

BEAVERCREEK CITY COUNCIL
REGULAR MEETING January 13, 2020 6:00 p.m.

INTRODUCTIONS

- ◆ New Officer – Officer Warren Edmondson

CALL TO ORDER

Mayor Stone called the meeting to order followed by roll call

PRESENT: Council Member Bales, Council Member Curran, Council Member Garcia, Council Member Rushing, Vice Mayor Adams, Mayor Stone

ABSENT: None

ALSO IN ATTENDANCE: Jill Bissinger, Human Resources; Dennis Evers, Chief of Police; Kim Farrell, Recreation Superintendent; Theresa Hathaway, Assistant Finance Director; Pete Landrum, City Manager; Jeff McGrath, Planning & Development Director; Steve McHugh, Legal Counsel; Dianne Miscisin, Clerk of Council; Jeff Moorman, City Engineer;

PLEDGE

Mayor Stone led the pledge and a moment of silence.

APPROVAL OF AGENDA

Council Member Curran MOVED to approve the agenda, seconded by Council Member Garcia. Motion PASSED by majority voice vote.

PUBLIC HEARING - A-19-1 Monica S. Donohoo and William D. Schieman Appeal (CU-19-1) (continued from December 9, 2019)

Clerk Miscisin read an application filed by Monica S. Donohoo and William D. Schieman, 3971 La Bonne Rd., Beavercreek, OH 45431, appealing a decision of the Beavercreek Board of Zoning Appeals in Case CU-19-1 approving permission to construct a new wireless telecommunication tower and adjacent equipment building as required per Chapter 158.130(B) of the City of Beavercreek, Zoning Code in an A-1 District. This is a replacement of the wireless telecommunication facility that was destroyed in the Memorial Day tornado. The property is located at the western end of Graham Drive further described as Book 1, Page 6, Parcel 9 on the Greene County Property Tax Atlas.

Appellant Presentation

William D Schieman, 3971 La Bonne Rd., Beavercreek, OH 45431

Mr. Schieman stated in part one they had to state the basis for the appeal and in Part B they had to state the facts. He said the first basis of the appeal was during the BZA meeting on November 13th the applicant provided false or misleading information to the BZA board members. The most serious of this false information was the attorney for the applicant stated multiple times that American Tower would

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only receive reimbursement from their insurance company if a like for like tower was constructed. Under detailed and direct questioning by BZA members, they went back to that point several times because it didn't sound correct. He said it sounded like it was representing on the face that no payment would be made except if a lattice type cell tower went up. He said the attorney continued to say American Tower would be out of pocket if they built a mono pole at least four times during the hearing. He said the only communication they had received from American Tower Incorporation dated November 5, 2019 states in the next to last paragraph "American Towers insurance policy will only cover up to the value of the asset that was lost resulting in a substantial out of pocket expenditure for American Tower." He said the statement directly conflicts with what the attorney told the BZA members. He said this letter was signed by real estate project manager for American Cell Tower Sarah Snell. He said the way the zoning appeals meeting was conducted he did not have a chance to refute or introduce the letter at the meeting. He said the public meeting was held first after the representative from American Tower presented these points of view. He said he tried to get back to the podium by raising his hand but the chair of the BZA meeting said public input was closed. He said he could have been called to the podium if a member of the BZA had requested it.

He said the second point of misleading information presented during the hearing was the representative at the BZA meeting continued on multiple occasions to equate the loss of a cell tower to a shed or garage destroyed in the neighborhood. Mr. Schieman said a cell tower is not a shed or a garage. He said a cell tower is a piece of commercial infrastructure and in a completely different asset class than a private shed or garage. When commercial infrastructure is lost for any reason, you don't waive zoning requirements to rebuild commercial infrastructure. Commercial infrastructure is built to last and you don't grandfather in highways, bridges, road, sewer systems, cell towers or power lines from current zoning requirements. He said you can do it for a property owner but not commercial infrastructure. He said besides the attorney asking for the variance, Mr. Burkett from the planning department, also equated the situation to a shed or foundation on a garage. Mr. Schieman said his opinion was Mr. Burkett was wrong to do so. He said there was no discussion or information about the difference between a shed or a rebuilt residential garage and what is commercial infrastructure.

He said point two under the basis of the application of administrative appeal was the lack of documentation from the applicant. He said there is no technical documentation from the applicant. He said they had a letter written by a project manager who the attorney referred to as a registered person, quote unquote. Mr. Schieman said he did not know what a registered person was. He said a registered person isn't a licensed civil engineer. He said the person who signed the letter

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isn't a civil engineer or an officer of the company. He said the City of Beavercreek doesn't have any documentation signed by a person at a level of the company who could be held accountable for misrepresentation of the facts. He said the company knows the decision of the BZA is being appealed and yet they had not forwarded any detailed information about the site. He said we don't even know if the foundation that is there is sound. He said we are taking their word that they would be able to reconstruct a lattice tower on that site. He said the whole argument is about holding them to the standard of the current zoning which is for a mono pole tower. He said they don't want to spend the money to build a new platform for it.

He said the third item under the basis was their claim for a like for like rebuilding of what was blown down by the tornado meets the standard for practical difficulty. He said that was a legal term that Mr. McHugh was a better expert than he was because he essentially distilled their application of the argument of practical difficulty. Mr. Schieman said he had some background in zoning and had heard this before. He said he educated himself and said the practical difficulty standard goes back to a decision of the Ohio Supreme Court and was now known as the Duncan Factors. He said the definition as defined in decision of the Ohio Supreme Court in 1986 sets out seven criteria that are reasonable to be used in judging practical difficulty. He said those criteria were not met by the applicant in his opinion. He said he was sure Council would have questions about this especially regarding criteria one and seven. He said the applicant never claimed a hardship and in the letter the only written communication there was, the company did not claim a practical difficulty. He said the letter only says the monopole is infeasible. Mr. Schieman said the residents in his neighborhood and in Gardenview have to look at the rebuilt tower every day. He said the reason the zoning was upgraded to require monopoles was because the public sees monopole towers better than lattice towers. Mr. Schieman reviewed photos of towers that he presented at the BZA meeting for the Council to view.

