

**MINUTES OF THE AVON LAKE
PLANNING COMMISSION MEETING
WEDNESDAY JULY 5, 2023**

A regular meeting of the Avon Lake Planning Commission was called to order on July 5, 2023, at 7:00 P.M. in Council Chambers with Pro Tem Chairman Haas presiding.

ROLL CALL

Present for roll call were Mrs. Fenderbosch, Mr. Haas, Dr. Ma, Mr. Orille, Mrs. Raymond, Ms. Slattum, Mayor Zilka, Director of Law Ebert, Community Development Director Esborn, Engineer Howard, and Planning and Zoning Manager La Rosa.

ADMINISTER THE OATH FOR NEW COMMISSION MEMBER

Director of Law Ebert swore in Linda Slattum for a Commission position ending December 31, 2023.

APPROVAL OF MINUTES

Changes needed: Mr. Haas - Mr. Ebert, Mr. Esborn, and Ms. La Rosa should be referred to as Ex Officio; Mr. Howard as In Appearance; Mrs. Fenderbosch - 9 typos that Ms. La Rosa will see to.

Mr. Orille moved, Mrs. Raymond seconded to approve the June 6, 2023, meeting minutes as amended. Motion Carried (7-0)

READING OF GENERAL COORESPONDENCE AND ANNOUNCEMENTS

None

COUNCIL REPORT

Mrs. Fenderbosch reported that there is one City Council meeting left before the summer recess.

SWEAR IN

Director of Law Ebert swore in applicants and members of the audience speaking to items on the agenda.

CASE NO. 012-23: 33625 Pin Oak Parkway LLC (All Pro Freight Systems, Inc.) - Site Plan Approval to Construct a New Warehouse.

Request from 33625 Pin Oak Parkway LLC (All Pro Freight Systems Inc.), 1006 Crocker Road, Westlake, for Site Plan Approval to construct a new warehouse at 33625 Pin Oak Parkway. This project is located on the south side of Pin Oak Parkway between Avon Belden Road and Moore Road in the I-2 General Industrial Zoning District. Applicable Code Section: 1214.06 Site Plans apply. Upon approval by the Planning Commission, this case may go directly to the Building Department for permits.

Craig Sanders, Vice President of Design with Freeman Building Systems (i.e., Freeman), represented the applicant. Freeman is the general contractor for this project.

Mr. Sanders explained that the new warehouse will be situated behind the existing building. There will be 8 docks, 4 for incoming shipments on the west side of the warehouse and 4 for outgoing shipments on the east side. The new driveway will have trucks enter on the west side of the property, go behind the new warehouse, and exit on the east side of the property. The additional warehouse space is needed to prevent trucks from having to wait on Pin Oak Parkway causing traffic hazards.

Mr. Orille asked what was warehoused at the facility. Mr. Sanders replied that this warehouse will be leased by U.S. Cotton for the distribution of paper products. There will not be hazardous materials.

Mr. Orille inquired about the administrative review comments submitted by Avon Lake Regional Water. Mr. Sanders replied that the applicant takes no exception to the agency's requests.

Mr. Orille also inquired as to whether the employee door will be marked. Mr. Sanders responded in the affirmative.

Mrs. Fenderbosch noted the acceptance of the Regional Water Department's requirements. Then inquired about the administrative review comments submitted by Engineer Howard. Mr. Sanders replied that all eight items will be addressed.

Mrs. Fenderbosch inquired about another engineering issue, a storm water prevention checklist. Mr. Reyes stated it will be added and submitted to the City Engineer.

Mrs. Fenderbosch noted that the landscaping plans shown on page L-1 in the plan package should be approved by the state representative for the Division of Forestry or, when in place, by the City's Urban Forester. Forestry information should be submitted with an improvement plan.

Mrs. Fenderbosch stated that the restrooms will need a privacy wall. Mr. Sanders agreed and stated it will be shown in the details on the building plans when they are submitted.

Mayor Zilka expressed concern regarding the backup of trucks should a truck breakdown on the one lane drive. Mr. Seedhouse, representative of All Pro Freight, explained that it is unlikely to be an issue because typically the facility has less than 50 trucks per 24-hour period passing through.

Mr. Haas voiced concerns about employees and clients parking and then crossing the driveway where trucks enter and exit. Mr. Seedhouse explained that the truck traffic is not so great as to create a safety issue. Mr. Haas stated in the past he has witnessed trucks parked on Pin Oak Parkway causing hazardous conditions and this plan will eliminate those hazards.

