

COUNCIL PRESIDENT-JENNIFER WASILK
COUNCIL AT LARGE-DAVID JANIK
COUNCIL AT LARGE-MARTIN HEBERLING
COUNCIL AT LARGE- CHUCK WINIARSKI

COUNCIL WARD ONE-BRIAN DEMBINSKI
COUNCIL WARD TWO-BECKY HARMYCH
COUNCIL WARD THREE-JAKE WACHHOLZ
COUNCIL WARD FOUR-MATT NAHORN

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Minutes of the Building and Lands Committee Meeting held February 19, 2024, at 7:00 P.M. Present in Council Chambers were Chairman Janik, Mr. Dembinski, Mr. Heberling, Mr. Wachholz, Mr. Winiarski, Mr. Nahorn, Ms. Harmych, President Wasilk, Auditor Phillips, Safety/Service Director Jeffreys, Law Director Pecora, Treasurer Ramsey, Assistant Law Director Ward, Building Inspector Dave Macartney, Aaron Appell of Bramhall Engineering, Mr. Rick Sommers, and nine members of the public. Mayor Costilow is present via Zoom. Mr. Heberling motioned to excuse the Mayor from personal attendance at the meeting. Seconded by Mr. Dembinski. Voice vote 7-0 to excuse.

A-24-15 Quarry Creek Residential Development; Planned Development District (PPD) Overlay Zoning

Mayor Costilow thanked Council for allowing him to participate via Zoom. He explained the background of this request which was brought to the City by other developers two years ago but never got off the ground. We now have a new developer. He asked that the developer, Mr. Appell and Mr. Macartney answer any questions. Mr. Richard Sommers, 10585 Sommerset Drive, Chardon, Ohio, is the developer of the property. He provided a summary of the development plans for the 8.15 acres dedicated to greenspace and the economic benefits.

Mr. Macartney spoke of his involvement with the development and answered questions. He spoke to the most recently updated landscaping plan. He pointed out on the screen the area that the previous developer removed all the trees. He continued to explain.

Mayor Costilow introduced Mr. Aaron Appell from Bramhall Engineering and said there were some questions brought up at the public hearing that Mr. Appel can answer. Mr. Dembinski asked about wetlands that were mentioned. Mr. Appel said one of the areas is protected wetlands. He then spoke of the traffic study which was prepared by an well known engineering firm and the necessary left lane for N. Ridge Road. A 215' left turn lane is required. A drawing of the widening plan was on screen and Mr. Appel spoke to it and explained the widening plan. Mr. Winiarski had a September 2023 traffic study and asked if that was the most recent.

Mr. Appell said there may have been a slight update and he will provide that.

Mrs. Johanna Lyman of 45610 N. Ridge Road asked how far down the widening is going to go. They own a couple of houses and then the open lot where the Polansky sign is. She wondered how their house will be affected since they sit very close to the road. She wanted to know how their safety will be affected. Mr. Appel said they will not be affected at all as the widening is not happening there. Mr. Janik asked how many homes would be affected by the turning lane. Mr. Appel said only one house will be affected at the southeast corner on N. Ridge.

Mrs. Barb Wargo of 45790 N. Ridge said when you turn off N. Ridge onto N. Dewey, it's straight uphill on the east side. On the west side it's straight down. She wonders where this five feet will come from as there is no place to go. She is the only one affected by this, as she is right on the corner. Mr. Appell explained there is plenty of right of way on the north side. There is a tree lawn area that will be removed. East of Dewey they are in kind of a taper section so that pavement will be widened even less. He explained further. Her driveway will be replaced and she will have the same size driveway.

Mr. Len Gilles 6024 N. Dewey and also owns 6050 so he is highly impacted by this. He said when they cut into the hill, they will take away anyone's ability to see what's coming from N. Ridge Road. He discussed this possibly dangerous situation. He spoke of the triplexes and that they might have two cars in every triplex. He spoke further on how many cars may be at each home. He asked for an explanation of how this widening will be done to accommodate all these cars. He spoke further. Mr. Appell said what the proposed development will generate 85 cars in the peak hour of the morning and the afternoon peak it's 99 in one hour. Those numbers are used to determine what that turn lane must be. The turn lane on N. Ridge Road is estimated at 215 feet. The grading will be improved. The majority of the widening will be west of the intersection. He explained how they factor in these designs. Mr. Heberling asked if there are any plans to raise the elevation of that road? There is quite a dip in it. He agrees with Mr. Gilles that there could be an issue coming in and out of there and not being able to see traffic. Mr. Appell said the grading