Applicant Presentation

Greg Wagoner, American Tower, 1000 Jackson St., Toledo, Ohio 43604

Mr. Wagoner said American Tower was requesting the decision of the BZA be upheld. He said it was important to provide context prior to the decision of the Board of Zoning Appeals. He said the staff also recommended the construction of the replacement of the tower that was damaged in the tornado be rebuilt as a like tower. He said this fundamentally goes to fairness. This tower was damaged as a result of the tornado that took place. He said every non-conforming structure that was replaced in that area was allowed to proceed. He said American Tower was requesting that same type of consideration. He said if you look at Section 158.172 (H)(4)(c) of the Zoning Code it talks about destruction of at least 60% of the existing structure. He said there is no question that the entire structure was

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damaged. He said that section does not differentiate between the types of structure and it very clearly covers all types of structures. He said this was a compelling reason. He said Mr. McHugh prepared a memorandum that was contained within the packet in which he decides as a matter of law that this tornado resulted in a compelling reason to allow American Tower to replace the tower with the existing lattice type tower. He said a lattice type tower was consistent with one of the towers that was already in the area that was shown in one of the photos. Mr. Wagoner responded to comments regarding the insurance stating that American Tower would not be reimbursed for costs exceeding the current tower. He said it was estimated \$100,000 but that number was not known for sure. He said the letter that was submitted to the BZA prior to the hearing clearly describes the nature of the insurance coverage and potential costs to American Tower. He said there was no intent to mislead the BZA and he did not believe that ultimately the BZA relied on what was said at the hearing. He said Mr. Amine, who was not a licensed lawyer but was a consultant accurately described the coverage at that meeting. He thought the BZA relied on Mr. McHugh's opinion and the recommendation from the staff. He said there were two separate BZA meetings in which this issue was discussed at length. Mr. Wagoner said American Tower requests fairness that they be treated similar to the other property owners and individual property rights in that area and be able to replace the tower that was there with a similar 164 foot lattice tower.

Public Input

Cory, Beavercreek, Ohio

Cory said in listening to the applicant it was stated that all homeowners in the neighborhood were given the opportunity to rebuild their structures as is. He said that was not true. He said he had been to the planning and development department twice and they would not allow him to rebuild his garage as it sits. He said, as a homeowner, he would have to spend additional money to move his garage to be within current zoning even with the foundation as it sits. He said the applicant said the structure was completely destroyed so that would include the foundation so if they have to rebuild a new foundation then they would have to rebuild within current zoning. He said at one of the previous meetings, it was stated if the foundation was good from the tornados then you could rebuild on the current foundation. He said the attorney's comment was it wasn't 100% destroyed, which the foundation is part of it. His third point, after having talked to the zoning department, having to spend additional money on his part was not a valid reason for an appeal because it was not the city's responsibility because he has to spend more money to be within the current zoning. He said his garage was estimated at \$75,000 to replace but his insurance won't cover anywhere near that. He said that was not the city council or zoning departments' fault, it was his responsibility to have adequate insurance coverage to replace it. Mr. Hendrix said the attorney for

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American Tower said their insurance company will cover up to what they had but if they have to build to current zoning they would have to spend additional money. In his opinion, he didn't know why this was a problem because that's not a valid reason for an appeal per the zoning department.

Randy Bryan, 2423 Rollingview, Beavercreek, Ohio

Mr. Bryan said he could see the structure on the ground and the building next to it. He said he could only imagine what the tower looked like right before they had trees in their yard and now there's nothing. He asked council to look at it the way they have to look at it. He said if you put a lattice tower up, they would have to look at it for years. He said there was no way to cover it up with trees as most of the trees are gone. He said people in the neighborhood are rebuilding and he had put in an additional \$10,000 in upgrading his landscape and his home. He said several other people had also done the same thing. He was asking the cell tower company to put in a little more money into a tower that would everyone would like.

Samuel Bryan, 2423 Rollingview, Beavercreek, Ohio

Mr. Bryan said his property borders where the tower was being built. He said the tornado took out a majority of the trees and it is unrecognizable. He said for years the trees covered the tower but that was not the case anymore. He took a video from different altitudes from his backyard to show how visible the tower would be to the entire neighborhood. He said at 25 feet it was visible to the entire neighborhood, at 50 feet it could be seen by the apartments in the Spicer Heights area and neighborhoods south of the tower where Plainview and Rusticview Streets are. He said at 100 feet it could be since by the Gardenview neighborhood to the north. He said they were told that trees would be planted by the base of the new lattice tower but that won't make a difference. He said the monopole tower was up to code and looks better than the lattice style. He said as someone who has to look at the tower every day, he asked council to vote with the appeal.

There being no more public input, public input was closed.

Council Input

Council Member Bales asked how tall the two temporary towers were in perspective of what is to be built and asked the condition of the foundation. Mr. Wagoner said the replacement tower that was there currently was approximately 100 feet. He said it was not as tall as the tower that would be built. He said the tower that was shown in the photo was approximately 164 feet. He said the current foundation was undamaged and could be utilized with the new lattice tower. He said they have to build a monopole they would have to evaluate the soil that requires a significantly different foundation.

