

**MINUTES OF THE AVON LAKE  
PLANNING COMMISSION MEETING  
FEBRUARY 6, 2024**

A regular meeting of the Avon Lake Planning Commission was called to order on February 6, 2024, at 7:00 P.M. in Council Chambers with Chairperson Ma presiding.

**ROLL CALL**

Present for roll call were Mrs. Fenderbosch, Mr. Haas, Dr. Ma, Mrs. Raymond, Mayor Spaetzel, Community Development Director Esborn, Engineer Howard, and Planning & Zoning Manager LaRosa. Mr. Orille was absent, and Director of Law Ebert arrived at 9:20 P.M.

**OATH OF OFFICE**

The new Commission member, Jeffrey Leitch was sworn in by Mayor Spaetzel.

**APPROVAL OF MINUTES**

Mr. Haas moved, and Mayor Spaetzel seconded to approve the January 3, 2024, meeting minutes as presented. Motion carried (6-0).

**READING OF GENERAL COORESPONDENCE & ANNOUNCEMENTS**

None

**COUNCIL REPORT**

Mrs. Fenderbosch reported on the cases that have been heard at City Council including the approvals of Harbour Estates #4 Improvement Plan and Harbour Estates # 3 Final Plat adding the requirement that basement grades must be 1 foot above the wetland basin, and it will be noted on the plat.

Sam Naumann, Chair of the Environmental Affairs Advisory Board (i.e. EAAB), addressed the Commission regarding the Sustainability Plan. He urged that there be more dialogue between the EAAB and various City entities to promote and enhance sustainability objectives as outlined in its by-laws in conjunction with the Comprehensive Land Use Plan (i.e. CLUP). Mayor Spaetzel asked Mr. Naumann to bring his recommendations on how to proceed to the Planning Commission and the Director of Community Development. All the Commission members are supportive of furthering environmental issues.

Rob Shahmir, City Council Representative for Ward 1, addressed the Commission regarding the CLUP. Mr. Shahmir questioned how the document is being referenced when various City entities formulate plans and decisions. He asserted that the CLUP is a global, living document that provides a roadmap that should be considered on an ongoing basis; it should not sit and collect dust. Mr. Shahmir noted that the CLUP does assign responsible parties, but he pondered the question of who “owns” or is the “champion” of the CLUP. Mayor Spaetzel asked Mr. Shahmir to submit his concerns and thoughts to City staff for further discussion.

**SWEARING IN**

There were no actual cases and hence, no one to swear in.

## **CASE CTA-24-1 Planning and Zoning Text Amendments**

The Planning Commission has recommended approval of the following code amendments to the City Council. Subsequently, the City Council will have the responsibility of confirming or rejecting the Planning Commission's recommendation. Should the amendments receive approval, the Community Development Department will generate clean copies and collaborate with the Clerk of Council to incorporate these revisions into the Codified Ordinances, which take effect immediately upon the Council's approval.

**\*Deleted text is indicated with strikethroughs and new text is indicated with underlines.**

### **Exhibit 1 - Section 1214.03(c)(5)(B)(ii)**

By a majority vote, the City Council may: i. Confirm the recommendation of Planning Commission; or ii. Reject the recommendation of the Planning Commission, ~~in which case the application shall be deemed denied.~~

### **Exhibit 2 - Section 1214.03(h)**

Appeals Any person or entity claiming to be injured or aggrieved by any final action of City Council shall have the right to appeal the decision the Court of Common Pleas as provided in ORC Chapters 2505 and 2506.

### **Exhibit 3 - Section 1214.05(c)(7)(D)**

The ~~Director of Public Works~~ City Engineer or engineering consultant to the city shall have the authority to make a decision on the improvement plans and subdivider's agreement prior to review of the final plat by Planning Commission and City Council based on comments and revisions suggest by the Development Review Committee and other agencies having jurisdiction.

### **Exhibit 4 - Section 1226.05(f)**

No structure, sign, or landscape element shall exceed 30 inches in height, measured from the top of the curb, within the area established above, unless approved by the ~~Director of Public Works~~ Community Development Department. Trees may be located within these areas provided they are pruned and/or the canopy is trimmed to provide clear visibility (with the exception of the tree trunk) up to eight feet above the top of the curb.

