

City of Norton
PLANNING COMMISSION
Tuesday, June 28, 2011

The Planning Commission of the City of Norton, Ohio, convened for a public meeting in Council Chambers at the Safety Administration Building. Chairman Spisak called the meeting to order at 6:19p.m.

I. ATTENDANCE:

PRESENT: Mark Spisak, Janet Jacobs, Richard Easterling

ABSENT: Ralph Dowling (excused), John Conklin

ALSO ABSENT: Russ Arters, Supt. of Bldg. & Zoning, (excused)

II. PUBLIC APPLICATIONS:

Chairman Spisak asked the Applicant/Agent to step forward and present his statements for:

Application SPR4-2011
Major Site Plan Review
Vinylux Properties Inc. /Ron Nausbaum, Owner
Justin A. Houze, Agent
Regarding property known as:
1750 Wadsworth Rd/PPN 4607026
[Proposing a Container operations business/storage of containers and trucks and a Recycling operations business/recycling roof shingles, wood and metals facility]

Agent Mr. Justin Houze 2314 Briner Ave., Akron, OH 44305, explained his container operations business and said the containers will roll off the truck. Willoughby Supply handles the recycling of the asphalt shingles. They are ground and added to paving. The wood is recycled for peat and mulch. The only containers that come in deal specifically with Willoughby Supply, no other trucks will come in.

Chairman Spisak asked if there would be improvements made to the property. Mr. Houze said no, he would just be adding gravel and more vegetation like trees for landscaping

They discussed employee parking and that there is a single gate off to the right that goes back to the parking; parking is on site.

~~Chairman Spisak asked if he had any current business in central Ohio now?~~

Mr. Houze answered that his partner does business in Columbus and Kentucky.

Discussion was had about how many trucks he has. Mr. Houze stated that he has two to start with, a double and a single axle.

Chairman Spisak asked if they require only container trucks to be delivered on site with the roof tear off material and no garage or household waste included? Mr. Houze said it comes back to them as processed material and they truck it out.

Ms Janet Jacobs asked if it was noisy? Justin Houze said only as much as the earth and wood grinder was.

Mr. Richard Easterling asked if the grinder would be in or out of the building. Mr. Houze answered outside, but that it only grinds during the hours of operation.

Ms. Jacobs asked if that would be 7AM – 5PM; he answered that they would operate midday for the grinding.

Mr. Easterling asked if it was a seasonal operation, and if it got wet from rain would the material be toxic. Mr. Houze answered yes, that it runs during the roofing season, and it is not toxic. He said the raw roofing is dumped until it accumulates enough to be ready to process; after it is processed it is taken to another facility.

Mr. Easterling brought up concerns about how long the driveway was and the grass growing up into it. When he visited the site the gates were locked and wondered if the City's Fire Department was aware of this and how safety equipment could get back there.

Mr. Houze said the driveway goes straight back to the building. During the day, it is not locked and there is easy access to the building. The driveway is hard packed gravel, and the current vegetation will be removed.

Chairman Spisak asked how long the material would be on site. Mr. Houze said it depends on the amount of roofs they tear off, possibly a one-month minimum. He said the material goes from the container onto the gravel and waits to be processed.

Mr. Easterling asked how they were going to mitigate the noise. Mr. Houze said they would position the grinder between the building and the cliffs. Mr. Easterling asked if the other facilities have noise difficulties; Mr. Houze said no.

Chairman Spisak asked if there was going to be a sign posted and advised the applicant that Russ Arters, Superintendent of Building and Zoning, could help him with that; Mr. Houze agreed.

Chairman Spisak asked if the Fire Lanes were posted on the site plan. Mr. Houze said they were on the original plans, and that is what he took his site plan from.

~~Mr. Easterling had questions about the septic system on site, and Mr. Houze said they would have it inspected to meet requirements.~~

Chairman Spisak asked how many employees the business will have. Mr. Houze said there would be six employees on site, four with the containers and two at the recycling.

Chairman Spisak asked for anyone else to speak for the application; no one spoke. Chairman Spisak asked again for anyone to speak for the application; no one spoke.

Chairman Spisak asked for anyone wanting to speak against the application.

