



Planning Commission Memorandum

To: Karla Richards, Clerk of Council
From: Rebecca Lukats, Interim Boards & Commissions Secretary *RLS*
Date: 11-28-2011
Re: Approved/Signed Planning Commission Minutes:
Tuesday, July 26, 2011

Attached you will find a copy of the approved signed Planning Commission minutes from Tuesday, July 26, 2011.

The original document has been forwarded to, and will be on file with the Clerk of Council as the official record.

E-mail: Mayor (per Admin. Sec.)
Administrative Officer
Finance Director
Planning Commission
Fire Chief
Council
Engineer
Supt. of Building & Zoning

cc: App. File/Posting

City of Norton
PLANNING COMMISSION
Tuesday, July 26, 2011

The Planning Commission of the City of Norton, Ohio, convened for a public meeting in Council Chambers at the Safety Administration Building. Due to the excused absence of Chairman Spisak, Vice-Chairman Ralph Dowling called the meeting to order at 6:00 p.m. as Acting Chairman.

I. ATTENDANCE:

PRESENT: Ralph Dowling, Janet Jacobs, John Conklin, and Richard Easterling

ABSENT: Mark Spisak (excused)

ALSO PRESENT: Russ Arters, Supt. of Bldg. & Zoning
Rick Ryland, Administrative Officer; John Moss, Finance Director;
Councilmen: Todd Bergstrom, Don Nicolard, and Ken Braman;
Atty. Justin Markey, Law Director's Office

II. PUBLIC APPLICATIONS:

- A). **Application SPR4-2011 – Continuation of Public meeting
Major Site Plan Review
Vinylux Properties Inc./Ron Nausbaum, Owner
Justin A Houze, Agent
Regarding property known as:
1750 Wadsworth Road/PPN 4607026
[Proposing a Container Operations business/storage
of containers and trucks and a Recycling operations
business/recycling roof shingles, wood and metals facility.
(Tabled from 7/12/11)**

Chairman Dowling announced the first application. Since it was a continuation of the Public Meeting tabled from July 12, 2011, he asked the applicants if they would like to make any comments. The Applicants had no comment.

Chairman Dowling asked if there was anyone present who wanted to speak for the application: no one spoke.

Chairman Dowling asked for a second time if there was anyone present who wanted to speak for the application; no one spoke.

Chairman Dowling asked for a third and final time if there was anyone present who wanted to speak for the application; no one spoke.

Chairman Dowling announced for clarification purposes, that the application was originally tabled from the last meeting until the August 9, 2011 meeting. The Applicant requested that this continuation meeting be heard sooner, because of the undue financial hardship it would place on him with the costs of starting up his business. Chairman Dowling said that since the Applicant had submitted all information the Commission requested at the last meeting, they have accepted the Applicant's request and moved the application off the table early.

Chairman Dowling asked if there was anyone present who wanted to speak against the application.

Attorney Steve Leiby representing Trinity Broadcasting Company spoke against the application. He said the Trinity Broadcasting Company is immediately adjacent to and abutting the property of this application. He stated at previous meetings he had mentioned the numerous regards in which the application fails to comply with the zoning code and won't repeat himself. He said it is his understanding that major site plan requirements are mandatory, not optional. He said the plan must meet the standards set forth in the Zoning Code. The only exception he is aware of is if the Zoning Inspector excuses the applicant from complying with certain requirements that are not necessary; he has not seen that happen. Attorney Leiby said he commits to the Commission that it should not and legally he doesn't think it can approve, if the site plan does not comply in all aspects to the City's zoning code.

Attorney Leiby said on a separate matter, that the Applicant has indicated that the shingles to be recycled will not contain asbestos, because they are manufactured by Willoughby Supply. He doesn't doubt or challenge that. However, he said that shingles are often installed over existing shingles, unless it is necessary to do a complete tear-off. He wonders when a complete tear-off happens if those existing shingles could contain asbestos. The Attorney said in that case those would also be transported to this facility. Attorney Leiby stated that the applicant would have no control over the source or the consequence if they contained asbestos. He said they have no way to determine whether or not they contained asbestos; asbestos contains carcinogenics and could cause mesothelioma.

Attorney Leiby went on to discuss the lack of proper EPA Permitting requirements for this third meeting on the subject. He said the applicant has no installation permit for the new site, (only one from 2008, expiring in 2009), nor an operating permit and no relocation of site approval.

