

# **Minutes**

## **Clark County Rural Zoning Commission**

Regular Meeting ~ 9:00 a.m.  
Thursday, May 11, 2017

Springview Government Center  
3130 East Main Street  
Springfield, Ohio 45505

Mr. Ken Brust, Chairperson of the Clark County Rural Zoning Commission of Clark County Ohio, called the meeting to order at 9:00 am and asked for the Roll Call.

Present For Roll Call: Mr. Ken Brust, Mr. Wayne Leis, Mr. John Hays, Mr. Bob Jurick, Mr. Pete Lane and Mr. Larry Spahr.

Absent For Roll Call: None.

Chairperson Brust explained how the meeting will be held.

Chairperson Brust asked if there are any comments regarding the minutes. Hearing none, he asked for a motion to approve the minutes.

### **Approval of the April 13, 2017 Minutes**

Motion by Mr. Hays, seconded by Mr. Leis, to **Approve** the minutes as presented.

**VOTE: Yes:** Mr. Hays, Mr. Leis, Mr. Jurick, Mr. Spahr and Mr. Brust.

**Abstain:** Mr. Lane

***Motion carried.***

### **Rezoning Case #Z-2017-04 ~ Property Owner: Allan Pohlman ~ Applicant: Gabrielle Dent ~ Location: 4690 S. Tecumseh Rd.; Mad River Twp. ~ to rezone 5.98 acres from A-1 to PD-M for a photography studio, a Bed & Breakfast, and an event venue**

Chairperson Brust asked for the staff report.

Mr. Allan Neimayer, Senior Planner, stated the subject property is located at 4690 S. Tecumseh Rd. and consists of 5.98 acres. The original zoning map adopted for Mad River Twp. shows the property was zoned A-1 (Agricultural District) and it remains as such today. He stated the Applicant would like to rezone the subject property from A-1 to PD-M (Planned District-Mixed Use) for a photography studio (outdoor studio space), a Bed & Breakfast, and a 2,000 sq. ft. shelter building for an event venue.

Mr. Neimayer stated the CROSSROADS Land Use Plan identifies this area of Mad River Twp. as Agriculture/Rural Residential, "Predominantly rural portions of the County, where agriculture should remain the priority". Mr. Neimayer explained the subject property is 5.98 acres in size of which approximately 3.7 acres is located in Flood Zone A leaving just over two acres on the north side of the property outside the floodplain. He noted the Applicant is still working with the County Engineer's Dept. on proper access point for the proposed use of the property. Mr. Neimayer reviewed the Applicant's revised site plan and off-street parking area noting the Applicant's request to initially allow gravel parking. The planned parking area would be located between the house and the shed.

Mr. Neimayer stated the subject area is predominantly a rural residential and agricultural area and the Applicant's proposed uses are appropriate for the property's location taking advantage of its natural features. He explained the PD-M District is the only zoning district that allows for mixed (residential

and non-residential) uses. If the rezoning is approved, the Applicant will need to file a Floodplain Development Application for review and compliance under the floodplain regulations. In addition, the Applicant will need to comply with the county's stormwater management requirements.

Mr. Neimayer stated Staff recommends the Applicant's request to rezone the subject property from A-1 to PD-M be approved as presented. Mr. Neimayer noted the Applicant's updated site plan includes a no build area to help with site visibility entering/exiting the site. Mr. Neimayer noted that the County Planning Commission met on April 5, 2017 and recommended the rezoning request be approved as presented.

Chairperson Brust explained that a motion was needed to remove this case from the table.

**Action to remove Rezoning Case #Z-2017-04 from the table**

Motion by Mr. Leis, seconded by Mr. Lane, to **Remove Case #Z-2017-04 from the Table.**

**VOTE: Yes:** Mr. Leis, Mr. Lane, Mr. Hays and Mr. Jurick.

**No:** None.

***Motion carried.***

Chairperson Brust asked if there were questions for Staff.

Mr. Hays asked if the site issue and the no build area would resolve the County Engineer's concerns. Mr. Neimayer stated no, and then informed the Board the Applicant would still need to work with the Engineer's office to resolve the issues.

Chairperson Brust asked if the new information presented was just adjustments discussed between planning staff and the Applicant. Mr. Neimayer stated yes.

Chairperson Brust opened the public hearing at 9:11 a.m.

Chairperson Brust asked if anyone wished to speak for the case.

Applicants, Gabriele Dent, 2355 Gerald Ct., Fairborn and, Rebekah Thompson, 5614 Chukar Dr., Dayton were sworn in. Ms. Thompson explained that her plan was to hold small intimate weddings – garden style – at the property. She stated during the off season, she wished to take advantage of the unique landscape for outdoor photography. She stated the home would be used as a bed and breakfast for those attending weddings or events in the area.

