

City of Norton
PLANNING COMMISSION
Tuesday, January 30, 2007

The Planning Commission of the City of Norton, Ohio, convened for a public meeting in Council Chambers of the Safety Administration Building. Chairperson Mark Spisak called the meeting to order at 6:04 p.m.

I. ATTENDANCE:

PRESENT: Mark Spisak, Janet Jacobs, John Conklin
ABSENT: Marguerite Abbott, Todd Houser
ALSO PRESENT: Jeff Pritchard, Director of Planning and Community Development

II. PUBLIC APPLICATIONS:

None.

III. OLD BUSINESS:

None.

IV. NEW BUSINESS:

A.) Recommendation to Mayor Regarding Agricultural District Application (New):

Chairman Spisak stated that there was an Agricultural District Application before them that night for the following property: 3734 Clark Mill Road/PPN's 4608192 & 4608694. He said the owners, Norman and Jocelyn Kendall, were asking that this property become a new agricultural district.

Mr. Spisak reported that a discrepancy was found in the acreage. The application states that there is a total of 5.787 acres and the Summit County Tax Map shows a total of 4.577 acres. He said that Mr. Mike Lyons, Law Director, has advised that the latter acreage amount be used (4.577 acres).

Mr. John Conklin asked Mr. Jeff Pritchard if the parcels were currently or had been an Agricultural District. Mr. Pritchard said no; but they are participating in a Current Agricultural Use Value (CAUV) program. He explained that a CAUV program is a differential real estate tax assessment program that affords the owners the opportunity to have their parcels taxed according their value in agriculture, rather than the full market value.

Mr. Pritchard explained that the intent and purpose of an agricultural district is to prevent property that is being utilized as agriculture, from being assessed from improvements made on the frontage of the property. He said that he did not foresee any future projects that would impact this property. Mr. Pritchard also said that it would remove the owner from the City's building code requirements with the exception of the one-acre, which includes a residence. It would also protect the owner from any legal issues that may incur as a result of agricultural practices. He said that one concern and/or caution with this particular request was that the Summit Mennonite Church and the Stonewyck Subdivision have open space areas adjacent to the parcels in question. Within the past year, hog signs and signs with arrows indicating a manure stockpile on the property line adjacent to the Stonewyck Subdivision have been posted. He suggested that this might

adversely affect the public health, safety and welfare and the orderly growth within the City. This would mean that children would be playing in an open space area near a manure stockpile. With it being close the property line, there could be odor issues. Mr. Pritchard said that there are basic issues with agricultural practices within a city setting. He said that the legislative body could modify the application as described in Section 929.02(B) of the Ohio Revised Code (ORC).

Mr. Conklin said that the application does not fulfill the first item of that ORC section because the property was less than ten acres. Mr. Pritchard said that according to the ORC, if there are less than ten acres, documentation has to be provided showing revenue of at least Two Thousand Five Hundred Dollars (\$2,500) per year for the past three years; this was included in the application.

Mrs. Janet Jacobs asked if the owner would legally be able to continue the current practices without it being an Agricultural District. Mr. Pritchard said yes. He said that in the Planning Commission's consideration, they would need to take into account the surrounding properties.

Mr. Spisak commented that the only benefits of it being an Agricultural District are the waiving of the assessment fees and the removal of the property from the building code requirements.

There was further discussion regarding ORC 929.02(B).

Mr. Pritchard reported that the owner applied for an Agricultural District in 2004, but he did not own one of the parcels included in the application. There were also two structures included in the application. One of the structures was a residence that is located in the City of Barberton. The other was a converted garage, which was not considered an agricultural use. At that time, the City was also asking the owner to comply with city ordinance regarding the converted garage and his failure to connect to sanitary sewer.

Mr. Conklin wondered if the request was approved, would the surrounding neighbors be able to file complaints or legal actions pertaining to nuisance issues regarding these parcels? Mr. Pritchard said that according to ORC 929.04 the owner would be able to defend against nuisance actions. Mr. Conklin commented that he had a degree of concern with all the signs on the property and their intent.

Mr. Bill Lemmon, 1201 South Main Street, North Canton, Ohio 44720, approached the Commission and stated that he was the owner and developer of the Stonewyck Subdivision. He was contacted by Ryan Homes, the contractor in the subdivision, about complaints from the property owners in regards to Mr. Kendall's farming practices on the parcels in question. Mr. Lemmon said that they have asked him to seek legal action against Mr. Kendall for the nuisances that he has created. Ryan Homes is also having problems with potential buyers of the lots adjacent to the manure stockpile signs and the barbed wire fence located on the property line. He believed that these were safety hazards. Mr. Lemmon stated that the buyer of the homes in Stonewyck Subdivision are people who are investing their life savings and they have children. It is a nuisance and he believed it is aimed at trying to discourage people from living adjacent to Mr. Kendall's property. Mr. Lemmon read aloud Sections 660.04 and 618.13 of the Norton Codified Ordinances. (See attached.) He reiterated that having a manure stockpile and barbed wire fence near a property line is considered noxious odors and a safety concern. He said that according to the ordinances, these offenses are more restrictive within a municipality, so he would ask the Planning Commission to be very careful in it's decision. He asked that they take into consideration that as Stonewyck Subdivision grows, there will be more people concerned with this situation. Mr. Lemmon concluded by stating that there would be no adverse effect to Mr. Kendall if his application were denied. If it were approved, however, there would be an adverse affect to the surrounding community.

Mr. Conklin wondered if the manure stockpile was in it's present location prior to the Stonewyck Subdivision being developed. Mr. Pritchard said that to his knowledge it was not.