### **Exhibit 5 - Section 1234.22(b)(4)**

Any site plan application that due to its size, density, traffic generation rates, or location can reasonably be expected to create traffic issues, as determined by the ~~Director of Public Works~~ City Engineer or engineering consultant to the city, are required to submit a TIA.

### **Exhibit 6 - 1234.22(c)(5)(C)**

To determine intersection capacity at levels of service C and D, Figure 6.8 and Tables 6.4, 6.5, and 6.6 of the Highway Capacity Manual shall be consulted or any other applicable figures or tables as determined by the ~~Director of Public Works~~ City Engineer or engineering consultant to the city,

#### Exhibit 7 - Section 1234.22(d)

If the TIA results in the conclusion that the level of service of adjacent roadways and/or intersections is or will become deficient prior to the proposed development and will not be able to accommodate the increased traffic load generated by the proposed development, any or all of the following mitigating steps may be required, at the developer's expense, by the ~~Director of Public Works~~ City Engineer or engineering consultant to the city. The ~~Director of Public Works~~ City Engineer or engineering consultant to the city, shall make their determination prior to approval of a RPD Development Plan, MUO Development Plan, site plan, or zoning permit, whichever is applicable

#### Exhibit 8 - Section 1224.01(f)(9)

The following standards for home occupations are intended to provide reasonable opportunities for employment ~~within the home~~ on the property where one resides, while avoiding changes to the residential character of a dwelling that accommodates a home occupation, or the surrounding neighborhood, where allowed by this section.

#### Exhibit 9

TABLE 1232-1: SCREENING REQUIREMENTS					
		Adjacent Development or Zoning District			
		Single-Family Residential	Multi-Family Residential	Commercial, Office, and Mixed Use	Industrial
Proposed Development	Single-Family Residential			<u>Screening Required</u>	<u>Screening Required</u>
	Multi-Family Residential	Screening Required			<u>Screening Required</u>
	Commercial, Office, and Mixed Use	Screening Required	Screening Required		<u>Screening Required</u>
	Industrial	Screening Required	Screening Required	Screening Required	

#### Exhibit 10 - Section 1238.06(a)(1)

The subdivider shall, prior to the approval of the final plat, be required to post with the City a financial guarantee in an amount equal to 20 percent of the cost of pavement construction in the subdivision as computed by the ~~Code Administrator~~ City Engineer or engineering consultant to the city. Such financial guarantee shall be held by the City to ensure that the subdivider shall replace or repair, upon request of the City, any defective pavement areas which may appear during the time period of the guarantee.

#### Exhibit 11 - Section 1238.06(b)(3)(A)

A bond in the amount determined in accordance with this section shall be filed with the City ~~of Avon Lake~~ Engineer or engineering consultant to the city.

## **Exhibit 12 - Section 1238.07**

Six amendments of ~~Code Administrator~~ City Engineer or engineering consultant to the city.

### **Exhibit 12 - Section 1238.07(i)**

(1) Trees planted within a street right of way shall conform to the City Master Tree Plan. Prior to construction a planting plan shall be approved by the ~~Municipal Arborist~~ Urban Forester.

(2) All new subdivisions shall be required to contribute to the Street Tree Fund for the installation of trees in public rights-of-way. The fee shall be payable as a cash amount calculated by the ~~Code Administrator~~ Urban Forester and shall be paid prior to Final Plat approval. The fund shall be used by the City to install tree lawn trees within public rights-of-way of new subdivisions. The fund shall not apply to private streets. The cost for said fee shall be as set forth in Chapter 208 of the Codified Ordinances

## **Exhibit 13 - 1246.02 General Definitions**

### **Construction**

~~The act of constructing an addition to an existing building or structure or the erection of a new principal or accessory structure on a lot of property. Any act or process that requires a building permit and that adds an addition or modification onto an existing building or erects a new principal or accessory structure.~~

### **Construction**

~~The erection of a new structure, a new site element, or any additions to existing structures.~~

### **Construction, start of**

A substantial change or alteration in the physical properties of a zoning lot or structure where the incorporation of labor and materials incurs substantial cost or liability.

