

# **Minutes**

## **Clark County Planning Commission**

Regular Meeting ~ 2:00 pm.  
Wednesday, August 3, 2022

Springview Government Center  
3130 East Main Street  
Springfield, Ohio 45503

Louise Maurer, Chairperson of the Clark County Planning Commission, called the meeting to order at 2:02 pm. and asked for the Roll Call.

Present For Roll Call: Mr. Dave Stickney, Ms. Kerri Brammer, Mr. Mark Scholl, Mr. Don Wallace, Ms. Louise Maurer, Commissioner Melanie Wilt, Commissioner Lowell McGlothin, Mr. Sky Schelle and Mrs. Jo Anderson.

Absent For Roll Call: Commissioner Sasha Rittenhouse and Mr. Jay Kitchen.

Also in Attendance: Mr. Allan Neimayer, Mrs. Jennifer Tuttle and Mrs. Rachel Ricketts from Clark County Community and Economic Development.

### **Approval of the July 6, 2022 Minutes**

Motion by Mr. Stickney, seconded by Mr. Scholl, to **Approve** the minutes as presented.

**VOTE: Yes:** Mr. Stickney, Mr. Scholl, Commissioner Wilt, Mrs. Anderson, Mr. Schelle, Mr. Wallace, Commissioner McGlothin and Ms. Maurer

**No:** None.

***Motion carried.***

Chairperson Maurer asked Staff to present first the case.

### **Rezoning Case #Z-2022-08 ~ Property Owner/Applicant: Anne Demmy ~ Location: 3920 Fairfield Pike, Mad River Twp. ~ Request: to rezone parcel from O-1 to A-1 to covert an existing building to a single-family residence.**

Mr. Allan Neimayer, Senior Planner, stated the subject property is located at 3920 Fairfield Pike and consist of 1.31 acres. The property is currently zoned O-1 (Office District). The Applicant would like to rezone the property to A-1 (Agricultural District) to convert the existing building to a single-family residence. Mr. Neimayer stated this existing building use to be a government office but was transferred to Dan Demmy in March of 2003. It was never rezoned for the proper office use until the property was transferred to Mr. Demmy who then received rezoning approval in September of 2003. Anne Demmy, current property owner, would like to convert the building to a single-family residence. The surrounding land is zoned A-1 (Agricultural Use). Mr. Neimayer reviewed the difference in setback for the A-1 and R-1 zoning districts. Staff recommends the Applicant's request to rezone the subject property from O-1 to A-1 be approved as presented.

Mr. Schelle asked if there were any comments from neighboring properties. Mr. Neimayer responded not at this time.

Chairperson Maurer asked, why the A-1 District instead of an R-1. Mr. Neimayer reviewed the difference in setbacks for the A-1 and R-1 zoning districts.

Commissioner Wilt asked if the surrounding A-1 District property is owned by Mrs. Demmy. Mr. Neimayer responded no. Commissioner Wilt then asked if her property is surrounded by A-1. Mr. Neimayer responded yes.

Chairperson Maurer asked what the intended use of the property is. Mr. Neimayer responded a single-family residence.

Commissioner McGlothin asked at one time it was a residence. Mr. Neimayer responded before it was a county government office I believe it was a residence.

Chairperson Maurer asked why there was a County Engineer review from an Office District to an Agricultural District. Mr. Neimayer explained as part of the Technical Review Committee we look for comments from the County Engineer's Office regarding stormwater management as well as access.

Commissioner McGlothin asked if the property has well and septic. Mr. Neimayer responded yes.

With no further questions, Chairperson Maurer asked for a motion.

**Action on Rezoning Case #Z-2022-08 ~ Property Owner/Applicant: Anne Demmy ~ Location: 3920 Fairfield Pike, Mad River Twp. ~ Request: to rezone parcel from O-1 to A-1 to convert an existing building to a single-family residence.**

Motion by Commissioner Wilt, seconded by Mr. Wallace, to **Approve** the rezoning request as presented.

Mr. Neimayer stated that the Applicant, Anne Demmy, is present should the Board have any questions for her. Chairperson Maurer asked the Applicant to come up to the podium.