Attorney Leiby asked in conclusion that the Commission deny the application for the reasons he has already stated about the failure to comply with the Zoning ordinance, significant noise control problems resulting from a 765 HP diesel engine running, and for failure to address a water runoff plan. He said if the Commission decided it was going to approve the application anyway, he would ask that the applicant be granted conditional permit approval. This would be subject to revocation of approval on the applicant providing to the Commission, as a matter of public record, the EPA Director's approval for an installation permit, relocation approval and an operational permit for the site.

Chairman Dowling thanked Attorney Leiby and asked for a second time if there was anyone present who wanted to speak against the application.

Ms. Linda Thomas 1684 Wadsworth Road, Norton, Ohio, spoke against the application. She said since the last meeting and finding out that this was moved up; she has been on the phone with the Army Corps of Engineers, the Ohio Attorney General's Office in Columbus, the Ohio EPA, the Air Quality Department in Akron and various other environmental agencies. She said one government agency said they couldn't believe how the City of Norton continues to allow these types of businesses in with residential areas, which would be the lack of proper zoning. She said this was embarrassing.

Ms. Thomas said everyone she spoke to brought up that this was ultimately the City of Norton's responsible to make this a conditional permit. She said they ask her these questions: 1) Has the City checked into the decibel level of the grinder; 2) Has a ground water study been done and what direction it will go; 3) Has there been anything discussed about financial restitution. This would be due to asbestos or fiberglass in the air coming from the grinding of shingles, or has enough money been banked if the water goes bad and people start having respiratory problems; and 4) Has there been a baseline water testing done to determine what the water chemical balances are now, with a retest in 6 months to monitor this. All agencies agreed that with the location of this facility, runoff will run downhill and the water would flow into the tributaries.

Ms. Thomas discussed the hours of operation with the agencies of 7:00am – 5:00pm and the agencies said that they were shocked that this was allowed. They commented most senior citizens and residents would not get up until 8:00 am, and they know what kind of noise is generated with the grinding and dumping into bins.

Ms. Thomas said she has 6 or 7 contact names, all the way to the Attorney General's office, on a list with their phone numbers, and they are willing to talk to about their concerns with anyone.

She said at the last meeting, it was brought up that you won't even be able to see this operation. Ms. Thomas said she can see the top of the building from her mom's deck. She said from her property, she can look right down in between the buildings where his operation will be. She said prior to approval, the applicant thinks this was a slam dunk job and he has moved in office equipment and refrigeration equipment like it is a done deal; it is very insulting to the residents.

Chairman Dowling thanked her for her comments.

Ms. Sue Kedrowski, of 2172 Wadsworth Road, Norton, Ohio, spoke against the application. She said she agreed with the others. She said the residents have to deal with Eslich's dump in their area, and now they will have to deal with another dump situation. She said what is the sense of trying to fix up their properties to make them nice, when they bring in these kinds of business. She said the City hired a city-wide trash company (J & J Refuse) to eliminate the truck traffic on the roadways and with this business, they are going to have more trucks on the roadways. She said she was totally against it.

Chairman Dowling thanked her, and asked for a third and final time if there was anyone present who wanted to speak against the application; no one spoke.

Chairman Dowling asked Mr. Houze, the Applicant, to step forward because he had more questions. Chairman Dowling had a couple of issues for the applicant to explain. One was the requirement in the code for Industrial I-1 areas limiting 1,000 gallons of well water use per day, and he asked if that would be an issue to maintain the spraying of the product involved. Mr. Houze said no, 300 gallons would be a very maximum use for processing and that would be for 1,000 ton of material, and he would technically bring his own tank cover. Chairman Dowling said his second issue was if they were planning to put the shredding equipment behind the building. Mr. Houze said it would only be on site when they have enough material to process, and when they come in it would be located on the other side of the fire lane behind the building.

Mr. Houze said Summit County Health Department, Division of Solid & Infectious Waste, was out today and did a site inspection, and they basically had no issues. They were happy to see recycling in the area, because they are losing some of their solid waste recycling facilities. He said the Fire Department was out as well for an inspection and had a couple of building code issues with emergency exit lights and door knobs, but that was it. He said they have been satisfied with it. Mr. Houze said he just wanted to remind everyone that this was a site review approval only; it has nothing to do with EPA permitting. Mr. Houze said that at the last meeting he felt personally threatened. He said he was unaware that this could happen at a site review meeting and he would appreciate it if everyone keeps to the subject at hand.