## **Exhibit 14 - 1246.02 General Definitions**

Home Occupation A business, profession, occupation, or trade that is conducted ~~within a residential dwelling unit on a residential property~~ for the economic gain or support of a resident ~~of the dwelling living on that property~~ and is incidental and secondary to the residential use of the lot and does not adversely or perceptively affect the character of the lot or surrounding area.

## **Exhibit 15 - 1246.02 General Definitions**

### **Site Improvement**

Alterations to land that enhance the utility of any new or existing structure on the lot(s).

Mr. Haas moved, Ms. Raymond seconded to recommend approval of these Planning and Zoning Code text changes with typographical errors corrected as noted by the Commission.

Motion carried (6-0).

## **CASE CRR-24-1 Rules and Regulations of the Avon Lake Planning Commission Amendments**

The Planning Commission has recommended approval of the following rules and regulations amendments to the City Council. Subsequently, the City Council will have the responsibility of confirming or rejecting the Planning Commission's recommendation. Should the amendments receive approval, the Community

Development Department will generate clean copies and collaborate with the Clerk of Council to incorporate these revisions into the Codified Ordinances, which take effect immediately upon Council's approval.

\*Red text is verbiage proposed by the Community Development Department.

\*Green text is verbiage proposed by the Commission.

\*Deleted text is indicated with strikethroughs and new text is indicated with underlines.

## ARTICLE I. MEMBERS & OFFICERS

At its first meeting in January following the city council election, the The members of the Commission shall elect a Chairperson from one of among its citizen members. ~~at the Commission's first regularly scheduled meeting in January following the election of City Council in the previous year.~~ The Chairperson shall serve in such capacity until another Chairperson is elected by the Commission.

At its first meeting in January following the city council election, the The members of the Commission shall elect a Pro Tem Chairperson from ~~one of~~ among its citizen members. ~~at the Commission's first regularly scheduled meeting in January following the election of City Council in the previous year.~~ The Pro Tem Chairperson shall serve in such capacity when the Chairperson is absent. The Pro Tem Chairperson shall serve in such capacity until another Pro Tem Chairperson is elected by the Commission.

The Law Director, ~~Public Works Director~~ City Engineer or the engineering consultant to the city, ~~Community Development Director, Planning and Zoning Manager and Community Development Department staff, and Recording Secretary~~ shall attend all meetings of the Commission unless excused and shall be considered ex-officio members of the Commission.

## ARTICLE IV. MEETINGS

1. Regular meetings of the Commission shall be held on the first Tuesday of each month at 7:00 P.M. If such day falls during the week of ~~on~~ a legal holiday or an election day, then the meeting may be held on the first Wednesday or such other designated day as approved by a majority vote of the Commission.

6. (b) The Recording Secretary shall post the agenda of each regularly scheduled meeting and the time, ~~place~~ place, and purpose of each special meeting, not later than (3) working days immediately preceding each scheduled meeting of the Commission on the City's website at <https://www.avonlake.org/planning/agenda-minutes>. If any case to be considered at a meeting requires an adjudicatory hearing, then the agenda shall be so indicated.

6. (c) ~~Additionally, any person upon request and payment of the fee set forth in Chapter 208 General Fee Schedule of the Codified Ordinances of the City of Avon Lake may obtain reasonable advance notification of all meetings at which any specific type of public business is to be discussed.~~

8. The order of business for a Commission's regular meeting shall be as follows:

- (a) Roll Call
- (b) Approval of Minutes

- (c) General Correspondence/Announcements
- (d) Council Report
- (e) Swearing In Public Commentors
- ~~(f) Presentation by Applicant~~
- ~~(g) (f)~~ Tabled or Postponed Cases
  - (i) Correspondence/presentation by staff and applicant
  - (ii) Public Hearing, if required
  - (iii) Public comments
- ~~(h) (g)~~ New cases
  - (i) Correspondence/presentation by staff and applicant
  - (ii) Public Hearing, if required
  - (iii) Public comments
- ~~(i) (h)~~ Other business
- ~~(j) (i)~~ General public comments
- ~~(k) (j)~~ Adjournment

## ARTICLE V. ADJUDICATORY HEARINGS

4. Witnesses testifying before the Commission shall be subject to cross-examination. The right of cross-examination on behalf of the applicant may be exercised by the applicant, if the applicant is an individual, or by the applicant's legal counsel. Unless the Chairperson determines that fairness requires that more than one person be permitted to cross examine on behalf of those opposing the application, the right of cross examination on behalf of those opposing the application may be exercised by one (1) representative.