Chairperson Brust asked if the Board had questions for the applicant. There were no questions.

Chairperson Brust asked if anyone wished to speak for the case. There was none.

Chairperson Brust asked if anyone wished to speak against the case. There was none.

Chairperson Brust closed the public hearing at 9:14 a.m. and asked for comments from the Board.

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Chairperson Brust stated the Board could approve the rezoning request based on the no build area and condition that the access issue to be worked out with the County Engineer and flood plain issues with the Flood Plain Administrator.

Mr. Spahr asked about the access drive. Chairperson Brust answered it would be addressed by the County Engineer.

Mr. Hays asked for clarification and noted that all three items would have to be corrected. Mr. Neimayer responded yes.

Mr. Jurick asked to speak to the Applicant again.

Chairperson Brust reopened the public hearing at 9:16 a.m.

Mr. Jurick stated he read in the provided information the current drive by the house would be used for deliveries. He asked if that was still the case. Ms. Thompson stated yes. She stated there would be very few deliveries, but she hoped to use the access drive by the house. She stated it would be closed to the public. Mr. Brust noted that it would be comparable traffic to a residential home. Mr. Neimayer noted that the Engineering Department may want the access closed.

Mr. Jurick asked the Applicant if closing the access by the house would be a problem. Ms. Thompson responded no. She noted she would like a right turn only from the access point to help with safety.

Chairperson Brust closed the public hearing at 9:19 a.m. With no further discussion from the Board, he asked for a motion.

**Action Rezoning Case #Z-2017-04 ~ Property Owner: Allan Pohlman ~ Applicant: Gabrielle Dent ~ Location: 4690 S. Tecumseh Rd.; Mad River Twp. ~ to rezone 5.98 acres from A-1 to PD-M for a photography studio (outdoor studio space), a Bed & Breakfast, and an event venue**

Motion by Mr. Jurick, seconded by Mr. Lane to recommend **Approval** as presented conditioned that the following items be resolved before a Certificate of Zoning is issued: 1) compliance with floodplain regulations as applicable; 2) resolving site access issue with the County Engineer's Department; and 3) compliance with the county's stormwater management regulations.

**VOTE: Yes:** Mr. Jurick, Mr. Lane, Mr. Hays and Mr. Leis.

**No:** None

***Motion carried.***

**Rezoning Case #Z-2017-05 ~ Property Owner/Applicant: Mark Overholser ~ Location: 4530 Ridgewood Road W. in Moorefield Township ~ Rezone 2.85 acres from R-2A (Medium Density Single-Family Residence District) to R-4 (Multiple-Family Residence District) for condominium/apartment site.**

Chairperson Brust asked Mr. Neimayer for the Staff Report.

Mr. Neimayer stated the subject property is located at 4530 Ridgewood Road W. and consists of 2.85 acres. He said the original zoning map adopted for Moorefield Twp. shows the property was zoned

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R-2A and remains as such today. He explained the Applicant would like to rezone the entire property to R-4 (Multiple-Family Residence District) to allow for future condominium or apartment development. Mr. Neimayer stated the CROSSROADS Land Use Plan identifies this area as Mixed Use. He stated the property is serviced by both public water and sanitary sewer services. The subject area is predominantly a residential area of varying densities comprised of single-family and multi-family developments. Staff recommends the Applicant's request to rezone the subject 2.85 acres from R-2A to R-4 to allow for condominium or apartment development be approved as presented. He said the County Planning Commission met on May 3, 2017, to review this rezoning case and passed a motion recommending to the Rural Zoning Commission that the Applicant's request to rezone the property to R-4 to allow for condominium or apartment development be approved as presented.

Chairperson Brust asked if there were questions for Staff.

Mr. Jurick asked if storm water retention would be needed on the property. Mr. Neimayer responded yes.

Chairperson Brust opened the public hearing at 9:24 a.m. and asked if the Applicant wished to speak.

Mark Overholser, Property Owner/Applicant, 6851 Johnson Rd., was sworn in. Mr. Overholser explained that the old pool was beyond repair. He stated he wanted to take the pool out and develop the site as residential use. He stated the property to the north has multi-family units and he was thinking of something similar. He stated sketch was just preliminary. He noted the retention basin issue would be reviewed and he would meet the County Engineering Department approval. He also stated he had met with the (Moorefield) Fire Department and discussed the plan which includes a fire hydrant, and would meet all of the egress needs. Mr. Overholser stated the county is getting jobs, so there is a need for more housing.