Mr. Dowling wanted to understand the situation better. He said his assumption is that until you receive a site plan review and approval, you can't make any arrangements or sign any agreements to move any equipment around. He said he assumes the EPA will have to come and Mr. Houze will have to get a permit for operation and installation permit. Mr. Houze said yes, he is the container company and his partner is the recycler. He said his partner has submitted all applications for permitting, but the major issue with the EPA is that they get their advance 15 day notice that he will be moving on site.

Chairman Dowling asked if there were any questions or comments from the Commission.

Mr. John Conklin asked if Willoughby Supply was a manufacturer of shingles. Mr. Houze said that they are not a manufacturer of shingles only a supplier. Mr. Houze discussed the types of shingles they supply. He commented that if Attorney Leiby would do research, he would find there are very few asbestos shingles in Ohio, let alone in Summit County. Mr. Houze said part of their procedure or protocol when they talk with their contractors bringing in the shingles is to ask many questions. Those questions include, how many layers or the age of the roof and various other questions. Mr. Houze said if there is any doubt, they will not accept the material.

Mr. Conklin went on to ask if the roofers are paid for the shingles they bring in to recycle. Mr. Houze said they are paying for the container service. Mr. Houze said their business would reduce the amount of shingles going into landfills. Mr. Houze said the problem going to landfills is not that they are toxic or hazardous material, but rather it is because they last up to 300 years in a landfill; manufacturers are even behind this process. Mr. Conklin said if he understands correctly, aside from the audiences' complaints, was it safe to assume that the old shingles being torn off houses that would go his facility to recycle would probably being dumped into Eshlich's or Bennett's landfills. Mr. Houze said yes, he has reports so far this year in the 44203 area, that show 800 squares have been sold for 2011. He said probably 99.9% of the shingles from tear-offs have ended up at Eshlich's landfill, because they are the closest and fastest way to get rid of the material. Mr. Conklin said that means asbestos or fiberglass shingles could be leaching out of Eshlich's landfill now; Mr. Houze concurred.

Mr. Conklin asked how long the boxes containing the shingles would be on site, because he understands that the grinding operation would not run five days a week. He also asked how long the boxes will take to grind, if they were full. Mr. Houze answered 16 hours or 2 days. Mr. Houze said it would take 3+ months to justify him moving his equipment. Mr. Conklin reaffirmed the answer by stating it would take 2 days grinding for 3 months of collection; Mr. Houze said basically, yes.

Chairman Dowling said the business has 3 trucks now, and he assumes he would not be doing 20 or 30 trucks a day. Mr. Houze said he has few man hours, stating they would leave the yard with an empty container, return with a full one, unload, and do it again. Chairman Dowling said that would be probably 12 or 14 trips a day. Mr. Houze said he would be lucky to do that many, besides one of his trucks is a pick-up truck that would be pulling a trailer.

Chairman Dowling asked if there were any other questions. Hearing none, he asked if Mr. Russ Arters, Superintendent of Building and Zoning had any questions or comments.

Mr. Arters stated that the property was zoned I-1 and has been zoned I-1 since it's creation. He stated the whole area up there, was light industrial use. Mr. Arters said this was a major site plan review that was really no different than the Pizza Hut application the Commission just heard. He said all permits required will go through the normal cycle. He said with the EPA, on site noise factor and all regulations, they will be the first ones there to make sure all the paperwork involved is in place. Mr. Arters stated that the area has Bennett's behind the neighboring property in Akron, and above the hill a site on McCoy that runs down hill into everyone's yards, and so forth. He said once it goes

through the site plan, then the permits start and that is when all the regulations come into effect.

Chairman Dowling asked, assuming once approved, how would the applicant proceed? Mr. Arters said, once approved, he needs to go back through his office. At that time all the permits would need to be in place and we would make copies to keep in the file. Mr. Arters discussed that it was an existing site with no movement of dirt or gravel, unlike a regular major site review plan that has that because of new construction. Chairman Dowling added that they were not really changing the structure of the buildings, they were just dumping material on the site.

Chairman asked if there were any other questions.

Ms. Janet Jacobs asked if the City addressed the water run-off issues. Mr. Arters said yes, our Municipal Engineer Dave White looked at the site plan. Mr. Arters said he doesn't know the whole grinding process part, but with the amount of shingles that would be dumped, the water run-off would be a slow filter because of the mound. He said Mr. White saw no issues at this time.

Chairman Dowling asked who would control the monitoring, would it be the Ohio EPA and/or the county. Mr. Arters said he was sure the EPA would have some regulations, but on site it would be up to the Engineer and Summit Soil and Water as far as monitoring it. Mr. Arters said the City would take care of the monitoring and seeing what the ramifications are, if any; water run-off from the grinder would be the biggest thing. He said in his opinion, if it has been allowed in Franklin County, who is very proactive with these issues, then he foresees no problems.