Steve Leiby, 338 S Main St. Suite 302, Akron, OH 44308, representing Attorney for Trinity Broadcast, had concerns for the Planning Commission and spoke against the application. His first concern was the magnet use; he wanted to know the extent of its use because magnets interfere with broadcasting. He said looking at the Summit County Tax map, the outer driveway seemed to encroach upon the Trinity Broadcasting property. He said he would like to see at the very least conditional approval. He wonders if it is within the City's setback requirements. He suggested that the applicant conduct a survey, as he was concerned about the nature of the community. He said he understands the EPA process and the EPA permit for the specific grinder. He was concerned about its actual height of 16 feet and that it had only an installation permit, not an actual operation permit. He wanted the Commission aware that the permit was issued in the year 2008 instead of the current year. He was concerned with the property EPA controls in place for installation and operation of this facility. He thinks there should be deviation report requirements and wants that to go public before its operation begins. There is another site for this in Columbus Ohio, and it is in an industrial section of the city. He said they should submit particulate and dust EPA reports for the impact of the grinder. He said the EPA Permit is 37 pages long and part of the permit process is to install a spray system and have periodic inspections. He is also concerned with the use of the gravel driveway with dust eruption, as well as what one member of the Planning Commission alluded to this evening about the Fire Chief approving that the site has the proper access for emergency situations.

Kevin O'Shea, 1626 Rock Cliff Drive Akron, OH 44320, who lives at the top of the hill to the east, spoke against the application. He was the spokesperson for the 11-house neighborhood to the east of the proposed facility. He said the east is where the wind blows. He said there are several similar facilities down Collier Road in Copley, but there are no homes around them. He contacted the Summit County Health Department and they said they knew nothing about this. His concern is that the dust will go to his neighbor, who is elderly besides being afraid that it will contaminate the drinking water, as well as the concerns due to excessive noise from the grinder machine.

Linda Thomas 1684 Wadsworth Road, Norton, OH 44320, spoke against the application, saying she was 1,000% against it. She said trucks going down the hill would have a short stop with the potential of creating an accident. Her mother is 81 yrs. old and lives next to this property and she has health issues already; this will exacerbate her problems. She is also worried about the wells and afraid the material ground by the grinder will seep into the ground water. She says they should not have to listen to the noise of this operation, because the acoustics are bad due to the cliffs by this property. The sound reverberates off of the cliffs so badly now that you can hear the Barberton Speedway on Clarkmill Road and noise comes from the C & D landfill on Wadsworth Road as well. She said the mulching part of the business will create a horrendous smell and that would be next to her back yard.

Eula Scarito, 1665 Wadsworth Road, Norton, OH 44320, has been a Norton resident for 54 years; she spoke against the application. She said there are big trucks that drive up and down the roadway now and she has asthma and she doesn't need any more pollution within the area she lives.

Frank Thomas, 1700 Wadsworth Road, Akron, Ohio 44320, spoke against the application. He said he lives next door and is against the entire operation. He feels it would go into the current water table and asked who would be culpable when their wells are contaminated, the City of Norton, the business, or the owner of the property? He asked to see the site plan (one was shown to him). He commented that he was fearful that more truck traffic would jeopardize the school busses that go down Wadsworth Road, which is a potential for traffic accidents that include children.

Sue Kedrowski, 2172 Wadsworth Road, Norton, Ohio 44203, spoke against the application. She commented on the new J & J Refuse trash service the City contracted with to lessen the truck traffic on the roadways, and allowing this business to operate in the City would create more truck traffic. She said she has to live with (Richard) Eslich property (C & D Landfill) in her neighborhood. She stated this applicant was already hauling in containers onto the property.

James Singleton, 1689 Wadsworth Road, Akron, Ohio 44320, spoke against the application. He said he lives across from the Vinylux Property. He is concerned about the trucks coming in and out for this operation. He knows that Mr. Eslich's trucks going onto his property have containers that are not covered. He also has a traffic concern with the low level of trees; you can't see the trucks until you are almost at Warren. He does not want the trash or the noise of this operation. He thinks that the operation says it is for their own trucks and their own containers, but asked what is to stop them in the future from letting any truck with a load of shingles dump on this site.

Chairman Spisak asked if anyone else wanted to speak against the application; no one spoke.

Chairman Spisak asked if anyone else wanted to speak against the application; no one spoke.

Chairman Spisak asked for any other comments from the Commission members.

Chairman Spisak asked the applicant how big the magnet was that would be used to pull the nails out of the material.

The Applicant said Steve Johnson was in charge of the recycle operation, and has other sites. The applicant asked if Mr. Johnson could speak; it was allowed.