Mr. Orille moved, Mrs. Fenderbosch seconded to recommend approval of the Site Plan for 33625 Pin Oak Parkway. Motion carried (7-0).

CASE NO. 011-23: Lake Veterinary Properties LLC - Conditional Use Approval for a 34-Space Parking Lot West of Miller Road on the North side of Electric Boulevard.

Public Hearing on the request from Lake Veterinary Properties LLC, 430 Regatta Drive, Avon Lake, for Conditional Use Approval of a 34-space parking lot located west of Miller Road on the north side of Electric Boulevard in the R-1B Single-Family Residence Zoning District. Applicable Code Section: 1214.03 Conditional Uses apply.

Community Development Director Esborn explained to the audience that the applicant is seeking a use variance. In February 2023, the Avon Lake Zoning Board of Appeals granted a use variance. However, the criteria for granting a zoning use variance are different than what the Planning Commission is required to consider.

Mr. Haas, Mayor Zilka, and Mrs. Fenderbosch each acknowledged having used the applicant's services but believed they would be impartial in this case.

Pro Tem Chairman Haas outlined the meeting procedure and noted that Mr. Phillips provided a notice of speaking on July 3, 2023. Mr. Haas explained that the Planning Commission's role in this process is to make a recommendation of approval or denial to City Council, which is the final decision-making body.

John Reyes, R.A. of Star Design-Build Contractors represented the applicant. Mr. Reyes stated the following:

1. Maximum number of parking places will be 34.
2. This lot will be for employee parking only, for the medical "campus."
3. An increase in clientele has created the need for additional employee parking.
4. A safer employee parking situation is needed to reduce the number of people having to cross Miller Road and will allow for more client parking at the clinic.
5. The parking lot will be heavily landscaped.
6. A fence may be problematic because neighboring properties already have fences and will be seriously taken into consideration.
7. Lighting will be like the ones installed on the east side of Miller Road; twelve feet high and will not cast light onto neighboring properties.
8. Pedestrian traffic will use existing sidewalks on the north side of Electric Blvd.
9. The applicant is willing to install sidewalks on the south side of Electric Blvd. if required.
10. Storm water issues will be addressed including the factor of "mounding" that can create a greater water issue for neighboring properties.

Gerald Philips, attorney, represented neighboring residents Dale Guthman, Vera Wong, Lisa Doyle, and Amy Adams. Mr. Phillips enumerated factors in opposition to the parking lot:

1. Parking lot is not a conditional use in any R-1 residential district.
2. Parking lot is not in keeping with the City's Comprehensive Land Use Plan
3. Parking lot is inconsistent with the intent and spirit of the Planning and Zoning Code and the growth of the area.
4. A Parking lot would undermine property values.
5. Parking lot will increase street traffic – Code 1234.22 requires a traffic analysis.

6. Parking lot is inappropriate in a subdivision development.
7. Other factors that are not satisfied are included in Mr. Phillips' written submission.

Mr. Phillips further contended:

1. That the applicant already has more parking spaces than the maximum required under the Code.
2. That this is a case of spot zoning.
3. The applicant should use lots on the east side of Miller Road.
4. The parcels at issue can and should be developed as residential.
5. That a parking lot in this location is prohibited under Code 1216.05.
6. The applicant has the burden of proving all the factors.

Mr. Phillips called 4 witnesses:

Lisa Doyle, resident of Smuggler's Cove, expressed concerns regarding emergency vehicles having access to the condominium complex and the safety of pedestrians and bicyclists with increased traffic. She stated that the applicant created their own hardship by expanding the business and reducing parking space they had. They have other options such as at Paws on the Lake and east of buildings they own on Miller Road.

Amy Adams, resident of Smuggler's Cove, stated that parking lots are not a permitted conditional use in an R1-B district and would not be in keeping with the Code's intent to provide for orderly and uniform development. In addition, a parking lot would be hazardous and detrimental to the neighborhood due to more lighting and exhaust fumes, increased dog barking, increased traffic, and more strangers in the area. She requested that the Commission recommend denial to City Council.