of the road will change a little bit and the line of sight will be improved. Mr. Heberling said he agreed with Mr. Gilles and he would hate to see problems there. Mr. Janik asked if the traffic study looked at installing a traffic signal to address the issues of visibility. Mr. Appell said it was looked at but not worth it for this development. This was discussed further and a roundabout was mentioned, but it would take up a lot more real estate at the intersection. With the steep drop offs there, a roundabout would not work. Mrs. Lyman said she would like a traffic light as N. Ridge is like a racetrack. A traffic light would slow the traffic. Mr. Nahorn asked about the speed signs and if they could be put up there. Mayor Costilow said they can look at it. But we do have to rely on two reputable firms that have studied this and given us the report.

Mr. Dembinski noted there is a bridge or a culverts in this area and would that be replaced as part of this project? Mr. Appell said it is a concrete culvert and it extends past the area that needs widening. So that won't be affected; some catch basins may be adjusted.

Mr. Nahorn asked about the wetlands which were brought up before. He asked about any wetland mitigation at another location on the property? Mr. Rick Sommers said the previous owner before clearing the property did a wetland delineation that identifies all the wetlands on the site. He also applied for a wetland permit which was granted and he did the mitigation credit off site. But they have a valid permit that is good for five years. He spoke further about one wetland that will remain untouched and is 7/10 of an acre. The wetlands that were disturbed were disturbed during the clearing. Mr. Dembinski said the road curves right there and it's a small thing, but it is angled directed into that house on the western side of N. Dewey. If he was living there, he would not want the car lights shining into his house and wondered if it could be bent up or down a little. Mr. Rick Sommers said they sent out letters to all the neighbors and asked for comments like about installing fences on both sides. His son and Mayor talked to him and his biggest concern is that they don't disturb his front yard even tho quite a bit of the yards are in the right of way. Most of the houses in the west side of Dewey were built very close to the edge of the right of way due to the creek. So that gentleman is ok, his house sits up high as do his house windows. They also discussed planting some ever greens for "headlight mitigation" as they call it. And they stay green all year long. So he is ok with what

they have planned. Mr. Dembinski said he did not know that and thanked Mr. Sommers.

Mr. Winiarski asked who owned the land right now. Mr. Sommers said it was owned by Brett Lily under a company. They will purchase the land. The title would be Quarry Land Development. Mr. Winiarski asked if it has been surveyed and are there any boundary issues? Mr. Sommers said there are no boundary issues and the full boundary has been surveyed by an engineer. They do not encroach on anyone, but a couple of the mobile homes' decks are real close to the Lily property but it will affect the development. Mr. Winiarski noted that he checked county website and using their measuring tool, this land is 21.29 acres? Mr. Sommers said he felt it was 25.23 with the acreage as there are some parcels beyond the pond. Mr. Winiarski described what an acre entails. He said the property is presently C-2. Mr. Sommers said this is his understanding. Mr. Winiarski went over the zoning around this property. He asked about the most recent traffic study.

Mr. Kevin Hoffman of Polaris Engineering 34600 Chardon Rd. said there were some changes and updates. They will be providing them to Mr. Appell. The layout did not change, just some minor construction details. Mr. Winiarski asked for those. He asked about the unsigned and undated subdivider's agreement. Mr. Sommers said it is a work in progress and the Mayor has asked for some changes before it's signed. Mr. Winiarski wants a final copy. Mayor Costilow said this is the final agreement unless the council wants to make some changes. He explained the version and won't change unless the Council makes some changes. Mr. Winiarski asked for a copy of the letter that had been sent to the neighbors. He asked which neighbors contacted him and what accommodation had been made. Mr. Sommers went over each response to the neighbors. Mrs. Lyman said she does not have the same buffers that others have. She explained further and said she had asked about one-story homes. Mr. Sommers explained about the mound of dirt and planting trees for a neighbor that has children. The trees would be fast growing and they are willing to do that. Mr. Winiarski asked if this is a civil issue if these promises were not followed through. Mr. Pecora said he will see about including all those items. Mr. Sommers said he told these people they would get a letter outlining what their obligations are to them. If they want to incorporate that into the development agreement, he is fine with that. Mr. Winiarski read the PDD requirements and what they entail. Mr. Sommers commented on what they have done to this