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Council Member Bales asked staff to address the zoning issue that Cory brought up. Mr. McGrath said as a general statement they have worked with the individual homeowners to allow for instances for a non-conforming structure torn down to be rebuilt. He said in this case the garage was on somebody else's property so there was no authority to approve it to be replaced as is because it was solely not on the homeowner's property. Mr. McHugh said he had been asked by the planning staff to look if there was a way but for whatever reason it was constructed into the other person's property line so the foundation is encroaching. He said it was suggested the owner of the property apply to the BZA for some potential allowances to where the new one would be built. Council Member Bales asked if there was a city written policy with regards to structures that were damaged by the tornado and how they were going to be handled. Mr. McGrath replied yes. He said they put out a packet to those people affected that said to come in anytime and fees would be waived for any of the permits which would be expedited. He said they sought legal counsel regarding the effects of the non-conforming structures and was advised, within certain parameters, structures could be rebuilt. He said Cory's case was unique but there was a written policy. Council Member Bales asked if Mr. McGrath knew how many of the applications received were not in compliance. Mr. McGrath said he did not know exactly but there had been 108 permits received related to tornado damage. He said he believed there were less than five that would have an issue with either rebuilding to meet the current standards or have some situation on their property that was not in compliance.

Council Member Rushing asked if the zoning code differentiated between the non-conforming structures in terms of the process. Mr. McGrath said the code had a non-conforming section that says if the structure had been destroyed by more than 60% that it be rebuilt to meet code. He said that was something they would be amending to be more in compliance in terms of structural damage from a natural disaster.

Council Member Garcia asked if after the tornado did the BZA or the city approve any conditional use for businesses that allowed structures to be built under old zoning ordinances. Mr. McGrath said not under conditional uses but if they were rebuilding as it was previously approved for commercial they issues the permits. He said if there were modifications like Mike's Car Wash they approved it with incidental modifications. Council Member Garcia questioned the reasoning of changing the ordinance from lattice to monopole. Mr. McGrath said it was driven mostly because of the aesthetics and the space it would occupy. She asked if there was a technical disadvantage of the lattice versus the monopole. Mr. McGrath did not think so. Council Member Garcia asked Mr. Wagoner what fully investigated meant in the letter from November. Mr. Wagoner said a project manager who would be responsible for the construction of the tower investigated the location

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along with Mr. Amine who was present at the BZA meetings. He said the project manager was responsible for all of the towers that American Tower has in this area. He said they, together, determined the platform was undamaged and could accommodate the lattice type structure but the topography in the area required a change in the platform to accommodate a monopole type structure. He said they had not done sample soils yet to determine how they would have to modify it but it was estimated to cost at least \$100,000.

Council Member Curran asked what information Mr. Wagoner had that could be shared with Council on the ability to withstand the size of the tornado. He asked if there was a difference between the poles with high winds. Mr. Wagoner said he did not have the information to specifically provide whether a monopole would have survived this tornado.

Vice Mayor Adams asked the cost to build a monopole. Mr. Wagoner said each location is different based on the size of the platform. Vice Mayor Adams asked if there would be guidewires. Mr. Wagoner replied that he believed it would be standalone.

Mayor Stone said they issued a notice after the tornado that they would allow structures to be reconstructed as they previously existed. He said that was not a building code but strictly a zoning code, He said if it doesn't meet the building code that was different. He said they had three options, uphold the BZA ruling, over turn the BZA ruling or the option to remand this back to the BZA more information should be heard by the BZA. Mayor Stone questioned Mr. McHugh if they were in a position to table the hearing. Mr. McHugh said Council could table if there was some reason stated. He said generally in this process provided for in the rules is you either confirm it, reverse it or modify it. You could also remand the case back to the BZA if there was additional information.

Mayor Stone asked Mr. Schieman if he had something extremely relevant. Mr. Schieman said yes. He said the most important thing he heard the attorney for American Tower say was his opinion that the BZA was not influenced by what was said during the hearing.

Council Member Curran MOVED to return to the case to the Board of Zoning Appeals to further analysis of some of the points raised. Motion DIED for lack of a second.

Motion

Council Member Garcia MOVED to uphold the decision of the Board of Zoning Appeals, seconded by Council Member Rushing.

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Council Member Garcia said some of the reasons for this motion is the information presented to them. In these type of situations, Council is limited to the things they can review, things they can understand and the information presented to the BZA at the time. She said from what she was seeing, one of the points brought up by the appellant was leading or false information regarding the insurance. Based on her viewing of that hearing and the information and the information presented by the applicant in November, she understood it to mean a like for like would be covered by the insurance for the original structure built. Anything above and beyond that cost would be on the applicant. She didn't believe the extra money played a factor. She said it goes back to some of things they have done as a city and some of the things the Board of Zoning Appeals has already allowed to stand.

Motion PASSED by majority voice vote.

PUBLIC HEARING Z-19-2 Henkle Rezoning

Clerk Miscisin read an application filed by Brooke Fornes, 2080 Byers Road, Dayton, OH 45342. The application requests the rezoning of 6.29 acres of land from I-1 Light Industrial District to ORP-1 Office Research Park District. The property is located on the north side of Executive Drive approximately 200 feet west of the intersection of Oak Court and Executive Drive. The property is further described as Book 2, Page 6, Parcel 22 on the Greene County Property Tax Atlas.

Applicant Presentation

Brooke Fornes, 2080 Byers Road, Miamisburg, Ohio

Ms. Fornes was representing the owner of the property, who was trying to sell it. She said currently it is zoned office park which allows for businesses that would not look good with the park. She said the owner has sold all of the land with the exception of this piece. She said it was the owner's forever loyalty with everybody else that it be rezoned so that no matter what happens to him, whatever goes there would be appropriate for the park.