Vera Wong, resident of Lake Road with property adjacent to the parcels at issue, explained that the area is a peaceful neighborhood and a parking lot abutting her back yard would change the nature of the neighborhood. Other concerns included: car lights shining on her property, increased exhaust fumes, current lack of maintenance of the lots (i.e., infrequent grass/weed cutting), possibility of water runoff, fears there will be people hanging out in the lot, and ambulance access to Smuggler's Cove. Ms. Wong also noted that the applicant's employees do not always cross Miller Road in the designated crosswalk, decreasing their own safety. She also has concerns that an incident such as the recent Pickering Hills Farm accident might occur. In addition, residents had considered buying the lots, but the applicant moved so quickly they did not have the chance.

David Guthman, resident on Electric Blvd., stated that the parking lot would be detrimental to the character of the neighborhood and that there is a safety issue regarding Smuggler's Cove entrance. He believes a traffic study should be conducted. He asked for a guarantee in contract form that the applicant will compensate residents for any flooding of their properties and further wants a guarantee from the City that flooding will not occur. In addition, Mr. Guthman asked for proof that property values will not decrease due to the parking lot. He noted that 3 homes could be built on the parcels. He added that this is not about the clinic, but about the homeowners, and the clinic has other options.

In response to Mr. Phillips and the four witnesses, Dr. Lamb made the following comments:

1. Parking lot would not impede traffic flow – the Smuggler’s Cove entrance has nothing to do with it.
2. Lake Road parcel owned by the applicant is an occupied residential lot that would require displacing the current resident.
3. Regarding noise, this is a private lot that will have video cameras and the employees will be instructed not to loiter at the lot.
4. Regarding water retention and drainage, the clinic already accepts water from Smuggler’s Cove and per the architect, water will not go to neighboring properties.
5. At the Miller Road crosswalk, cars do not stop for pedestrians.
6. Individual parcels are not wide enough to build homes, the lots would have to be consolidated.
7. A resident from the burned portion of Smuggler’s Cove is in favor of the parking lot and could make the testimony available.

In response to Mr. Phillips and the four witnesses, Mr. Reyes made the following comments:

1. The applicant has well-maintained properties with landscaping and will do the same with the parking lot property.
2. As to late-evening parking, there are few overnight staff, and they will probably park at the clinic or possibly use five to six spaces at the new lot.
3. No clients will be using the parking lot, hence there will not be dogs passing neighboring properties.
4. Regarding car lights, the applicant has proposed screening.

Mr. Phillips then stated the following:

1. The lots are buildable, utilities can be connected.
2. A 34-car lot will cause/create storm water problems with no retention pond.
3. City Council is in the process of selling land on the east side of Miller Road to the applicant that could be used for parking.
4. The parcels can be consolidated to build homes, there is 278 feet of street frontage.
5. Contrary to what the applicant says, traffic is an issue; even Planning and Zoning Manager Page said so.
6. Parking lots cannot be in any residential R-1 District.

When questioned by Mr. Orille, Mr. Phillips, in support of his contention that the applicant already has an adequate number of parking spaces, presented his Exhibit J which was a resident’s log of the number of cars parked at the existing parking lot at numerous times of the day. Dr. Krupka stated that the business has 212 employees and 149 parking spaces. Dr. Lamb added that one of the biggest client complaints is lack of parking.

Upon questioning the applicant representatives, Mrs. Fenderbosch elicited the following information:

1. Employees only bring their own pets to the Clinic when they are being medically treated and do not take client animals home.

2. Security at the parking lot will be maintained by having cameras and lighting that will be shielded from shining into neighboring properties.
3. Snow removal and salting will be done early in the morning by a third party per the contract in place.
4. According to the applicant, “installing sidewalks in front of Smuggler’s Cove requires the property owners’ permission.”
5. ALAC has owned the project site for approximately two years and has it brush-hogged a couple times per year.
6. The parking spaces could be angled to help with light issues if it is deemed appropriate.
7. A gate is possible, but the applicant does not want something unsightly.
8. Regarding water runoff, the water detention will be an underground system and run under the parking lot.

Mayor Zilka said he has always been impressed by the maintenance at Smuggler’s Cove. He referenced prior complaints about the lots at issue and stated the property appears to be better maintained by the applicant than the former owner. He added that he thinks a parking lot will have a negative impact on the residential property values in the area.

Dr. Ma shared that, having looked at the property, the vacant lots are not always maintained as they appear in the submitted photos. Dr. Ma asked about the number of employees. The applicant stated that this new parking lot would be mainly used by 1st and 2nd shift employees, 3rd shift employees will probably not use the new lot. Dr. Krupka added that approximately 21 pets are seen per hour at the clinic. The busy time is between 10 a.m. and 6 p.m. Midday is when 60 – 70% of employees are in the buildings.

