telling FEMA that you are changing the floodplain.

Mr. Kelly asks Mr. Hale if changing the land would be building a building.

Mr. Hale responds that is correct; building a building, moving dirt, or digging a hole. The land cannot be changed from its current status. Floodplain regulations were adopted in 1987. Most of the businesses along Upper Valley Pike have most likely been there before that.

Mr. Kelly asks Mr. Hale if, in his personal opinion, he thinks that building a building in the floodplain area would affect those surrounding homes.

Mr. Hale stated that he cannot have that opinion. If Mr. Owens himself approached our department about building in the floodplain, there are a series of events he would have to go through. He would probably find from an economic standpoint it would not be feasible. The current building, as it is, is out of the floodplain. It would take a large amount of revenue from an engineering standpoint for him to prove that making changes to the land would not have an adverse impact on someone else down Upper Valley Pike, down by the Barn for example That is what you have to prove in order to get a floodplain development permit. Building on the property would be an issue. Using it as it is, the lay of the land now, there is nothing I can do to stop the business. He just cannot move any dirt.

Vice-Chairperson Hanlon asks if you put down black top in a floodplain area would you have to have a floodplain development permit.

Mr. Hale stated that was correct.

Mr. Kelly asks Mr. Owens if he is willing to live with a partial rezoning so that he could have the business.

Mr. Owens stated the first application { heard at the September 2013 CEDA meeting } asked to rezone the entire property. If the Board does not go for that, then the second drawing { Exhibit A of the current application } shows an area starting at the north end of the property and coming down about 400 ft. frontage. The site plan was removed from the application because it may not be feasible. Today we are here for the zoning and then we would need to work with Mr. Hale if we ever decide to grow. We would like to continue using the part of the property that we are using that is out of the floodplain. We have not hired an engineer at this point. Everything that we were doing has now been put on hold.

{ NOTE: the submitted/current application calls for rezoning the entire 14.39 acre property from R-1 to B-3 }

Vice-Chairperson Hanlon asks if there is any further discussion.

Mr. Emerich asks the Board's action is a recommendation is it not. So you could recommend to consider approving it if it is limited to the most northerly portion.

Mrs. Roberge stated yes, but you would still have to do a lotsplit and come back and tell us the specifics of the area to be rezoned. You would still need to have a survey.

Mr. Neimayer reminds the Board that this application will not come back before them unless the township denies the request and the Applicant refiles. That new application would then come back through this process again. My recommendation to the Board is to first act on what was submitted to you as a first motion. A second motion would be to approve a smaller area, which would have to be worked out between the Applicant/Owner and Springfield Township. A lotsplit can follow once the zoning lines have been determined.

Vice-Chairperson Hanlon asks if there are any further questions.

Hearing no further questions, Vice-Chairperson Hanlon asks for a motion.

RPC: 1-1-2014: S-2014-01 Rezoning Case ~ Tom Owens; Pat's Properties LTD ~ 14.39 acres ~ Located at 925 Upper Valley Pike ~ Rezone from R-1 (Single family Residential District) to B-3 (General Business District)

Motion by Mrs. Roberge, seconded by Mr. Smith, to recommend **Approval** of rezoning case #S-2014-01 to rezone the subject 14.39 acres from R-1 (Single family Residential District) to B-3 (General Business District) as presented to the Springfield Township Zoning Commission.

**VOTE: Yes – Mr. Kelly and Mr. Smith
No – Mrs. Roberge and Mr. Hanlon**

Motion to approve is denied due to a 2 to 2 tie.

RPC: 1-2-2014: S-2014-01 Rezoning Case ~ Tom Owens; Pat's Properties LTD ~ Located at 925 Upper Valley Pike ~ Rezone from R-1 (Single family Residential District) to B-3 (General Business District)

Motion by Mr. Kelly, seconded by Mrs. Roberge, to recommend **Approval** of rezoning case #S-2014-01 to rezone only the northern portion of the proposed property from R-1 (Single family Residential District) to B-3 (General Business District) to the Springfield Township Zoning Commission with the final description of the property to be rezoned to be worked out through the Township rezoning process.

**VOTE: Yes – Mr. Kelly and Mr. Smith
No – Mrs. Roberge and Mr. Hanlon**

Motion to approve is denied due to a 2 to 2 tie.

Staff Comments

Mr. Neimayer states that next month's meeting is scheduled for Thursday, February 6th. There are no new cases, therefore there will be no February meeting.

Vice-Chairperson Hanlon asks for a motion for adjournment.

Adjournment

RPC: 1-3-2014: Adjournment

Motion by Mrs. Roberge, seconded by Mr. Smith, to adjourn the meeting.

VOTE: Motion carried unanimously.

The meeting was adjourned at 4:45 pm.

Mr. Michael Hanlon, Vice-Chairperson

Mr. Thomas A. Hale, Secretary