Chairperson Brust asked if there were questions for the Applicant.

Mr. Jurick asked what the projected need was. Mr. Overholser responded he had several projects going on in Moorefield Township. He stated five houses were started in the last six months. He stated sales were good in Simon Kenton. He stated there is a need for housing in Northridge because people still want to live there.

Chairperson Brust asked if anyone wished to speak for the case. No one spoke.

Chairperson Brust asked if anyone wished to speak against the case.

Doug Payton, 4445 Ridgewood Rd W., was sworn in. Mr. Payton stated his issue is it abuts to the school. Condos would be perfect, but not apartments. He stated there is a lot of traffic, young kids in and out, and he has objections to building apartments.

James Bowen, 4431 Ridgewood Rd. W, was sworn in. Mr. Bowen asked if it could be zoned for condos only. Mr. Neimayer responded yes, that the Board could use the specific use control and limit it to condos. Mr. Bowen requested the Board approve for condos only. He also noted that a retention pond near the sidewalk/grass area would be a bad idea since kids walk by the property to school each day.

Joe and Mary Zink, 4556 Ridgewood Rd W., were sworn in. Mr. Zink stated he was concerned about the many homes were laid out on the lot. He stated one exit does not seem like enough. He explained that it would be too many cars coming in and out of the access area. He noted he enjoyed

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having the pool, but did not want to hamper progress. He said the school does use the pool parking lot for extra parking. He stated he was against more apartments or condos. Ms. Zink asked if the Applicant had talked to the school because there may be new buildings done for the school. Ms. Zink also asked if there was going to be a buffer between the properties. She noted that after a lot of rain, there is a large collection of water in area. She noted that building housing in Northridge is good, and she is glad young people are interested because they need young people in Northridge. She stated she is not sure there is a demand for condos. Ms. Zink also stated she felt there were too many proposed homes on the sketch and noted that access is a concern because of the school traffic.

Chairperson Brust asked if the Applicant wished to rebuttal.

Mr. Overholser stated the water retention would be approved by the County Engineer's Department and safety will be addressed. He stated the retention basin will not be wet retention, but rather it would be dry – dry most of the time – it - it will not hold much water. He stated there are 3 access points, currently and he wanted to limit the burden of cars coming in and out. Mr. Overholser stated he had been building a long time, and has done a good job and raised property values in the area. He stated he wanted to bring in new and fresh (homes) that work well with the community.

Mr. Jurick asked if Mr. Overholser would be okay with the specific use as condos only. Mr. Overholser responded that he was okay with condos only. Chairperson Brust noted there is a demand for condos. Mr. Overholser stated there are only a few builders left since the 2007 downfall. He stated it is nice that folks are getting back to building.

Chairperson Brust asked if 20 homes would be enough to maintain the home owner's association. Mr. Overholser stated he thought it would be enough.

Mr. Spahr asked if Mr. Zink's question about access had been addressed. Mr. Zink asked if the access could be linked to the condos to the north. Mr. Overholser responded he did not own the property, so he could not link the access.

Chairperson Brust closed the public hearing at 9:50 a.m. With no further discussion from the Board, he asked for a motion.

**Action Rezoning Case #Z-2017-05 ~ Property Owner/Applicant: Mark Overholser ~ Location: 4530 Ridgewood Road W. in Moorefield Township ~ Rezone 2.85 acres from R-2A (Medium Density Single-Family Residence District) to R-4 (Multiple-Family Residence District) for condominium/apartment site.**

Motion by Mr. Hays to recommend **Approval** as presented. There was no second to the motion. **Motion died.**

Chairperson Brust then asked for another motion.

Motion by Mr. Lane, seconded by Mr. Leis to recommend **Approval** of R-4'S' (Multiple-Family Residence District Specific Use) limiting development to condominiums.

**VOTE: Yes:** Mr. Lane, Mr. Leis, Mr. Jurick and Mr. Hays.

**No:** None

***Motion carried.***

**Rezoning Case #Z-2017-06 ~ Property Owner: Richard Renner/Applicant: Mike Francis ~ Location: 5625 Lower Valley Pike in Bethel Township ~ Rezone 36.59 acres from B-4'S' (Heavy Business District Specific Use) to B-4 (Heavy Business District) to allow a full service landscape supply center including a parking/storage area for contractor equipment.**

Chairperson Brust asked Mr. Neimayer for the Staff Report.