Staff Presentation

Mr. McGrath said this was an initiated request. He reviewed the location of the property and said the rezoning would ensure the integrity of the park. He said this was a straight rezoning and there were no conditions.

Public Input

There being no input, Public Input was closed.

Council Input

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Council Member Bales verified the interest in the development. Mr. McGrath said there was no interest request at this time.

Ordinance 20-01 (First Reading)

Council Member Rushing MOVED Ordinance 20-01 to the second reading, seconded by Council Member Garcia Motion PASSED by majority voice vote.

PUBLIC HEARING PUD 19-1 SSP #1 IH Credit Union

Clerk Miscisin read an application filed by Chuck Springmyer, 3233 Newmark Drive, Miamisburg, OH 45342. The application requests approval of a specific site plan to allow for the development of a credit union and retail structure on 1.63 acres. The property is located at 1464 and 1474 N. Fairfield Road further described as Book 5, Page 5, Parcel 124 on the Greene County Property Tax Atlas.

Applicant Presentation

Chris Reaster, 216 N. Maple Drive, Fairborn, Ohio

Mr. Reaster said he represented Danis Corporation and IH Credit. He said he had no presentation but was available for questions

Staff Presentation

Mr. Burkett summarized the staff report dated January 2, 2020 stating the applicant was requesting approval for the construction of a 6,000 square foot multi-tenant office building on 1.6 acres. He reviewed the location, surrounding zoning, the proposed site plan, permitted uses, buffer requirements, access, parking, architecture elevations, landscaping and signage. He highlighted a few of the conditions. Both staff and Planning Commission recommend approval.

Public Input

Bruce Quinten, representing St. Luke Parish and St. Luke School, 1440 N. Fairfield Rd., Beavercreek, Ohio

Mr. Quinten said he was surprised at the planning meeting to see that the site plan was talking of retail spaces in addition to the credit union and the proposed uses. He said they were concerned he proposed uses next to a school currently included a bar, microbrewery, brew pub, carryout for beer, hookah bars and tattoo parlors. He did not think these were appropriate next to a school.

Council Input

Council Member Garcia asked staff to talk about the conditional uses. Mr. McGrath McGrath said there was effort put into the uses to be similar to the PUD across the street where the Dunkin Donuts and where the Dayton Childrens facility would be built. He said they would need to go back and look at those but the uses were

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already approved by legislative acts. He said there was not a way to change that at this meeting. Mr. McGrath thought the uses had been reviewed by St. Luke at the time of the rezoning across the street. He said they could review the uses with the applicant. He said these were all B-2 uses, community-oriented, neighborhood businesses.

Council Member Rushing asked for clarification of the proposed entrance to the building. Mr. Burkett reviewed the entrances to the building.

Council Member Bales asked if the rear access drive would be fully curbed adjacent to the neighboring property. Mr. Burkett replied yes.

Council Member Curran said the state has mandated distance requirements for liquor permits. Mr. Burkett said that was not something that was regulated with zoning.

Vice Mayor Adams asked if the access would be leveled out because there was currently a big dip. Mr. Burkett said they would be leveling out the hump. Vice Mayor Adams questioned the traffic flow with the new light. Mr. Burkett replied there was already an existing turn lane and thought it was not be a huge impact.

Mayor Stone expressed concern with the traffic flow around the building. Mr. Burkett reviewed the details of the flow and the thoughts behind it.

Mr. McHugh reviewed the limitations that were placed on the PUD which included no breweries, drug or alcohol rehabilitation services, heating, air or plumbing services, heating, air or plumbing stores, residential cleaning, car cleaning, car rental, veterinary care, kennel or animal hospitals.

Motion

Council Member Curran MOVED, for the purpose of taking administrative action, approval of a Specific Site Plan for the International Harvester's Credit Union, on the basis that City Council finds the facts submitted with the application and accompanying materials, and modifications, amendments and supplementary conditions satisfy the standards and criteria for a Specific Site Plan as per §158.066 of the Zoning Code. Supplementary conditions required of this approval shall be as follows. Council Member Curran further moved that this motion with all conditions be fully recorded in the minutes of this Council meeting.

1. The approved site plans for this development shall be the plans stamped "Received November 26, 2019", except as modified herein.

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2. The approved architectural plans for this development shall be the plans stamped "Received December 11, 2019", except as modified herein.
3. A detailed landscape plan shall be reviewed and approved by the Planning and Development Department prior to the execution of the required PUD Agreement and the release of any zoning permit for this project. The final landscape plans shall show a row of evergreen shrubs, as referenced in Condition # 20 (and Exhibit B) below.
4. Perpetual maintenance of landscaping shall be provided and any dead or diseased materials shall be removed and replaced with similar types, species and sizes as originally planted, within three months, weather permitting.
5. Any portion of the site disturbed by grading, and on which no construction occurs within three months after completion of the site grading, shall be planted with appropriate ground cover free of noxious weeds and construction debris and shall be properly maintained.
6. A PUD agreement must be signed by the owner and a bond or letter of credit for the required site landscaping must be submitted prior to the release of a zoning permit for any portion of the project for the purpose, but not for the sole purpose, of insuring the installation of landscaping. Said bond or letter of credit must meet the requirements of the City's landscaping and screening regulations.
7. All trash collection containers shall be screened from view and enclosed within a permanent dumpster enclosure or stored completely within the building. Any future dumpster enclosure shall be constructed of materials to match the building. The final design and location of any future dumpster enclosure shall be reviewed and approved by the Planning and Development Department prior to the issuance of any zoning permits.
8. Wall signage shall be in similar size and location as shown on the architectural elevations. The final design and location shall be subject to review and approval by the Planning and Development Department prior to a release of a permit for the sign. Exhibit C shows an example of a brick base and wrap.