point. Mayor Costilow reminded all that this is a C-2 area and even storage buildings can be built on those. Mr. Sommers continued to answer questions Mr. Winiarski asked as to how they are responding to PDD requirements. They provided pictures of what the homes will look like and that if they are sold, new owners have to acknowledge that they understand they are a part of an HOA. He explained how the HOA fees are determined. Mr. Winiarski discussed the units per acres in various developments. This one will be 6.63. He felt with the mobile home park, this will be rather dense. Mr. Sommers said you have to look at the creativity of the plan and what they are offering to the people. There is nothing like this in Amherst and the economic compact analysis speaks greatly to what positive effect it will have on the city. Mr. Winiarski questioned the buffering per our zoning codes. He read the codes pertaining to this. He did not see this in the revised development plan. Mr. Macartney agreed but said that with PDD one is allowed to get creative with the property. He would have to defer to the law department as far as the language in the ordinance. He referenced discussions that happened in the Planning Commission Meeting. Mr. Wachholz mentioned that these homes are slated for young families and asked what the price point that he is looking to sell these homes for. Mr. Sommers believes they will begin at \$285,000 but the costs will vary depending on the options the buyer may choose. Mr. Heberling asked who determines the HOA fees? Mr. Sommers typically they are paid monthly and wrapped into the homeowner's payment. Mr. Heberling asked what that cost could be. Mr. Sommers said they do not have this figured out yet and he will get back to council on that. Mr. Janik asked about the dog park that was mentioned and Mr. Sommers said that would be for residents only. Mr. Janik said it was mentioned these homes are geared more for young people and older people. These two-story homes, how would an older person manage that? Mr. Sommers said there are stair lifts. He also reminded Council that they are developers, they do not build the homes.

Kathy Gilles of 6024 and 6050 Dewey asked for a show of hands of the council members who have actually been to the end of Dewey and actually have seen how it looks without the trees and no buffers. She asked how many feet the right of way for the roads is. Mr. Appell said 30 feet either way. She discussed with Mr. Appell how much they consider they can widen the road and other concerns. Mr. Sommers also interjected comments. Mrs. Gilles asked what happened next. Mr. Janik explained the next steps of how Council would proceed. Mrs. Gilles asked about council doing this on emergency. Mayor Costilow said there is no chance this will go less than three readings. He explained the process. There are items that are emergency, but this is not.

Mr. Gilles reiterated items he has spoken to before such as promises that were made but not followed through by the last developer. He explained that promises were not followed through and some of the promises that were made by Mr. Lily and not followed through. He urged council to think about this development if it was in their back yards. He feels this is a bad idea.

The phases of development were discussed.

Mayor Costilow hoped Council would pass this on to its first reading Council has seen him in action and that he sticks to the rules. If points are put in the developer's agreement, it will happen.

Mrs. Wasilk asked if this property and where Amherst Village is located, are all C-2? Mr. Macartney agreed. Mrs. Wasilk said the modular homes are a permitted use the way they are designed for that right now. Mr. Macartney agreed. Mrs. Wasilk said she drove past the trailer park site recently and it has deteriorated significantly in the last 10 years. That is the kind of development that is allowed in a C-2. A PDD has much stricter zoning. The trailer home has a monthly maintenance fee. It is on the same equivalent cost as a homeowner association fee. Except the mobile home fee goes out of the community and goes to the profitability of those investing in that park. For the past decades that trailer park has been remotely operated and has been owned by an out-of-town firm that has no investment in this community at all. The homeowner's association fee is probably a better idea to keep preserving the property in that area. Consider what the alternative is: a C-2 development allows another mobile home park, the equivalent of the 150 units we have right now in the mobile home park. Speaking of the parking lot, it's actually the second property in and it's actually part of the trailer park. There are vehicles that are sitting there that have been abandoned for decades. Mr. Macartney clarified that in a C-2 district you cannot have mobile or modular homes. He spoke further and said that area is now a "permitted" use. He is not sure how it happened, but it was not a variance. Mr. Sommers said that these are now called "HUD" homes and you can't enforce any rules. The problem is that they are regulated by the state. Cities do not have home rule and can't enforce zoning in a trailer park because it's governed by the state. The project they are proposing is subject to all the zoning rules including code enforcement, etc.