Mr. Houze commented that the majority of the water is either turned into mist because of the heat or actually absorbed back into the material. Mr. Houze said it is more desirable that the water is absorbed by the material, because once it gets to the asphalt plant they are paid based on the weight of the material; the more water absorbed means more weighted material and a higher price.

Chairman Dowling thanked the applicant.

Chairman Dowling asked for a motion. Mr. Richard Easterling moved to approve application SPR4-2011 by PC Resolution 21-2011 with the following recommendation: Motion to approve application on the condition that the Applicant address Fire, Building, EPA and other required permits as required by the Building Inspector. Ms. Janet Jacobs seconded the motion. ROLL CALL: Mr. Easterling-Yes; Ms. Jacobs-Yes; Mr. Conklin -Yes; Chairman Dowling - Yes. The motion carried 4 – 0.

After the public meeting Mr. Houze was followed closely on his heels to the side of the room by the manager of the Trinity Broadcasting. Mr. Houze was trying to get away from him, but was stopped by the side wall of the room (by Mr. Arters and the stenographer). The stenographer addressed the Chairman so he was aware of the situation, because at the last meeting the Applicant was threatened after his presentation by the same man. After the confrontation between the two men, seeming

to be amicable, Mr. Arters asked if everything was ok. Mr. Houze said yes, and they both left the Council Chambers.

- B. Application SPR5-2011
Major Site Plan Review
Wadsworth 1LLC/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]**

Chairman Dowling announced the next application, and said it was a continuation of the Public Meeting for a major site plan review, tabled from June 28, 2011. Chairman Dowling asked if the applicant was present; he was not. Chairman Dowling asked Mr. Arters if they had resolved the issue of the ownership of the property. Mr. Arters said he has not heard from them, but he believes they are still talking amongst themselves.

Chairman Dowling moved to table application SPR5-2011 by PC Resolution 22-2011 until August 9, 2011. Ms. Jacobs seconded the motion. There was discussion prior to the vote about whether or not the Applicant would be ready in two weeks. Chairman Dowling said that they would table it for two weeks and make a determination at that time as to the next course of action. Mr. Arters said he would make them aware of what they need to do within the two weeks. Chairman Dowling asked if there was any further discussion; hearing none he asked for a Roll Call. **ROLL CALL: Chairman Dowling – Yes; Ms. Jacobs-Yes; Mr. Conklin-Yes; and Mr. Easterling – Yes. The motion carried 4 – 0.**

III. OLD BUSINESS:

Chairman Dowling asked if there was any old business. Chairman Dowling commented on the drafted minutes they received from the last two meetings. He saw a couple of editorial changes, missing words, and just to confer for clarity purposes, he passed on his comments to the stenographer.

Ms. Jacobs wanted to thank those present at tonight's meeting from the Administration, the Law Director's office and also the Councilmen present. She felt much more comfortable with the showing of those present at the meeting.

Mr. Easterling received a letter from the Mayor just now, giving his reasons for vetoing the rezoning of the Auto repair business on Gardner Boulevard. He understands the Mayor's concerns that it would be can of worms, if other types of businesses allowed by that rezoning would go in there. Mr. Easterling said they are asking for the planning consultant to review the situation and recommend an alternative solution. He said he had a possible recommendation. His recommendation is that Council might consider making automobile repair garages allowable in a B-2 district; he doesn't know if that has been discussed or not. Mr. Arters said unfortunately B-2 goes everywhere from the center of town to I-76/224; Mr. Easterling said that is where they all are now. Mr. Arters

said if you are going to open it up to B-2, there are more B-2 than B-3. Mr. Arters said if you veto it at the center of town, it is even more prevalent all the way up Cleveland-Massillon Road. He said B-2 is a lighter use in the zoning code.

Mr. Richard Ryland, Administrative Officer, asked the Chairman to recognize him. Chairman Dowling gave him the floor. Mr. Ryland stated that after Council comes back from break, they are going to introduce and hopefully they will give the authority to enter into a contract with D.B. Hartt and Associates. This would be so that they may look at how language may be varied from all the B-1, B-2, B-3 and I-1 and I-2 zoning, to get a better idea. Mr. Ryland said they are seeing a trend, rather than the zoning going with the property it is instead going with the business. He said for a lack of a better term, conditional use. He said that the zoning during the term in which he is operating a business leaves, when the business leaves. He said Mr. Easterling's point was well taken, in the fact that the old B-3 exists, allowing for full service gas stations. Mr. Ryland said now most of them are gas stations that are more of a retail business and not a full service garage. He said we need to address that in its entirety.