Mr. Steve Johnson approached the podium and said the magnet has a 3 feet limit, with a 9 – 10 G A S rating as far as range.

Chairman Spisak asked if there were any other concerns from the Commission members. Mr. Easterling asked if the magnets were used only during the grinder process and the answer was yes. Mr. Johnson said it will come on to the property approximately once a month to grind depending on the amount of material to be ground; it is not feasible monetarily to bring it in for small amounts of material to grind. A question was asked how big the grinder is and the answer was 13 – 15 feet tall; it has to be under 13' 6 " to be able to be transported on the roadways. Mr. Johnson stated that regarding the neighbor concerns about the grinder, they meet all the appropriate noise and dust suppression requirements. He said they submit monthly reports and the OHIO EPA do air quality checks. He said dust is not allowed because it would choke-up the machine.

Mr. Johnson said the advantages of this business would be that it would generate more taxes for the City, including payroll taxes. They don't want to disrupt the neighborhood, just recycle. He added that there are water misters on the machine. He said at his other locations they don't accept trailers that are not covered. He said they regulate that, and will do so at this site.

Chairman Spisak asked if other trucks, not associated with their company would be allowed on their site. Mr. Houze responded by saying it is only their trucks. There are no requirements by Occupational Safety and Health Administration (OSHA) on asphalt shingles, because they are an "earthy" product (environmentally safe).

Ms. Janet Jacobs asked if the grinder would only come onto the site once a month. Mr. Johnson answered normally not more than once a month, because it is too costly to transport the grinder from site to site unless there is enough material there to grind.

Mr. Johnson went on to say that his employees are trained to detect asbestos shingles. He stated that there are some 50,000 samples and the EPA Director has stated in a report that asbestos shingles are a non-issue now; he would provide that report to the Commission members if necessary. He said per the Ohio Department of Transportation (ODOT) Certification, they have to test every 300-500. He has other grinding sites in Louisville, Kentucky, and Columbus, Ohio. The grinding at these sites depend on the amount of product they have, which is seasonal and it would be unusual for them to

grind material in the winter months, as no one re-roofs in the winter. The grinding fluctuates from 4 to 5 days per month depending on product.

Mr. Houze reiterated that they only deal with Willoughby Supply customers for purchase. He stated how long they have been established in business in Ohio: Akron on Moe Drive for 10 years; Canton 8 yrs.; Wooster 4-5yrs; as well as operating in Mentor and Columbus. He said that business was good. They have had down years like all businesses, but their sales are up due to recent storms, hail storms, heavy winds etc., with shingle replacements.

Chairman Spisak asked if there were any more questions from the members.

Mr. Easterling stated they need to evaluate the pros and cons of this and with Russ Arters not at the meeting to give input, he thought they might want to table this application.

Attorney Leiby asked if it could address the Commission with some follow-up statements; this was allowed. He stated that recycling is good, but he had concerns. He began to itemize these concerns mostly with the operating height of the grinder; if it was run by a diesel engine; EPA specific questions about site location granted for the grinder including if it was permissible to transport the grinder from site to site and having a current operational permit versus 2008 permit to install, etc. He asked the Commission to consider these comments before they make their decision.

Mr. Easterling moved to table application SPR4-2011 by PC Resolution 17-2011 until the July 12, 2011, meeting to gather more information. Ms. Jacobs seconded the motion. ROLL CALL: Mr. Easterling –Yes; Ms. Jacobs-Yes; Chairman Spisak-Yes. The motion carried 3 - 0.

Chairman Spisak called the next Applicant/Agent to step forward and present his statements for:

**Application SPR5-2011
Major Site Plan Review
Wadsworth 1 LLC/Dave Whyte, Owner
Jim Gamble, Agent
Regarding property known as:
3112 Barber Rd/PPN 4608588
[Proposing an Entertainment Device
Arcade/Internet Café in this facility]**

Agent Mr. Jim Gamble, 216 E. Tuscarawas Avenue, Barberton, Ohio 44203, explained that the site he chose was the only spot he found in the city. His facility will have 35 stations.

Mr. Easterling asked if he was just leasing the office area; applicant answered yes

~~Chairman Spisak asked if the bay area was not part of the lease, Mr. Gamble answered no.~~

Bathrooms were discussed and the availability of handicap bathrooms.