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9. There shall be a maximum of one ground sign for this project. The ground sign shall be a maximum of 5 feet tall and have a maximum 25 square feet per sign face. The final design and location shall be subject to review and approval by the Planning Department prior to release of a permit for the sign. Any ground sign shall be set on a 1-foot base, and a 1-foot thick wrap, that shall be constructed of the same brick as used to construct the principal structure.
10. Any wall signs shall be individually mounted channel letters, the use of raceways or painting of letters on the wall shall be prohibited.
11. Prior to the issuance of a zoning permit, final cut sheet details and photometric plans for lighting of the site shall be reviewed and approved by the Planning and Development Department. No pole shall be located in the paved area of the parking field, and shall be limited to 16' in mounting height east of the front elevation building and 20' in mounting height west of the front elevation of the building, including the concrete base. All light fixtures and related illumination of the site must meet the conditions outlined in the Zoning Code. Lights in the parking lot shall be reduced to no greater than 25 percent illumination level within one hour of closing.
12. The building exterior shall not be painted or altered in any way that varies from the approved elevations unless otherwise approved by the Planning and Development Department or, if required, by the City Council and/or Planning Commission.
13. No portion of the building may be occupied for the first time or reoccupied later until and unless an application of a Certificate of Use Compliance has been submitted to the City by the property owner or by the prospective occupant. No such occupancy may occur until the application of Certificate of Use Compliance has been approved and issued by the City.
14. All concerns of the City Engineer, Fire Department, Sanitary Engineer and the Planning and Development Department shall be addressed prior to the issuance of a permit for the project.

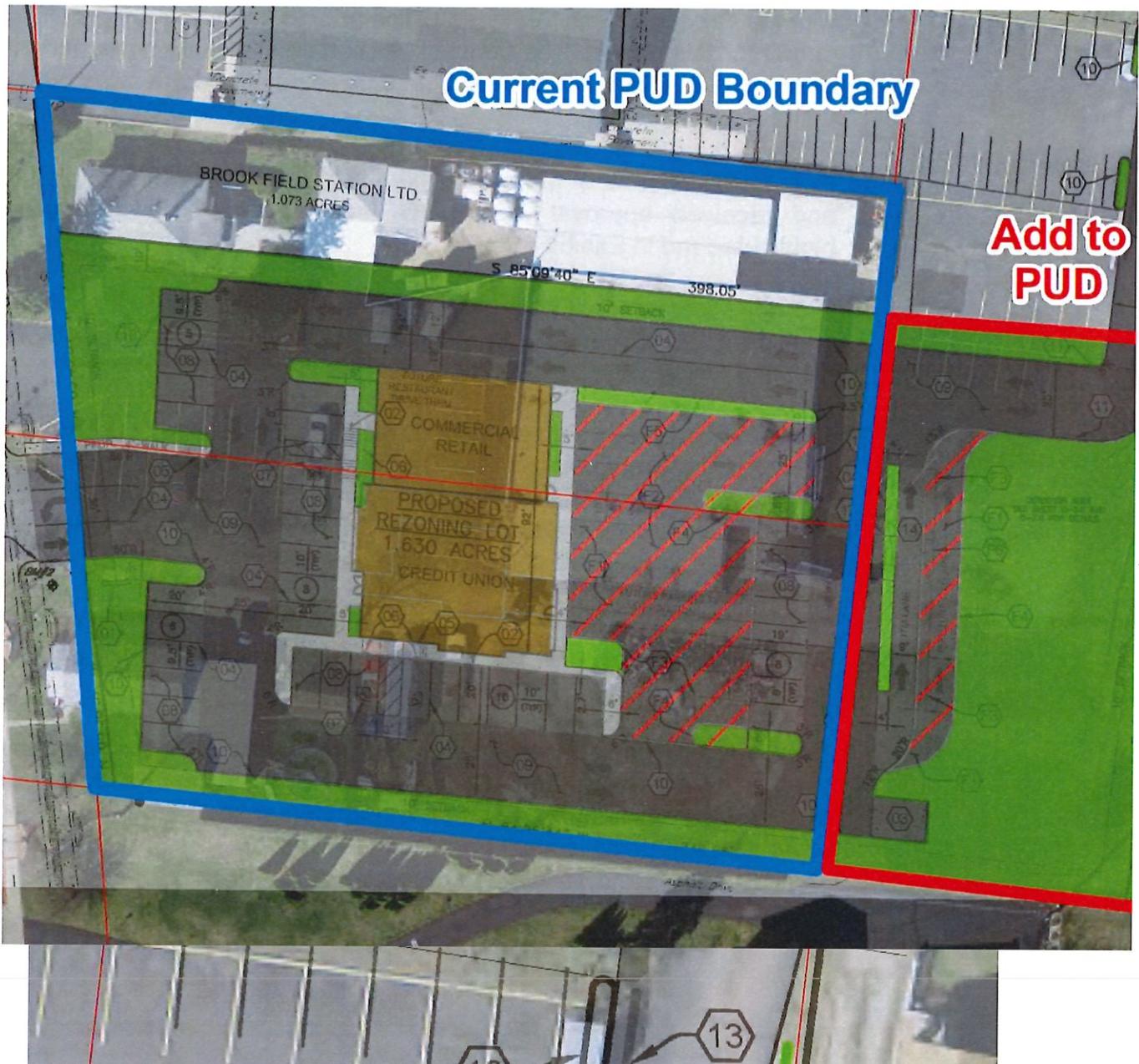
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15. All building mechanical equipment is to be screened from all directions with architectural features (roof forms or parapet walls). Metal screening will not be accepted. Pad mounted equipment must be screened with landscaping and/or masonry walls and shall not be visible to the public.
16. Debris and trash shall be routinely collected by the owner from the parking lot and grounds of all areas of the project. The City reserves the right to require more frequent collection as necessary.
17. A final subdivision for the entire portion of the property encompassing the site plan shall be approved by Planning Commission and recorded with the Greene County Auditor's Office prior to the release of a zoning permit for this project. The final subdivision shall include a permanent cross access easement covering the access point and driveway out to Lantz Road.
18. Prior to the release of the zoning permit, the applicant shall apply for and received approval of a PUD Amendment to add the area highlighted red in Exhibit A to the PUD.
19. If a drive-thru window is added to the northern elevation, it shall be placed on the building to allow for at least 5 cars of stacking without blocking any drive aisles or the normal flow of traffic.
20. Should a restaurant occupy any portion of the building, prior to the release of a Certificate of Use Compliance for said restaurant, the "Future Parking Lot Addition" must be constructed. Prior to the "Future Parking Lot Addition" area being constructed as parking, it shall be seeded with grass seed and be maintained properly.
21. The applicant shall install a row of evergreen shrubs, a minimum of 24" in height at planting, along the eastern edge of the Lantz Road access point driveway, further described in Exhibit B.
22. The final stormwater detention plan shall be reviewed and approved by the City Engineer prior to the release of a permit. If the final design of the detention pond turns out to be a retention pond, then fountains or other aeration devices shall be included in any design. Said fountains shall be utilized and maintained in perpetuity.