Mr. Dembinski asked about comments that were made by Mr. Lily, that he could put storage units on this property and not have to talk to anyone about it. But storage units are only permitted if they go through the Industrial Review Board which still goes through Council. Mr. Macartney

agreed. Mr. Dembinski said so it's not like he or anyone can just put storage units there without an approval process. Mr. Macartney agreed and explained other structures/shops that can be built without council's approval. It would have to be approved by the Planning Commission. Storage units would require an additional approval.

Mr. Wachholz asked why they are leaning toward an HOA? Mr. Sommers spoke to the common areas there such as the dog park, the retention pond and playground area, and the City will not be responsible for the roads here. So there has to be a mechanism for paying for road plowing, street light, maintenance of those areas. That's what an HOA does. There is no other way to maintain these facilities. Mr. Wachholz said there are other HOA's and the residents have run into issues. How can Mr. Sommers be sure that this will not happen with these residents with a poorly run HOA? Mr. Sommers said a good management company must be hired. You have meetings and keep people informed. This is why this is required to be put in the deeds. An HOA is imperative in this project, you can do this without one. Most even single-family subdivisions have homeowner's association to maintain the storm water, because the city won't take them on nor should they. Mr. Heberling asked why is an HOA imperative here and not in other neighborhoods. Mr. Sommers said he believes they are in other neighborhoods; the Mayor ran into a problem and that's why they changed their subdivision agreement, as the original developer he is referencing did not fulfill their obligations. (He thinks a pond was not delivered in good condition and tried to put the burden on the HOA.) They are not going to turn this over, nor will the City allow it to be turned over until everything is done properly. To answer Mr. Heberling's statement, he said the electrical will be turned over to the city. Mayor Costilow explained why residents like HOA's and what is and is not allowed around the residences. It is their own city within a city. He explained further about how they are governed even stricter than city governing. Mr. Heberling said he has received many phone calls from residents who are having problems with their HOA. He feels the restrictions are part of that in addition to the cost added to the homeowner. It seems to be a nuisance for many of the people who move in the home and then try to leave.

Mr. Janik asked if the fees will be disclosed to the person purchasing the property. Mr. Sommers said they would be. There are very strict laws in Ohio that govern HOAs. There is a disclosure packet and it's put in their deeds. He spoke further. He feels a well run HOA is an asset to the community. Budgets are adjusted yearly for the fees after meetings.

Mrs. Wasilk noted that if people don't have complaints about their HOA, they don't call us. We only hear the complaints, so that needs to be kept in mind. She lives in a subdivision and there are deed restrictions, but no HOA. The deed restrictions are basically non-enforceable. There was a problem in a nearby subdivision with a swale in the back yards, that residents were supposed to maintain, but some home-owners decided to fill in. That acted like a dam and people upstream from that now have swamps in their back yards. Nothing can be done as the deed restriction is not enforceable. She feels this is why this has evolved into the Home Owner's Associations. So now the deed restrictions are enforceable. Mr. Sommers said they submitted these restrictions to the law director in various cities. One of the biggest items is that some items can't be changed by the home-owners down the road without the permission of city council. Mr. Pecora agreed. Mr. Sommers said so HOA regulations by well run home owner's association should not cause problems. Especially when they define the obligations and duties of that HOA.

Mrs. Lyman said they lived in Avon Lake prior to moving to Amherst. She feels that Amherst is going down the same road as Avon Lake that has build on ever little inch or property. Amherst needs more schools and as a retired teacher, that concerns her. She taught in Lorain where there were often too many kids in one classroom. She hates to see that happen in Amherst. She spoke further as to what the city could look like as a whole in the future. She is concerned about safety and traffic.

Mayor Costilow said speaking to our departments, this will not cause a stress on any of our services. There are not a lot more places to grow in the city. He spoke about the taxes that will come into city and for schools with this development. He asked for a motion to pass to the floor of council.

Mr. Dembinski said he was not in love with this but feels it's a much better proposal than the last one, and motioned to send this to the floor of Council. Seconded by Mr. Janik. Voice vote 4-3 to send to the floor of Council with Mr. Wachholz, Mr. Winiarski and Mr. Heberling voting no.

Mr. Dembinski motioned to adjourn, seconded by Mr. Janik. Voice vote 7-0 to adjourn. The meeting adjourned at 8:50 P. M.

Dave Janik, Chairman
Building and Lands Committee