Chairman Spisak asked if he was changing the parking lot in anyway. Mr. Gamble replied that he would only repaint the parking lines, which are faint now and change the pre-existing signage.

Mr. Easterling talked about the site line not being good to see for pulling onto the roadway at this site. The grass and weeds are so tall it is a concern; it needs attention.

Ms. Jacobs asked if he was going to use the rest of the building; he said he doesn't control that, but would possibly be used for storage etc.

Chairman Spisak commented that it was zoned properly and a license is still available for this type of business.

Chairman Spisak asked if there was anyone who wanted to speak for or against the application.

Mr. Forrest Fuller, 1240 S Maple Street, Atwater, Ohio 44201, spoke against the application. He explained that he was 50% owner in the property and wasn't aware the property was being leased until two weeks ago. Mr. Whyte wanted him to sign the lease and he refused. He has nothing against Mr. Gamble, but he said he needed to be aware that there were two owners of that property. Mr. Fuller said there were better uses for that facility and he has buyers to sell the property as a car facility. Mr. Fuller said he wasn't complaining to the Planning Commission, but wonders why he wasn't notified.

Chairman Spisak asked if the name on the facility was Wadsworth LLC, as that is who the notice was mailed to. Mr. Fuller said yes he was 50% owner and David Whyte is the other 50% owner, but he did not agree to lease the property. He will not sign the papers, and said it would take a court to do that.

Mr. Easterling raised the question as to whether the lease signed by Mr. Gamble was invalid; Mr. Fuller said yes, he was only notified about it last Friday. Discussion was had that lawyers would have to look into this. Mr. Fuller explained that Mr. Whyte was in personal bankruptcy and that was what was delaying his sale of the property. He said because he has been dragged into that, it is just a mess.

Chairman Spisak thanked Mr. Fuller for his input, and asked if there was anyone else to speak for or against the application.

Mr. Davie Whyte, 4755 Hartz Drive, Barberton, Ohio 44203, spoke saying he was 50% shareholder of the business. He brought legal action for removal of Mr. Fuller as shareholder, and was granted a Court order to give him the power to make this decision for the company. He said Mr. Gamble approached him about this and he consulted with his attorney and he said it was fine. He said he controls the company, and that this lease is the best thing for Forrest Motors; Mr. Gamble is easy to work with.

Chairman Spisak asked if he had the court order; it was presented to the Commission. The Order was from Case NO. CV-2010-07-4938 signed by Judge Judy Hunter of Summit County Common Pleas Court, filed September 20, 2010. The order granted David P. White his motions for Preliminary Injunction and his Motion to show cause.

Chairman Spisak said that the order should be reviewed by the City's Law Director. Mr. Easterling agreed, because if Mr. Whyte does not hold permanent control of the company, then the Commission can not approve the applicant's request.

Chairman Spisak moved to table application SPR5-2011 by PC Resolution 18-2011 until the ownership of the property is determined by the City's Law Director. Mr. Easterling seconded the motion. ROLL CALL: Chairman Spisak-Yes; Mr. Easterling –Yes; Ms. Jacobs-Yes. The motion carried 3 - 0.

III. OLD BUSINESS:

Chairman Spisak asked if there was any old business; no one spoke. He said they would be looking at zoning again in the near future.

IV. NEW BUSINESS:

Chairman Spisak asked if there was any new business. There was a new site plan application filed (SP6-2011) that will be heard at the next scheduled meeting.

Chairman Spisak asked if there was any other new business; there was none.

IV. CONSIDERATION OF MINUTES:

None.

V. ADJOURNMENT:

Chairman Spisak said as it stands, the next meeting would be July 12, 2011.

With no further business before the Commission, Chairman adjourned the meeting at 7:43PM



Planning Commission Chair/
Vice-Chair



Planning Commission Vice-Chair/
Member

9/13/11
Date

PLANNING COMMISSION RESOLUTION

June 28, 2011

PC RESOLUTION NO.: 17 - 2011

RE: Application SPR4-2011
Major Site Plan Review
Vynlux Properties Inc. /Ron Nausbaum, Owner
Justin A. Houze, Agent
Regarding property known as:
1750 Wadsworth Rd/PPN 4607026
[Proposing a Container operations
business/storage of containers and trucks
and a Recycling operations business/recycling
roof shingles, wood and metals facility]

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

TABLED UNTIL 7/12/11
TO GATHER MORE INFORMATION

Vote on Motion: FOR 3 AGAINST 0 ABSTAIN 0

Therefore PC Resolution No. 17 - 2011 has been:

APPROVED _____ DENIED _____ TABLED X

This resolution shall be sent to:

Administration for _____ it's action or for X it's information, and
Council for _____ it's action or for X it's information.