8. Any individual who wishes to make an opening statement, closing argument or cross-examine witnesses on behalf of those opposing the application must notify the ~~Planning Commission Secretary~~ Community Development Department in writing at least four (4) working days prior to the hearing. If more than one person timely submits such notice, then preference shall be given to the first attorney at law that represents an opposing group to have submitted such notice or, if none, to the first person who submitted such notice.

9. All documents ~~evidence, and~~ supporting and opposing data must be submitted to the Community Development Department no later than the Wednesday before the meeting. The application submission deadline shall be extended to the next succeeding workday if the deadline falls on a holiday.

## ARTICLE VI. APPLICATION FOR COMMISSION AGENDA

1. An applicant must participate in a preliminary review process prior to being placed on the Commission's agenda. To start the preliminary review process, an applicant shall contact the Community Development Department and request a meeting with the Development Review Committee (DRC). After the DRC meeting, the applicant may submit an application online at avonlakeoh.portal.opengov.com, and deliver to the Community Development Department the required number of plans, supporting documentation, and fee.

~~4. The Commission meeting agenda will be set by the Community Development staff and approved by the Chairperson. Applications may be referred to a work session of the Commission by a majority vote of the members of the Commission.~~

## ARTICLE VII. ACTS OR DECISIONS

1. All motions shall be made in the positive and then, if the Commission desires not to take this action, the motion should be voted down. When voting an application down, the Commission shall refer to the specific review criteria in the Planning and Zoning Code regulations and explain the reason that it does not meet the test criteria.

7. No application shall be reconsidered after having been acted on its merits. If an application is denied, the applicant may:

(a) Appeal the decision in accordance with applicable appeal procedures established in the Planning and Zoning Code regulations; or

(b) Make changes to the application that fully address all issues and findings identified and resubmit it as a new application, including any required fees; or

(c) Submit the same application after a 24-month waiting period; or

(d) Submit a new application if the proposed use and design of the site will be substantially different than the denied application.

### **Public Comments**

Gerald Phillips, an attorney, and Avon Lake resident asserted that Planning Commission applicants should not be permitted to submit any documentation after the submission deadline because the opposition may not receive the information until the meeting. The process needs to be balanced for everyone: the applicant, the opposition, and the Planning Commission members. All participants in the process need time to review all information before the meeting. Mr. Phillips added that he thinks that a representative for the opposition should be provided the same packet as the Commission members.

Mr. Haas moved, and Mrs. Raymond seconded to recommend approval of these Rules and Regulations text changes with the Commission's suggestions indicated in green type and typographical errors and printing anomalies corrected as noted by the Commission.

Motion carried (6-0).

### **INFORMATIONAL ITEM**

Cleveland Planning and Zoning Workshop, Independence Conference Center, Friday, April 26, 2024, Registration

### **DISCUSSION ITEM**

None

## **GENERAL PUBLIC COMMENTS**

Gerald Phillips shared the following opinions:

1. The CLUP is a guide for future development that is generally referred to when City entities make plans and decisions, with the exception of the Zoning Board of Appeals when deciding ZBA Case 23-02.
2. Environmental issues are addressed in the CLUP.

Mr. Phillips commented on some of the Planning and Zoning Code amendments:

1. The section on home occupations is inadequate. It does not include topics such as childcare, remote workers, traffic coming and going. A list of requirements should be included.
2. Multi-family developments should be screened when adjacent to commercial and office properties. The opacity of screening is not addressed.
3. Construction definition only includes new residences. Commercial and industrial development should be included.
4. Home occupation definition should be cross-referenced with the Home Occupation section.

## **ADJOURNMENT**

Mayor Spaetzel moved, and Mrs. Raymond seconded to adjourn the meeting at 9:46 pm. Motion carried (6-0).

  
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Planning Commission  
Chairperson Ma

  
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Recording Secretary  
Diane Reynolds