

**BUILDING & BUILDING CODES COMMITTEE MINUTES
JANUARY 18, 2022**

The Building & Building Codes Committee meeting was held on January 18, 2022, at North Royalton City Hall, 14600 State Road. The meeting was called to order at 7:55 p.m.

PRESENT: Committee Members: Chair John Nickell, Vice Chair Dawn Carbone-McDonald, Joanne Krejci; **Council:** Paul Marnecheck, Mike Wos, Linda Barath, Jeremy Dietrich; **Administration:** Mayor Larry Antoskiewicz, Fire Chief Robert Chegan, Police Chief Keith Tarase, City Planner Kyle Reisz, Economic Development Director Tom Jordan, Law Director Thomas Kelly; **Other:** Michael McDonald, Jessica Fenos, Vincent Weimer.

APPROVAL OF MINUTES

Approval of November 16, 2021 Building and Building Code Committee minutes. Moved by Ms. Krejci, seconded by Ms. Carbone-McDonald. Minutes were accepted.

UNFINISHED BUSINESS

1. Economic Development

Mr. Jordan reported that Abbey Road sewers are still in design. That is good progress; they will go out to bid and get it under construction. There are two really large parcels on Abbey that are owned by a local family, and the second one was bought by the owner of Tri Mor; the company doing the road widening on Sprague Road. That parcel did have a radio tower on it and is going to be deconstructed, which Tri Mor has some temporary permission to use it as a staging area. We are in touch with them with a more long-term approach to the parcel. The owner of Tri Mor has met with some of the larger land owners there. We have shown them some preliminary engineering of the third phase of the Industrial Park; what it could potentially look like. Tri Mor is actually one of the biggest construction companies that build roads, which is the infrastructure that would be required to do for, what we are referring to as the third phase. The conversation with them, as well as with the Mayor, went very well. We will hear back from them within a couple of weeks. We hope to share the study that was done relative to the cost of the infrastructures and the alternatives to connecting over the ravine. We have shared this with the main stake holders on Abbey, with hope to come up with a joint plan that we can share with Council.

2. Moratorium – Small Box Discount Stores

Mr. Jordan summarized that North Royalton has had a moratorium on dollar stores. Mr. Reisz has drafted an amendment along the lines of what we felt would be helpful for Council to consider. Mr. Jordan continued that you cannot leave a moratorium on a specific zone indefinitely. The idea is that you take the opportunity to consider some options to regulate the discount stores.

Mr. Reisz explained that he drafted an amendment to the code that did not have a definition for small box retailers in it. Council did create a definition for the ordinance that was the prohibition however, it was not incorporated into the zoning code. Adding small box discount stores to the zoning code as a definition was the first step that we needed to do. Secondly, to come up with a district to replace that first permission. We did propose that a local business district would be the first where those uses would be permitted. In order to regulate the density of them, both using North Royalton's own dollar stores and the ones in surrounding municipalities, we added a provision in the local business district that would permit them; as long as they are two linear miles from any existing store, limiting the density of them for new construction. However, it would put no linear density or restriction on them if going into a vacant store front. Therefore, if they are going to come to the City, they must limit the density of the new construction. If they are going to be in an existing retail store front or strip center, we know that the maintenance is taken care of; as part of a larger grouping of the store. He felt that the provision is a light touch, however it accomplishes what Council set out to do.

Mr. Nickell spoke about Dollar Tree. He does not have a problem with it and felt that it has brought business to that center. He spoke positive about it, mentioning that he does not understand what the fear was. He shared that he is really not interested in doing much of anything with a moratorium on the discount stores; does not support it.

As discussion ensued, Mr. Dietrich expressed that he is in favor of it, for reason that it can be tweaked and fit to what North Royalton is. He understood what Mr. Nickell was saying. He expressed that we are not against the stores. It is a matter of coming up with more specifics of where to place them. Mr. Jordan stated we have a moratorium that he believed has a date to expire in the Spring. Therefore, if you do nothing, the moratorium goes to the end date and then expires; unless you introduce new legislation to extend the moratorium. It has been extended at least once already. He went on to say that the option is to pass something in the interim, which this is one proposal to do so, and then the moratorium would expire; and this would essentially be it's replacement. He was uncertain as if it were to pass, can it get removed immediately or done by Council. We could have the Law Department look into that.