Planning Commission Chair/Vice-Chair



Planning Commission Vice-Chair/Member

6/28/11
Date

PLANNING COMMISSION RESOLUTION

June 28, 2011

PC RESOLUTION NO.: 18 – 2011

RE: Application SPR5-2011
Major Site Plan Review
Wadsworth 1 LLC/Dave Whyte, Owner
Jim Gamble, Agent
Regarding property known as:
3112 Barber Rd/PPN 4608588
[Proposing an Entertainment Device Arcade/Internet Café in this facility]

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

TABLED UNTIL OWNERSHIP OF PROPERTY
IS DETERMINED BY THE CITY'S LAW
DIRECTOR.

Vote on Motion: FOR 3 AGAINST 0 ABSTAIN 0

Therefore PC Resolution No. 18 - 2011 has been:

APPROVED _____ DENIED _____ TABLED X

This resolution shall be sent to:

Administration for _____ it's action or for X it's information, and
Council for _____ it's action or for X it's information.

[Signature]
Planning Commission Chair/Vice-Chair

[Signature]
Planning Commission Vice-Chair/Member

6/28/11
Date

PLANNING COMMISSION
AUDIENCE ATTENDANCE RECORD

The following individuals were present and wished to speak at the Meeting of the Planning Commission held on Tuesday, June 28, 2011

PLEASE PRINT:

<u>NAME:</u>	<u>STREET ADDRESS (NO P.O. BOX):</u>	<u>CITY & ZIP CODE:</u>
Linda Thomas	1684 Wadsworth Rd	NORTON 44320
EUA SCARITO	1665 WADSWORTH RD	" "
FRANK Thomas	1700 WADSWORTH R	AKRON, 44320
Jim SINGLETON	1689 WADSWORTH RD	AKRON, 44320
Jim Gamble	216 E JUSC AVE	BARBERSON, Oh 44203
Don Hedowski	2172 Wadsworth RD	Norton 44203
Farrest Fuller	1540 S Maple St	Akron OH 44320
Kevin O'Shea	1626 Rock Cliff Dr	AK 44320
DAVID WHYTE	4755 HARTZ DR	BARB 44203
Steve Leiby	338 S. Main St. Suite 302	AKRON OH 44320

Signed: Sharon Lubas
Interim Stenographer

PLANNING COMMISSION
AUDIENCE ATTENDANCE RECORD

The following individuals were present and wished to speak at the Meeting of the Planning Commission held on Tuesday, June 28, 2011

PLEASE PRINT:

NAME:

STREET ADDRESS (NO P.O. BOX):

CITY & ZIP CODE:

JA

Justin A. Hoare
Justin A. Hoare

PC 6-28-11 MTF.

John Luke

Inter Stenographer

RE: SPR5-2011

Alan E. Ederer

34 Merz Boulevard, Suite A
Akron, Ohio 44333
(330) 836-4951
fax (330) 836-6331

June 22, 2011

Mr. Mark Spisak, Chairman
Planning Commission
City of Norton
4060 Columbia Woods Drive
Norton, Ohio 44203

RECEIVED-CITY OF NORTON
2011 JUN 27 A 11:05

Dear Mr. Spisak:

Unfortunately, I am unable to attend the June 28 meeting regarding site review for 3112 Barber Rd/ PPN 4608588. Having developed the site and renting the building thereon to various enterprises, the proposed Arcade/Internet Cafe use is ill conceived. I have and continue to wish well for Dave Whyte; however, the intended use would be *truly* a major detriment to the neighborhood and City of Norton in its entirety. The site presents great opportunity for many desirable businesses that would hire people and be accretive in value. Please consider the negative and possible troublesome results from an additional Arcade/Internet Cafe located within one-half mile of two existing cafes.

Edwood Development Company and I, personally, own three other parcels in the immediate neighborhood, two of which are occupied by responsible, long term tenants that would likewise vote negatively on the proposed use. *We are all for expanding business and employment, however, a cafe does not resonate.*

Respectfully,



Alan E. Ederer

cc: David L. Koontz, Mayor, City of Norton
Richard A. Ryland, City Manager
Dave Whyte