Mr. Neimayer stated the subject property is located at 5625 Lower Valley Pike and consists of 36.59 acres. He said the original zoning map adopted for Bethel Twp. shows the property was zoned A-1. He explained the property had been a nonconforming topsoil business and was rezoned in 1993 to allow for construction of a new building. He explained due to floodplain related issues, the property was rezoned in 1993 to B-4'S' (Heavy Business District Specific Use for a topsoil & mulch business with a structure to house soil and related excavating equipment and office) and remains as such today. He explained the Applicant would like to rezone the property from that B-4'S' to a straight B-4 to allow for expansion of the mulch and topsoil business to a full service landscape supply center and to include parking and storage for contractor equipment.

The intent of the B-4 Heavy Business District is to provide for heavy businesses which are incompatible with local and community business districts. The CROSSROADS Land Use Plan identifies this area as Agricultural/Rural Residential. Mr. Neimayer stated the property is located in Flood Zone AE in addition to being entirely in the floodway. Therefore, the Applicant will be required to file a Flood Development Application.

Mr. Neimayer explained that Staff does not support rezoning to B-4 because it would allow all permitted businesses of B-4, B-3, B-2 and B-1 on the subject property. He noted business development of the property is highly constrained from a building perspective due to its location in the floodplain and floodway. He said because SR 4 is a Limited Access highway, access to the property is reduced to "old" Lower Valley Pike which has a current road pavement width of approximately 18 ft. He noted the road is not suitable for introducing "new" business traffic beyond what the Applicant is asking.

Staff recommends denying the Applicant's request for straight B-4 zoning, and instead recommends amending the current B-4'S' zoning to allow a full service landscape supply center including parking/storage area for contractor equipment conditioned upon approval from the county Floodplain Administrator. He stated the CPC met on May 3, 2017 to review this rezoning case and passed a motion recommending to the Rural Zoning Commission that the Applicant's request to rezone the subject 36.59 acres from B-4 'S' to B-4 be denied, and instead that the current B-4'S' zoning be amended to allow a full service landscape supply center including parking/storage area for contractor equipment conditioned upon approval from the county Floodplain Administrator.

Mr. Neimayer noted that the public notice to 5838 Wynn Road, Gregory & Julia McPeek, was returned.

Chairperson Brust asked if there were questions for Staff.

Mr. Hays asked for clarification that the Applicant does not really wish to rezone, just allow additional use. Mr. Neimayer explained that B-4 would allow more uses that are not appropriate for the site. The Applicant wants a limited expansion of his current business with the addition of storing contractor equipment. Mr. Hays asked if it included retail. Mr. Neimayer deferred to the Applicant to respond.

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With no further questions for Staff, Chairperson Brust opened the public hearing at 10 a.m. and asked if the Applicant wished to speak.

Mike Francis, Applicant, 5625 Lower Valley Pk. was sworn in. Mr. Francis stated the business is not going to change. He stated his brother has been a landscaper and together they decided it would be nice to be open year around and add some additional business. He stated half of the property is wooded and he did not want to touch it. He explained the front half is the top soil and mulch business. He stated there was scrap equipment on the property that will be cleaned up and he hoped to reclaim the area for storage of large equipment. He stated contractors have expressed the need to store equipment. Mr. Francis stated he would like to also add rental equipment in addition to the company's equipment.

Chairperson Brust asked if there were questions for the Applicant.

Mr. Jurick asked about the additional materials/equipment to be stored. Mr. Francis responded there were tractor trailers, dump trailers and landscaping equipment. He stated he wanted to provide a service to contractors. The business already has a retail component and would like to have trucks for customers to get their mulch. He stated he agreed that B-4 opened up to more uses than he needs. He was fine with amending the current B-4'S' with the additional uses included.

Mr. Jurick asked how far the flood water rises on the property. Mr. Francis responded he had heard it had flooded up to the building once in 25 years.

Mr. Jurick asked what happens with the equipment in a flood event. Mr. Francis responded there was insurance to cover it.

Mr. Jurick asked about the gas and oil. He stated it was close to the aquifer and then noted the issues with pollution. Mr. Francis responded the EPA comes out to monitor the property.

Chairperson Brust asked if anyone wished to speak for the case. No one spoke.

Chairperson Brust asked if anyone wished to speak against the case.

Jimmy Lee Stacy, 5880 Wynn Rd, was sworn in. Mr. Stacy stated noise is an issue. He stated he had noticed trees being removed from the river and the flow of the river has changed. He noted that it floods more and also allows more noise. He stated he would like to work with the Applicant and have them replace the trees to help take care of the noise,

Elizabeth Stacy, 5880 Wynn Rd., was sworn in. Ms. Stacy stated dust is an issue. She asked if it would get worse with the changes. Mr. Francis responded he was only continuing the current operation. He noted that he has been moving parts of the business to different locations of land.