Mr. Nickell wanted to know if there is any legal statute where we can do certain limitations, or would that set us up for liability. Mr. Kelly stated that moratoriums are normally not well received by the judiciary. They will tolerate them for limited periods of time, for the express purpose of making progress to fix a problem that creates some kind of immediacy or issue. He continued that doing this for the purpose of attempting to zone out a business that would be perfectly legitimate, simply because one does not care for the character of the business would be a very difficult thing to defend. He felt that we are fortunate that we have not had any challenges to it yet, and if we did, he wishes to advise that these are not well received by the courts. In this particular instance, you have a legitimate business that was not well received by the people of the neighborhood, of the potential location and the existing moratorium; as Mr. Jordan said has an expiration. If you do not enact a new one or move to extend it, we are back where we were before the adoption of it. Mr. Kelly questioned what have we done in the mean time to address the question of restricting this particular enterprise. Using a distance coordinate, such as two miles or so, would be nearly impossible to defend. On what rational basis, can you restrict a business person from establishing a business if they wish to be in competition with another such business close by. Mr. Kelly concluded that this is not something that he would relish to try and defend in a judicial proceeding.

Ms. Carbone-McDonald pointed out that her biggest concern is if we put too many restrictions, we are going to draw businesses away and not bring them in. Mr. Nickell concurred, specifically about the locations. He talked about other stores and how close they are to each other. Ms. Krejci was uncertain why we would want to keep this type of thing with any permanency. Mr. Marnecheck did not think it would permanently keep them from being here, and if new legislation was written, it would just speak to where we feel they should be located in North Royalton. You can still have, the one in Timber Ridge is not impacted by this. Once it expires, that dollar store that was proposed for State Road and Royalwood could try again and locate. Mr. Marnecheck felt this was not the type of thing that goes into the center of town; not what he envisioned. He felt that it is somewhat restrained, to be able to speak to where we think the best place is for this type of retail; character wise. Mr. Dietrich agreed. That retailer could reapproach us and comply. The area in reference would be a bad location. Mr. Dietrich stated that this is not saying no completely, however, it is also extending it and allowing us to have a little more say as to the locations in the City.

Mr. Kelly commented that if the focus is solely on this one parcel and the prospect of that particular part of development on that parcel, then rezone that parcel. To try to manipulate the code in a way that restricts one particular kind of retail business is otherwise inoffensive. Mr. Kelly understood the reluctance in wanting to see that. Mr. Nickell thought he made a good point about rezoning the parcel. Mr. Kelly indicated that we would have to look at it from another point of view, yes. The issue is not so much the offensive nature, it is not going to please any common pleas judge that you may not think they have items of inexpensive value or purchase price. He shared that the question is, if you do not want it there because it is zoned in a legal fashion, then you rezone the parcel. Mr. Dietrich noted that it is not over one parcel. There are other areas that are

zoned the same as that particular parcel that would also be inappropriate. He talked about reasons that this would not be the right location for it, and continuing to go with what we originally had set up would be best.

Mr. Jordan mentioned that the Law Department has concern about the linear feet provision that are contained within it. This was an attempt on his department to address some of the concerns. There are two parts to it as Mr. Reisz indicated, which was that we have defined what it is in the zoning code. The other issue is, we are attempting to re-create the definition and then what uses are allowed in a zoning code. Instead of rezoning, you can regulate where these small discount stores are allowed to be in the zoning code. In addition to this, they added something about distance. Mr. Jordan went on to say that his experience has been that regionally, people are finding the numerous natures of them to be objectionable; one on every corner. Therefore, we could perhaps take this back after tonight's consideration, and bring back a draft that might address some of the concerns that were raised this evening; for some reconsideration.

Mr. Nickell agreed with Mr. Marnecheck and Mr. Dietrich pertaining to the lot that is not for that type of business. We need to look at that without impugning that property owner's rights. There are apartments and a medical office there. He felt that we do need more retail in North Royalton. Ms. Barath agreed with Mr. Jordan that it is not the entity; we all visit a dollar store at some point in our lives. However, she thinks it is the volume, which she does not want to see them on every corner. Furthermore, she is certain that her residents do not either. As discussion ensued, Mr. Marnecheck mentioned the reason that Dollar Tree did not go forward at Planning Commission, was that they found an existing building in Broadview Heights.

Mr. Jordan indicated that we did meet with them, whereas our planning process required them to do a masonry structure as opposed to metal panel, and the Dollar Tree refused to pay the increased rent that would cover the cost of the masonry structure. They asked the City if we would back down on the masonry requirement and we answered no. They said no to the developer's rental price.

During discussion, Mayor Antoskiewicz suggested agreeing to see what the Building Department can come up with; some new legislation. To present that to Council at the next Building and Building Codes meeting, and then discuss it from there based on the legislation. He concluded that is the best way to go.

3. Retention / Detention Basin

Mr. Kelly explained that some weeks ago we presented a draft for your consideration. He was uncertain as to any number, however there have been some concerns raised. Mr. Reisz, Mr. Haselton and himself are working on some new language that they hope will address the concerns that were expressed.

Mr. Jordan clarified that it has been assigned an ordinance, which the highlighted changes that are contained in the code are there. Basically, it is attempting to meet the objective that it should be privately owned and operated by HOA if you are locating one of these facilities on it. And in addition, at the Mayor's request, there was a provision for requiring lots to have individual drainage. As discussion ensued, Mr. Jordan indicated all detention basins need to be maintained, and yes, it is intended to put weight on the HOA; to maintain the basin. He can obtain information and resources on potential costs from the engineer.