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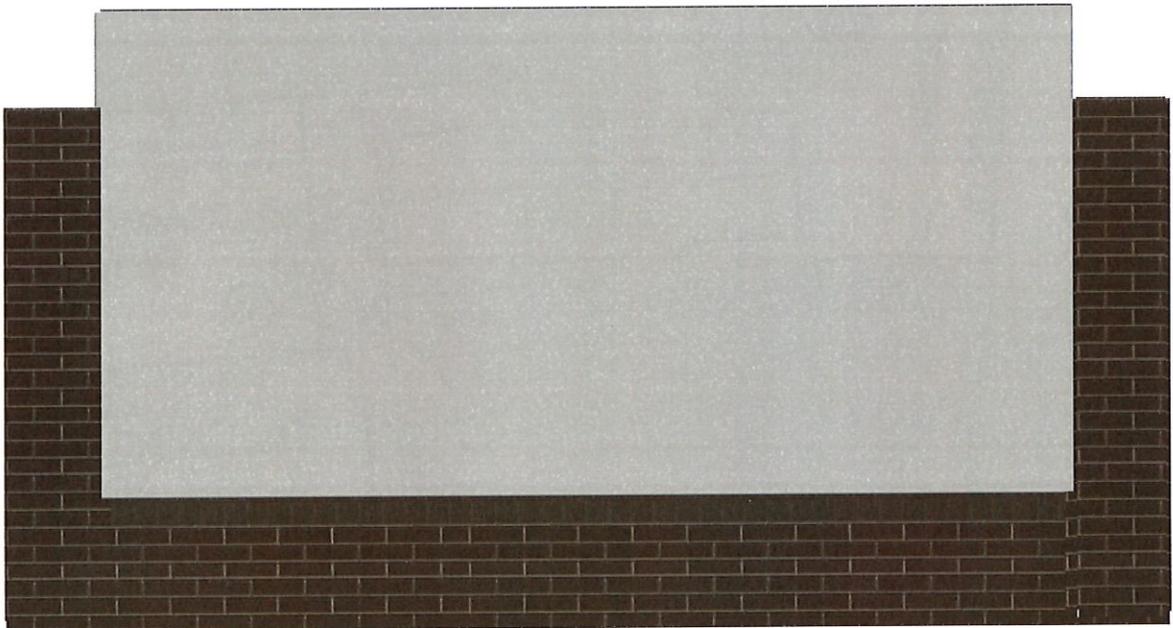
- 23. All abandoned drive aprons on North Fairfield Road shall be removed and replaced with sidewalks and landscaping matching the adjacent right of way.
- 24. Downspouts shall be internally mounted and shall not be visible on the exterior of the structure, unless specifically approved by the Planning Department prior to the release of a zoning permit.
- 25. The northwestern most parking spot shall be striped as a no parking area and labeled for traffic turnaround, as depicted in Exhibit D.