Anne Demmy, Applicant, explained it seems simple and straight forward. I am part owner of the property next to it. I do not have any neighbors. I do not see any reason it cannot be rezoned. Mr. Wallace explained I have seen the property and the rezoning is fitting. Mr. Wallace added I have been to the home and it seems well suited for the purpose of the rezoning.

**VOTE: Yes:** Commissioner Wilt, Mr. Wallace, Mrs. Anderson, Mr. Stickney, Mrs. Brammer, Mr. Schelle, Commissioner McGlothin and Mr. Scholl.

**No:** None.

***Motion carried.***

### **Follow up Discussion on SB 52, Large Wind or Solar Facility Developments**

Draft "E"; County Commissioners Policies and Procedures for Wind and Solar Facility Development Proposals.

Mrs. Tuttle explained the changes made to the proposed amendments following discussion at the July meeting. Behind the meter, meaning fed into the home or business for use, those solar arrays for residential and business use are regulated by Zoning, Building and Electrical Code so they are not a part of this Policies and Procedures. Mrs. Tuttle explained Senate Bill 52, in-front-of-the-meter systems-utility scale, and the amended sections, as well as to enact sections of the Revised code to permit a Board of County Commissioners to prevent the Ohio Power Siting Board's (OPSB)

certification of certain wind and solar facilities, to provide the County Commission as an ad hoc member to the OPSB, and to establish decommissioning requirements for certain wind and solar facilities. Mrs. Tuttle reviewed definitions added to the draft: (Section 2) An economically significant wind farm; A large wind farm; or a large solar facility.

Mrs. Tuttle stated there are five Clark County townships where Trustees have passed Resolutions asking to be considered as a restricted area from these developments: Harmony, Madison, Moorefield, Pike and Springfield townships. Commissioner Wilt asked if they needed to do a hearing for the Resolution. Mrs. Tuttle responded the public hearing is done by the County Commissioners. Mrs. Tuttle showed an updated map of the townships that are asking to be a restricted area.

Mrs. Tuttle referred to the discussion at last month's meeting regarding brownfields, landfills, barrel fills and contiguous land proposed within restricted areas and excluding those specific areas. Should those parcels be identified marked on the map? If a restricted area has barrel fill, and that would be a good use for the solar panels to go on that property, so should we identify those on the map very specifically. She noted the section dealing with development projects that fall below the 50 megawatts has been removed because county and township zoning has no authority under the ORC.

Section 4 – Intervening, prime farm land and soils. Mrs. Tuttle stated that she asked Jereme Best from Clark Soil and Water Conservation District to the meeting to help with the discussion and language on this Section. He has been working with Union, Highland and Preble counties on this topic. Jereme Best, Clark Soil and Water Conservation District, explained prime farm land and subsurface draining. As a solar farm goes in, there is a lot of infrastructure underground. For a large solar field development project and if there is a sub-surface tile main that serves surrounding property owners as a drainage outlet, how is that going to impact the neighboring fields. Mr. Best acknowledged solar as a business and a renewable resource, but our prime resources in Clark County is our highly productive farm ground. Mr. Best reviewed prime soils in Clark County, classified by the USDA, as two different classifications: 1) soils that are considered prime farm land, and 2) soils that are considered prime farm land if drained. Mr. Best explained that is where the sub-service tiles come into serve. You could have a farm that is surrounding the solar farm. The farm is highly productive and the main drainage is severed or cut off by the solar farm development. This is a huge deal with other counties I have spoken with and the steps they are taking to combat that issue.

Soil and Water Conservation District is a technical assistance office that we can provide advice on drainage, but we cannot enforce it. We do not have enforcement authority. But when I was talking with Union County, the county prosecutor can be an intervener on all projects and it gives the County Commissioners and soil and water a seat at the table. Whether it would affect the neighbors or not we do not know, but at least we can see how it might affect neighboring properties.