There were side discussions amongst audience members about the removing of trees along the river.

Mr. Francis stated he did not remove trees near the river. He stated he was not allowed to change the direction of the Mad River. Ms. Stacy stated someone from his company removed them creating problems.

Mr. Brust noted that the business has been operating for years indicating the noise and dust has always been part of the operation.

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Mr. Brust asked Mr. Neimayer if Staff had ever received complaints. Mr. Neimayer stated he was not aware of any.

Mr. Brust stated the remove of trees and change of the river should be considered before the rezoning request. He asked if it was appropriate to wait to investigate the issues. Mr. Neimayer responded yes. He also noted that the Applicant may not know where the property line is in relation to the river.

Mr. Brust asked Mr. Neimayer how to proceed. Mr. Neimayer responded as a land use request the Board could make conditions or table the request for further information.

Mr. Lane asked if Clark County Soil & Water Conservation District should take a look at the issue. Mr. Neimayer responded yes and stated he would notify them.

Mr. Jurick noted that we have learned a lot about flood plain over the last 30 years. He stated EPA is after the fact. He stated he does not see the value on letting any more equipment on the property. He stated it is not appropriate in the flood plain and does not want to approve the B-4 'S'.

Chairperson Brust reopened the public hearing at 10:20.

Chad Barnett, 1140 Ashwood Dr., South Charleston, was sworn in. Mr. Barnett asked about the access drive to the property. Mr. Neimayer responded is approximately 18 ft. wide pavement and noted that a B-4 use would not be allowed today.

Chairperson Brust asked the Applicant if he wished to rebuttal. Mr. Francis stated he did not know who was tearing down the trees.

Chairperson Brust the closed the public hearing at 10:24 a.m.

Mr. Brust stated he felt the Board should table the request and have agencies investigate the potential issues with flow of water, encroachment, etc. Mr. Jurick stated he disagreed and noted those items were not relevant. He stated the Board should not go further and give hope to the Applicant if the goal is to not have more equipment on the property. Mr. Brust stated he felt it was important for a full clearing of issues for the Applicant and the surrounding homeowners.

Mr. Lane asked if the Board should deny the request. Mr. Spahr stated he felt the Board owed it to both sides to research the issues.

With no further discussion from the Board, Chairperson Brust asked for a motion.



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**Action Rezoning Case #Z-2017-06 ~ Property Owner: Richard Renner, Applicant: Mike Francis ~ Location: 5625 Lower Valley Pike in Bethel Township ~ Rezone 36.59 acres from B-4'S' (Heavy Business District Specific Use) to B-4 (Heavy Business District) to allow a full service landscape supply center including a parking/storage area for contractor equipment.**

Motion by Mr. Leis seconded by Mr. Lane, to **Table** until the items brought up during testimony have been researched.

**VOTE: Yes:** Mr. Leis, Mr. Lane.

**No:** Mr. Jurick and Mr. Hays.

Mr. Brust voted Yes and the ***Motion carried.***

Mr. Lane asked what types of materials could be stored in flood plain. Mr. Neimayer responded he would check with Tom Hale, Flood Plain Administrator. Mr. Lane stated he had witnessed the water being high and the Applicant mentioned he is storing salt and will store fertilizer, pesticides, etc.

Mr. Jurick stated restricting building in the flood plain was a goal of the Crossroads plan. He asked if it was still a goal with the updated plan. Mr. Neimayer responded that the plan update has not reached that part of the process. Mr. Leis asked Staff to check if there are any EPA violations and if there is flood plain approval from 1993.

### **Board Comments**

Mr. Neimayer stated there was a new case for June. The meeting date is June at, 2017.

Mr. Neimayer updated the Board with the PUCO new transmission line map for Moorefield Township and informed them of upcoming public hearings.

Mr. Neimayer informed Mr. Jurick in reference to his agricultural zoning request, he had a meeting scheduled to discuss farmland preservation and animals with the county prosecutor's office next week. He explained that he could update him after the meeting.

Mr. Jurick asked if there was anything new on the quarry. Mr. Neimayer stated the Mad River Township Trustees asked for additional time to provide comments and that ODNR had granted an additional 30 days. He also told the Board that Enon Sand & Gravel's attorney has filed a records request.

### **Adjournment**

Motion by Mr. Hays, seconded by Mr. Juick, to adjourn.

**VOTE: Motion carried unanimously.**

The meeting was adjourned at 10:50 am.

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Mr. Ken Brust, Chairperson

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Mr. Thomas A. Hale, Secretary