Exhibit A



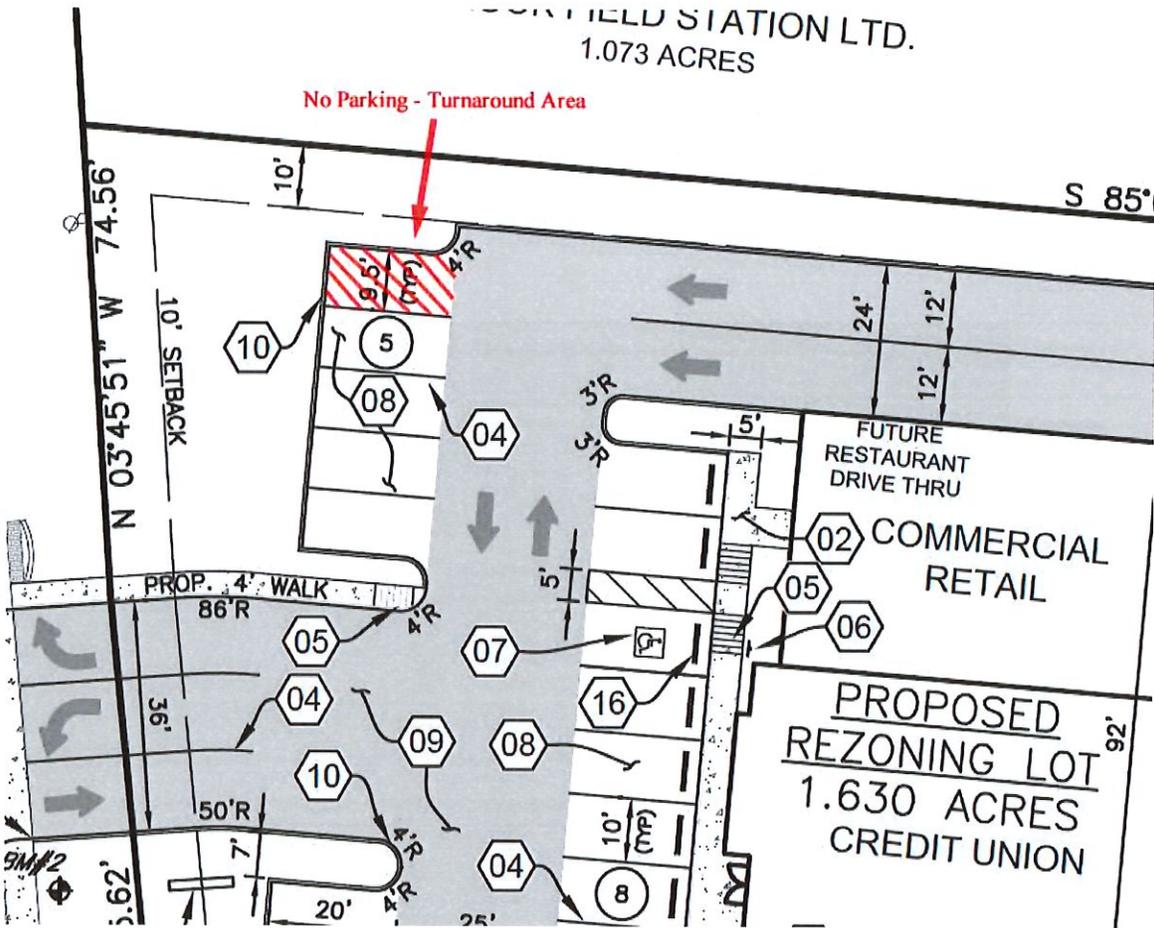
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Exhibit C



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Exhibit D



Council Member Bales seconded the motion. Motion PASSED by majority voice vote.

ORDINANCES, RESOLUTIONS AND PUDS

Resolution 20-01 Authorize Finance Director to Request the Auditor of Greene County for Advance of Real Estate and Public Utility Taxes

Clerk Miscisin read a Resolution authorizing the City Manager or his designee, the Financial Administrative Services Director to request advance draws upon the amounts collected by the Greene County Auditor for the City of Beavercreek 2019 Real Estate and Personal Property Taxes collected during calendar year 2020.

Mr. Kucera said this was an annual resolution which would allow the funds to be released early. This would allow the city to accrue interest on those funds.

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Council Member Rushing MOVED Resolution 20-01 to the second reading, seconded by Vice Mayor Adams Motion PASSED by majority voice vote.

Resolution 20-02 Authorize Contract for Debris Removal Services

Clerk Miscisin read a Resolution by Beavercreek City Council authorizing the City Manager, acting on behalf of the City of Beavercreek and in concert with Beavercreek Township, the Greene County Commissioners and the Greene County Engineer, to enter into a "Debris Reduction and Management Services" Contract with Beeghly Tree, LLC for debris removal services for which the City's Financial obligation under the contract shall not exceed the sum of one million forty-nine thousand six hundred forty-one dollars.

Mr. Thonnerieux said there were a couple of changes to accommodate the partners and the contractor. He explained they were addressing the total dollar by increasing it so they would not have to pre-determine what the reduction factor would be of the overall debris. He said they also included the tipping fees that were originally going to be paid to the facility and now would be paid without any additional cost straight to the vendor. He said the contract clarifies the billing and how it would happen with our partners so they would not need an additional agreement with the county and the township. He said even though this dollar amount was higher, the city, county, county engineer and township would only pay for what is actually ground, hauled away and tipped.

Mr. Landrum expressed his appreciation for all those involved and coming to an agreement with the contract. He said the dollar amount was inflated but this was the worst case scenario.

Council Member Bales asked if the tipping fee was anticipated to be as high as it is. Mr. Thonnerieux replied that the larger number did not shock them. He said the tipped fee actually went down a little bit from what it was when they had first passed the resolution in November. Council Member Bales asked if this was eligible for FEMA reimbursement. Mr. Thonnerieux replied the federal government would reimburse up to 75%, the state 12.5% and city would be paying 12.5% to the cost.

Council Member Curran MOVED Resolution 20-02 to the second reading, seconded by Council Member Rushing Motion PASSED by majority voice vote.

LIQUOR PERMITS

Dolgen Midwest LLC DBA Dollar General Store 20435 (New)

Captain Fiorita said they received notification from the Ohio Division of Liquor control requesting a new C1 and C2 liquor permit for DOLGEN Midwest LLC., DBA Dollar General Store 20435, 3865 Dayton-Xenia Rd., Beavercreek, Ohio 45432.

January 13, 2020

The records checks required by the Department of Commerce-Division of Liquor Control were conducted on the business officers(s)/shareholders(s) for this application request. Staff recommended this application request move forward without comment.

Vice Mayor Adams MOVED to accept without comment, seconded by Council Member Garcia Motion PASSED by majority voice vote.

Harbor Beavercreek Management LLC DBA Harbor Chase of Beavercreek (New)

Captain Fiorita said they received notification from the Ohio Division of Liquor control requesting a new D1, D2 and D3 liquor permit for Harbor Beavercreek Management LLC DBA Harbor Chase of Beavercreek, 4175 Indian Ripple Rd., Beavercreek, Ohio 45440. The records checks required by the Department of Commerce-Division of Liquor Control were conducted on the business officers(s)/shareholders(s) for this application request. Staff recommended this application request move forward without comment.