Mrs. Raymond stated the business should be considered as a 3-building campus. Mrs. Raymond asked if parking could be expanded at Paws on the Lake by changing to an underground water detention system. Mr. Reyes explained that the existing parking lot would have to be demolished to have enough area to install an underground detention structure with the needed volume. When asked about the property east of the grooming facility the applicant stated that it is a nature trail for exercising pets staying at Paws on the Lake. Dr. Krupka stated that the clinic has 105 employees on 3 shifts: 90 full-time and 15 part-time.

Mr. Haas questioned why some of the trail area could not be used for parking, weighing the needs of people versus the needs of animals. The applicant stated it would be economically detrimental to the business. When asked, Dr. Krupka stated that the new parking lot would be adequate for their current needs.

Dr. Lamb explained that clients currently circle through the parking lot from Miller Road, exit onto Electric Blvd., and then re-enter from Miller Road when the clinic parking lot is full. Dr. Lamb stated that approximately 20 employees will move from parking at the clinic to the new lot.

Mr. Haas stated with that given the number of spaces in the new parking lot could be reduced. Regarding the viability of the parcels, the applicant asserted that development of the lots is not economically feasible to build homes, it would be a huge amount. Engineer Howard stated it would be approximately \$800 per foot to install the necessary infrastructure.

Mr. Haas explained that one factor the Commission looks at is whether the applicant has been a good neighbor. Dr. Krupka stated that they have had open meetings with the area residents and discussed issues with individual residents.

OTHER PUBLIC COMMENTS

Rachel Kuhn, 50 Public Square, Suite 2000, Cleveland, legal counsel for Smugglers Cove Condominium Association 1-4, stated that she represents 168 homes and when they were built in the 1970's it was a quiet and serene area. She stated that approving the parking lot project would set a poor precedent for the City. Residents wonder when the expansion of this business will end. Regarding a sidewalk on the south side of Electric Blvd., 75% of the condominium complex residents would have to approve it.

Reverend Janice Frasier, resident of Smuggler's Cove, stated she loves the view and is concerned about light shining into her condominium because she is an on-call chaplain with several hospitals. She questioned how 34 parking spaces can fit in the proposed area. She does not want to look at a parking lot and believes it could affect her condominium's value.

K.C. Zuber asked for the status of the sale of 1.6 acres east of the walking trail. Mr. Haas advised that it could be addressed in the closing arguments.

Mike Crnobrnja, resident of Smuggler's Cove, voiced concerns about property values, increased traffic, noise, and Smuggler's Cove having one entrance/exit.

CLOSING STATEMENTS

Mr. Reyes stated that the applicant is looking to improve the site and provide safety for its employees.

Mr. Phillips closed with:

1. This parking lot is not in accordance with Code Section 1210.06, the Comprehensive Land Use Plan.
2. The purpose of the Code per 1210.01 is to promote and protect public health, safety, comfort, convenience, and general welfare of the people of Avon Lake.
3. This parking lot is not in keeping with 1216.04 that sets out the purpose of residential districts.
4. This is spot zoning if it does not conform to the Comprehensive Land Use Plan.
5. It is not accurate to say the lots are not able to be developed.
6. The clinic has 39 parking spaces and again, the whole business has more spaces than required and referred to his Exhibit I.
7. The clear and convincing standard for the Zoning Board of Appeals should have prevented approval of the use variance.
8. Mr. Phillips asked the Commission members to refer to other items in his written submission.

Mrs. Fenderbosch asked Law Director Ebert to address the issue of a Zoning Use Variance versus a Planning Commission Conditional Use under Code Section 1212.04 (4). Mr. Ebert recommended tabling the case based on the amount of information that had been presented this evening and allowing time for the Commission members to review the material.

Mr. Haas moved, Mrs. Fenderbosch seconded to table the case until the August 1, 2023, meeting. Motion carried (7-0).

Mr. Hass, knowing of no other business, asked for a motion to adjourn the meeting.

ADJOURNMENT

Mayor Zilka moved; Mrs. Fenderbosch seconded to adjourn the meeting at 9:38 pm. Motion carried (7-0).

After adjournment, Mr. Zuber asserted that usual opportunities for other public remarks to be made had been omitted from the agenda. Mr. Haas stated that his questions could be asked at the next meeting.


Planning Commission
Pro Tem Chairman Haas


Recording Secretary
Diane Reynolds