4. Master Plan Update

Mr. Jordan advised that the upper pavilion has been demolished. The foundations for the new one has been poured. The actual structure is a unit that is on order. Once that comes in, they will erect that, however, the foundations are there with anticipation of being ready in the spring. They did start work on the pond and the over-bridge. A portion of the foundations have been poured for the new bridge as well. The edging around a portion of the pond will be naturalized. That work is on schedule. His only concern is the material for the pavilion, in which he contacted the manufacturer and they indicated there is no delay at this time.

Mr. Jordan reported that the second project involved is the splash pad and the shade structure. At the next meeting in February, it is out to bid; after being authorized to bid. The bidding period will be over prior to the next Council meeting. We hope to have a recommendation on that contractor in time for the following Tuesday meeting. Currently that is not in any budget, whereas you will probably see an additional piece of legislation to appropriate the funds and move it into the right account. He spoke to the Finance Director concerning that. The hope is that it will be in place for the 2022 summer. Efforts are being made to ensure we are getting our grant money back on the 2021 programs so we can keep the 2022 programs in line, as well as getting reimbursed for part of this. He would have details at a later time.

Ms. Carbone-McDonald questioned if the enhanced electrical transformer will provide enough power at Memorial Park for all aspects of the Master Plan. Mr. Jordan recapped that we met with CEI, in which they are requiring an upgrade. The spray park is a pump and it needs electricity. We are decreasing the usage in the park by converting to LED when we can, however, the pump is still requiring a lot more than what we have available there; this is in the specification.

CHANGE TO MEMORIAL PARK UPDATE

NEW BUSINESS

1. **Rezoning 21-213**

Mr. Jordan explained that this was considered by the Planning Commission in an open public meeting, the recommendation to change the two entry lots to Harley Hills on York Road. He conveyed that the Administration is not typically in favor of moving commercial property back into residential; however, it is a very unique set of circumstances. Most people likely believe those are residential, also, the entryway signs are located there. Those parcels are such that it would be difficult to lend themselves to commercial, unless they are combined with other parcels.

Mr. Nickell concurred, having driven past there for many years. He cannot envision what would go in front of those houses. He raised question as to what the goal was. Mr. Jordan indicated that the owner is present this evening. As part of their submission, they did show a proposed plan and it would be an extension of the townhouses that are near the bottom of the hill. That plan has to be submitted separately, however; they could only do it under the new rules once it is rezoned. What Council is doing tonight is approving the rezoning of the parcels, then the developer would submit a plan that comports with the new zoning. The lot size and such, would be submitted to Planning Commission under a new site plan. They really cannot submit it under the existing commercial zoning.

Mr. Dietrich expressed that this is a hot topic and not something one would typically want to see as commercial. There are some across the street, however not right in front of them. He would not want that. Mayor Antoskiewicz conveyed that the residents that did come to Planning Commission that live there in Harley Hills. They were all in favor of more of a residential development, or housing there than commercial; conveying that they would not want buildings sitting in front of their properties.

Mr. Marnecheck pointed out that he lives in that area. During discussion, he conveyed that his opinion was that R1B is the better fit. For ten years, if not longer, the previous owner did the bare minimum. He went on to say that hopefully this solves that problem. To him, the better use is R1B for sure, verses a research office.

Mr. Nickell moved this out of committee for approval with the recommendation. Ms. Krejci seconded. All in favor. **Motion carried.**

Mr. Jordan brought up another item, the Turk recommendations. This is an annual review for the new members of Council that occurs, to review the performance of the people that receive tax abatement for the City. There were two that did not meet their expectations, however the state for the first time in history,

recommended that everyone receive approval for compliance this year because of Covid 19. People were not able to hire as many people as they wanted. A number of businesses experienced a problem with supply. There was actually one motion for full compliance, as well as to recommend to continue all of the CRA's (Community Reinvestment Act) and enterprise zones that are in the State of Ohio. They still require Council to confirm that. Mr. Jordan went on to say that they will be reviewed next year. Some of the businesses they are recommending doing it a second year. Everything is reviewed the prior year; this had to do with 2020 reviewed in 2021. For right now, we are just requesting Council to confirm recommendations from the Countywide Tax Review Committee.

Mr. Nickell moved 22-07 and 22-08 to the Council agenda. Ms. Carbone-McDonald seconded. All in favor. **Motion carried.**

ADJOURNMENT

Moved by Mr. Nickell, seconded by Ms. Krejci **to adjourn the January 18, 2021 meeting.** Yeas: 3. Nays: 0. **Motion carried. Meeting adjourned at 8:40 p.m.**