Vice Mayor Adams MOVED to accept without comment, seconded by Council Member Garcia Motion PASSED by majority voice vote.

DECISION ITEMS

Council Member Appointment Committee

Mayor Stone said they have ten applications for the vacant seats on Council. He said in the past they have set up a committee to review the applications to narrow down the interviews. He asked if Council wished to do this. He received yes nods from Council. He recommended the committee consist of Council Member Garcia, Council Member Rushing and Vice Mayor Adams.

Council Member Curran MOVED to appoint Council Member Garcia, Council Member Rushing and Vice Mayor Adams to the Council Member Appointment Committee, seconded by Council Member Bales Motion PASSED by majority voice vote.

Approval of Council Member Attending Ohio Parks and Recreation Association Annual Conference

Council Member Bales requested reimbursement for attending the upcoming Ohio Parks and Recreation Association Annual Conference. He said he has attended the conference in the past and felt it was good to have a city representative to be there.

January 13, 2020

Council Member Curran MOVED to approve Council Member Bales to participate in the 2020 Ohio Parks and Recreation Annual Conference, seconded by Vice Mayor Adams Motion PASSED by majority voice vote.

Authorize Mayor to Communicate with Greene County Commissioners and Administrator Regarding Greene Town Center Restructuring Debt Project

Mr. McGrath said this an association with some of the assessments and bonds that were issued as part of the TIFF for the Greene Towne Center. He said this was a motion to authorize the mayor to act as representative of the city and discussion pertaining to the refinancing of the bonds associated with the Greene and public improvements. He said these were county held bonds but twenty years ago they were issued at an interest rate of 8%. He said this was the first year they were eligible to be refinanced. He said 8% was unrealistically high in terms of what you could get with refinancing. He said the county has to initiate the refinancing request and this allows the mayor to act as a proponent to do this. He said Olshan Properties and their representatives has assured the county that they would cover all the refinancing costs. He said this motion was to show support that the effort be made to refinance the bonds at a lower rate.

Council Member Rushing MOVED to authorize Mayor Stone to communicate with the Greene County Commissioners and County Administrator about restructuring of certain debt originally issued by the County in connection with the development of the Greene and to present as required by law any such proposal to this City Council for formal consideration, seconded by Council Member Garcia Motion PASSED by majority voice vote. Mayor Stone abstained.

COUNCIL TIME

Council Member Bales welcomed Officer Edmonson to the department and Tyler Barlage to the senior center. He said three parks would be getting new playgrounds this spring. He was proud and honored to be elected by the community and thanked his family and friends for their support.

Council Member Rushing welcomed the next staff members and the new council members.

Council Member Garcia welcomed Officer Edmonson along with Vice Mayor Adams and Council Member Bales.

Vice Mayor Adams echoed the welcomes of the new staff. He asked to keep Chief Evers and his family in their prayers. He enjoyed working with the show choir over the weekend. He thanked Beaver creek for supporting him and his run for Council.

January 13, 2020

MAYOR'S REPORT

Mayor Stone welcomed two newest members of council and looked forward to upcoming year. He congratulated Council Member Rushing as the newly elected Beaver Creek Township Fiscal Officer.

CITY MANAGER'S REPORT

Letters were being sent out regarding electric aggregation program to newly eligible customers in the city limits. He said it is an opt out program. He reviewed the Kemp Road Widening project which will begin May/June. Households would be receiving Census information in the mail between March 12th-20th. City offices would be closed Monday, January 20th in observance of Martin Luther King Day.

CITIZEN COMMENTS

Deborah Wallace, 304 Belle Watlin Ct., Beaver Creek, Ohio

Ms. Wallace congratulated the newly elected council. She said at Beaver Creek Township they entered into a discussion with the Public Facilities Investment Company to build their fire stations and the township would lease them back. She said, as a Council Member she strongly supported a new city hall and police station. She said this was a way the city could take on that debt by transferring it to another organization. She said a new city hall and police station was instrumental in bringing the City of Beaver Creek into the twenties and beyond. She said the Township was also starting to lease their fleet management and saving \$283,000. She was concerned about the drainage in the area of the new road at Factory and Shakertown.

Cory, Beaver Creek, Ohio

Cory requested his address not be in the public record. He was disappointed with Council in their decision with the billion dollar cell phone company to be able to build a tower that was not up to zoning code due to having to spend more money. He thought it was unfair even though his garage may be over the property line it was built like that before he bought the property and it was like that before the previous owners bought it. He thought it unfair that he was going to have to spend additional money out of his pocket to move the garage even though you are essentially allowing somebody else who was damaged from the tornado to rebuild where and as their stuff was.

EXECUTIVE SESSION

Council Member Garcia MOVED to enter into Executive Session at 7:51 p.m. pursuant to Section 121.22 of the Ohio Revised Code, for the purpose of the purchase of property for public purposes, seconded by Council Member Rushing. Motion PASSED by roll call vote of 6-0.

January 13, 2020

Council Member Rushing MOVED to adjourn executive session at 8:00 p.m., seconded by Council Member Bales Motion PASSED by roll call vote of 6-0.

Council Member Curran MOVED to reconvene the meeting, seconded by Vice Mayor Adams. Motion PASSED by majority voice vote.

ADJOURNMENT

Council Member Curran MOVED to adjourn the meeting at 8:31 p.m., seconded by Council Member Rushing. Motion PASSED by majority voice vote.



Bob Stone, Mayor

ATTEST:



Dianne Miscisin
Clerk of Council
Cmin01132020