Almost all of Clark County's soils are classified as prime farmland. In the current draft, the County Commissioners have an opportunity to intervene. They are required to consult with soil and water when bringing a potential sight up in Clark County. Commissioner Wilt added that makes me wonder if prime farmland is too restrictive in this. What if a township says we are open to this, but yet everything qualifies as prime farmland? I do feel good about the farmland preservation easement component of that. If the Ohio Department of Agricultural decides to back up the easements and supports those against utilities, that would help protect those preserved farms. There are a significant amount of them in Clark County. Is prime farmland too broad of a statement when you say almost all of Clark County is prime farmland? It might be prime soils but it does not mean it is prime for farming. Mr. Best responded we run into prime farmland with developments. Classified soils have different uses. This gives you a seat at the table and the opportunity to look at every site. Mr. Stickney added

prime farmland needs to be divided up and a degree of slope of land. Mr. Stickney stated there is land being farmed that should not be.

Commissioner McGlothlin asked you mentioned the underground infrastructure. Does that cause more water on the surrounding property owners? Mr. Best responded it is going to cause more water to the upstream land owner. With the sub-surface drainage tile, if that is cut, it is going to be under pressure through the sub-surface tile mains and it is going to come above ground and cause problems for utility companies and potentially impact people up stream. Commissioner McGlothlin asked can we require them to repair those tile mains. Mr. Best responded that is what Union County is doing with a side document they passed with their resolution. One thing they need to do is locate all existing sub-surface draining tiles and surface drains prior to anything being commenced on the property. A Union County inspector is sitting on site. If the developer is not dealing with the tile main through the property being developed, the county will put a stop work order on the development project through the OPSB until it gets resolved. Commissioner Wilt stated Section 4B addresses that, requiring the developer to consult with soil and water. Mr. Best stated when speaking with Union County on the language it states they are required to consult with Soil & Water but that does not mean they have to do anything that is recommended. After speaking with Mrs. Tuttle, we questioned their legal authority on that it is done through the County Prosecutor's Office. The Soil and Water Office is filed as an intervener to the OPSB. Commissioner Wilt explained the County Commissioners are filed as an intervener as well. We have quite a few opportunities to intervene in those unrestricted areas, which could be any of those five townships. Mrs. Tuttle stated in Section 4A it does say it shall be the policy of the County Commissioners to intervene with these items. It is not to consider intervening, it is the policy to intervene. Commissioner Wilt added that does not mean being in favor of or against the development project, it just means participating.

Mr. Schelle asked how accurate the maps of the tile systems in Clark County are. Mr. Best responded we have tile plans dating back to 1949 to the present day, all projects that ran through our office. But there are tile systems put it by farmers that we are not aware of. We can tell by standing out in the field if a tile is there and working. Union county required the exploratory trench if it is suspected that there is a field tile. Each land owner that drained into it paid a draining fee to maintain that tile system. Mr. Schelle asked the depths of these can vary but is it possible for them to be crushed by semi-trucks loading/unloading material. Mr. Best responded you can have a damaged tile, and it would not be discovered by an exploratory trench. Mr. Schelle asked if the development occurs could that be handled by your office. Mr. Best responded right now we do that for sites that are potentially being developed, but do we always send a comment letter, no. If we see an issue, we bring it up. Solar farms coming in this big are taking out large amounts of land. It would put a strain on our office locating all those tiles. Chairperson Maurer asked the way it is in place now, if the utility company made all attempts to abide by the rules but flooding of adjacent properties did happen, what is the recourse for the other property owners. Mr. Best responded a lawyer would need to be consulted and it would turn into a civil matter.

Commissioner Wilt stated I am glad these are all things beings discussed. When the County Commissioners are trying to move forward and we do not approve one that has potential issues, or not cooperative, that is why we wanted a process so these things are caught ahead of time.

Mr. Schelle stated as a long time municipal employee many times we have to tell property owners that that is a civil matter. I am not a farmer, but if you cut a tile it might not just be the cost of that tile, it might be loss of production on the field. Mr. Best responded a tile main could be a drainage outlet for much larger area. Chairperson Maurer asked do our current guidelines look congruent with Union County, or do you think we need to be more preventive of the drainage damage occurring. Mr. Best responded the way they are written now you have the opportunity to intervene on any project. But

how do you know down the road they will or will not be a good neighbor. Commissioner Wilt stated that is why we have hearings and processes. All the same potential issues could occur. Those who are opposed are always going to go to the worst case scenario. So, you have to have a policy in place to fairly review that and have a discussion and a public hearing and give everyone an opportunity to demonstrate their plan. Those who have concerns about it will come and share those concerns. That is why we wanted to get ahead of this so we have a process and requirements.