The Planning Commission reviewed the revenue documentation submitted with the application and agreed that it was not conclusive.

There was continued discussion and Chairman Spisak called for a motion. Mrs. Jacobs moved to recommend that

Planning Commission Approved/Signed Minutes 01-30-07
Respectfully Submitted by Cindy Hughes, B.C. Secretary/Stenographer
3 pages + attachments

PC Application AG 1-2007, regarding 3734 Clark Mill Road/PPN's 4608192 & 4608694, with a total acreage of 4.577, be denied, concerning the request to be an agricultural district, with the following conditions: 1.) Being that the property falls within the Municipality generates concern of how the property is currently maintained adversely impacts the health and safety of it's neighbors; & 2.) The documentation of receipts derived from agricultural efforts is not conclusive. Mr. Conklin seconded the motion. ROLL CALL: Mrs. Jacobs-Yea, Mr. Conklin-Yea, Mr. Spisak-Yea. The motion passed 3-0, denying PC Application AG 1-2007, by PC Resolution No. 02-2007.

B.) Comprehensive Plan:

Mr. Conklin wondered if Council addressed the Comprehensive Plan at their last meeting. Mr. Pritchard said there was some confusion in regards to one of the Charter Review Commission's resolutions and the Comprehensive Plan. He believed it would come before Council at their next meeting. Mr. Pritchard believed it would be important for all the Planning Commission members to attend. Mr. Spisak said he had a speech prepared to present at the next Council meeting.

Mr. Spisak asked if Council approved the Charter Review Commission resolution pertaining to the Comprehensive Plan. Mr. Pritchard said no; it was sent back to the Commission with a list of concerns for refinement.

C.) Digestive Wellness Center:

Mr. Conklin commented that the Digestive Wellness Center project seemed to be moving forward. He wondered if the City of Barberton was still denying their sanitary sewer connection permit. Mr. Pritchard said that the Mayor indicated to Mr. Fred Zumpano, Developer, to proceed with the project. Norton's legal representative sent Barberton a letter addressing the issues of declining the connection of utilities to some of the future projects in Norton.

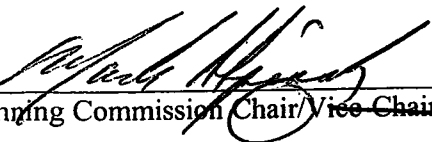
V. CONSIDERATION OF MINUTES:

A.) Planning Commission Minutes of the Tuesday, January 9, 2007, meeting:

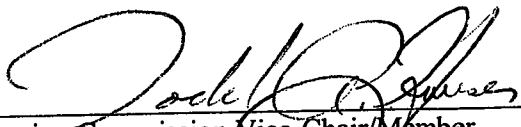
The Commission reviewed the minutes from their Tuesday, January 9, 2007, meeting. Chairman Spisak noted that in two separate places on page '2', 'floodplain' was two words instead of one. With no further corrections, Chairman Spisak called for a motion. Mrs. Jacobs moved to approve the minutes of Tuesday, January 9, 2007, as corrected; seconded by Conklin. ROLL CALL: Mrs. Jacobs-Yea, Mr. Conklin-Yea, Mr. Spisak-Yea. The motion passed 3-0, approving the minutes as corrected. They were signed and processed accordingly.

VI. ADJOURNMENT:


Chairperson Spisak announced that their next meeting was scheduled for Tuesday, February 13, 2007, at 6:00 p.m. With no further business coming before the Board, Chairperson Spisak adjourned the meeting at 7:00 p.m.



Planning Commission Chair/Vice Chair



Planning Commission Vice-Chair/Member



4/10/07
Date

660.04 NOXIOUS ODORS; FILTHY ACCUMULATIONS; POLLUTING AND DIVERTING WATERCOURSES.

(a) No person shall erect, continue to use, or maintain a building, structure, or place for the exercise of a trade, employment, or business or for keeping or feeding an animal which, by occasioning noxious exhalations or noisome or offensive smells, becomes injurious to the health, comfort, or property of individuals or of the public.

618.13 NUISANCE CONDITIONS PROHIBITED.

(a) No person shall keep or harbor any animal or fowl in the Municipality so as to create noxious or offensive odors or unsanitary conditions which are a menace to the health, comfort or safety of the public.

(b) Whoever violates this section is guilty of a minor misdemeanor.

**RESOLUTION
PLANNING COMMISSION**

January 30, 2007

PC RESOLUTION NO.: 02-2007

RE: PC Application AG 1-2007
'Agricultural District' (New)
3734 Clark Mill Road/PPN's 4608192 & 4608694
Norman & Jocelyn Kendall, Owners

The Planning Commission does hereby make the following recommendations on the above:

Move to recommend that PC Application AG 1-2007, regarding 3734 Clark Mill Road/PPN's 4608192 & 4608694, with a total acreage of 4.577, be approved ~~denied~~/tabled, concerning the request to be an agricultural district, with the following condition(s):

- 1.) Being that the property falls within the Municipality generates concern of how the property is currently maintained adversely impacts the health and safety of it's neighbors; &
- 2.) The documentation of receipts derived from agricultural efforts is not conclusive.

Vote on Motion: FOR AGAINST 3 ABSTAIN

Therefore PC Application AG 1-2007 is hereby recommended to be:

APPROVED DENIED TABLED

This resolution shall be sent to:

The Mayor for his consideration and the Administration for their information.


Planning Commission Chair Vice-Chair


Planning Commission Vice-Chair/Member

1/30/07
Date