Mr. Easterling said the problem with that property is that it was built as a garage, and operated for many years as a garage; Mr. Ryland agreed. Mr. Ryland said the point he made to Council, of which Council was fully aware, was that just within the year they have changed other B-3 zonings in town to B-2. He said now we have one going from a B-1 to a B-3 that is contradictory to what had taken place just eight months earlier.

Chairman Dowling mentioned that when he first came on board ten years ago, after sitting at a meeting for 2 hours, the Committee found they just didn't have the expertise needed at the time to make the zoning changes. Chairman Dowling commented that there are benefits of just getting their input. He said certain individuals came to the meetings that made comments that the Commission was trying to make this look like Hudson, which in turn defeated part of the process. He agrees that they need someone to come up and sort through it.

Mr. Conklin discussed the difficulty they have had just rezoning Cleveland-Massillon Road from the center of town out to I-76/224. He said it was a task that needed to be accomplished, but so far has eluded them. Mr. Ryland commented that after the comprehensive study is done they will be able to make sound recommendations.

Chairman Dowling asked if there was any other old business; no one spoke.

IV. NEW BUSINESS;

Chairman Dowling asked if there was any new business. The Chairman asked if there were any new applications filed.

Mr. Arters said they actually have another Internet Café coming through as well as the applicant that came before them on Gardner Boulevard. The applicant, for Gardner Boulevard, wants to do detail work, only on cars. He wants to make it a "portable" detail company, where he would actually go to the owner's house and do this. Mr. Arters stated he considers it a light use, where there would be no mechanical repair, just strictly cleaning the cars and detailing. There was discussion by members of the off-site zoning

in residential areas, and what is considered light use. Mr. Arters's said the applicant came up with that idea and in his opinion, he thought it was a good idea. He said he will keep his trucks inside, there will be no air gun use, no tire repair, no brake repair, he is just keeping it simple with detailing; he said it was a good use for it.

Chairman Dowling asked if there was any other new business, there was none.

IV. CONSIDERATION OF MINUTES:

The Chairman discussed the drafted minutes the members received for review, but did not want to consider them out of sequential order. The stenographer volunteered that the reason they were done out of sequential order was because there was a records request for them. There was discussion about the minutes that have yet to be transcribed. The stenographer stated she is the back-up for the Mayor's Court while the Clerk is out or on vacation and there is no back up for her job. There is a limited amount of time available to dedicate to transcribing minutes with her work load; she tries as best as she can.

V. ADJOURNMENT:

With no further business before the Commission, Chairman Dowling announced the next scheduled meeting would be August 9, 2011, and adjourned the meeting at 6:36 PM.



Planning Commission ~~Chair~~
Vice-Chair



Planning Commission
Member

11/22/11
Date

PLANNING COMMISSION RESOLUTION

July 26, 2011

PC RESOLUTION NO.: 21 - 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:

Motion to approve application on the condition that the Applicant address Fire,
Building, EPA and other required permits as required by the Buidling Inspector.

Vote on Motion: FOR 4 AGAINST 0 ABSTAIN -

Therefore PC Resolution No. 21 - 2011 has been:

APPROVED X DENIED TABLED

This resolution shall be sent to:

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

Robert Dault
Planning Commission Chair/Vice-Chair

[Signature]
Planning Commission Vice-Chair/Member

7/27/11
Date

PLANNING COMMISSION RESOLUTION

July 26, 2011

PC RESOLUTION NO.: 22 - 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:

MOTION TO TABLE APPLICATION SPR5-2011 UNTIL
AUGUST 9, 2011

Vote on Motion: FOR 4 AGAINST 0 ABSTAIN -

Therefore PC Resolution No. 22 - 2011 has been:

APPROVED X DENIED TABLED

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.

Ralph Davelos
Planning Commission Chair/Vice-Chair

[Signature]
Planning Commission Vice-Chair/Member

7/27/11
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, July 26, 2011

PLEASE PRINT:

NAME:

STREET ADDRESS (NO P.O. BOX):

CITY & ZIP CODE:

Steve Leiby 388 S. Main St Aaron OH 44308

LINDA Thomas 1681 Wadsworth Rd AARON OH

Sue Kedrowski 2172 Wadsworth Rd Dorton OH 44203

Justin A. Houze 2314 Bruner Ave. Aaron OH 44305

Signed: 
Interim Stenographer 