Chairperson Maurer asked can you have a written policy that holds utility companies accountable on drainage maintenance. Commissioner Wilt responded no more or less than their neighbor farmer. The farmer might break a tile and flood that area. We have to think about holding people to the same standards based on the use. Yes more could go wrong on the solar farm with the industrial use. But the farmer next to them might have a fertilizer spill that goes into the tile. I think what is written here is good. It should be policy to intervene when the developer of the proposed Utility Facility commits to a plan to prevent or limit damage to the soils or drainage. We need that and our process typically would be to consult with Soil and Water and the County Engineer.

Commissioner McGlothlin asked have solar companies run into these problems. Mr. Best responded Highland County has run into many problems with the tiles being severed and the solar companies not wanting to fix it or not fixing it correctly. Commissioner Wilt added they were permitting before SB 52 and did not have a process in place. Commissioner Wilt stated we have not had any request for permits of this size, which means everything we do will be after the policies are in place.

Commissioner McGlothlin asked about the underground lines. Mr. Best responded anything that could be in a trench underground. Commissioner McGlothlin then asked one trench or more than one. Mr. Best responded I would say there would be a trench going down each ray.

Mrs. Tuttle asked do you want the parcels of brownfields, landfills and barrel fills identified in the Resolution and on the map. And, what is the consensus regarding prime farmland. Mr. Schelle stated I think if Staff has specific parcels in mind then list them. Chairperson Maurer agreed. Mrs. Tuttle stated we will list them and add them to the map. Mrs. Tuttle asked do we want to make any adjustments to the prime farmland. There was no response.

Commissioner McGlothlin asked how many brownfields. Mr. Ethan Harris responded there are at least 20 but five have been identified for solar development.

Mr. Schelle asked about language we have not talked about. I see nothing in the draft that gives the County Commissioners the ability to revoke a restricted area. Mrs. Tuttle responded that is addressed under Section 3.

The Board thanked Mr. Best for attending the meeting and sharing his expertise and the information he learned from talking with other counties on this subject matter.

Chairperson Maurer asked Staff to present the next case.

### **Proposed Comprehensive Zoning Text Amendment**

Mr. Neimayer explained the Zoning Text Amendment that was accidentally left out during the final version of the 2020 comprehensive text amendments: *Section 102.03.031 Fencing shall be provided per Section 805 or other approved methods as imposed by the Zoning Inspector.*

The Board was all in agreement to add the text amendment back into the Zoning Regulations. Mr. Neimayer states, we will take this to the RZC so you will officially have this next month. There was a section with the fencing of animals. Certain areas we have had issues with chickens.

Chairperson Maurer asked Staff to present the next case.

### **Proposed Comprehensive Zoning Map Amendment**

Mr. Neimayer reviewed two properties on Willow Rd. and properties along Willow Chase Dr. and Willow Gate that are currently zoned R-4S but are actually single-family residences, which land use is not permitted in the R-4 zoning district. Staff researched the rezoning history of this area of Willow Rd. and Willow Chase Dr./Willow Gate Dr. and did not find any rezoning case that put the subject properties into a proper single-family residence zoning district. Mr. Neimayer will ask the Rural Zoning Commission to initiate the comprehensive zoning map amendment process to rezone these properties to the proper single-family residence district. He stated a detailed letter explaining this zoning matter will be sent to the affected property owners.

### **Staff Comments**

Next scheduled meetings: September 7 and October 5, 2022.

### **Adjournment**

Motion by Commissioner McGlothin, seconded by Mrs. Anderson, to **Adjourn**.

**VOTE: Motion carried unanimously.**

The meeting was adjourned at 3:57 pm.

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Ms. Louise Maurer, Chairperson