

**CITY OF AVON PLANNING COMMISSION
OCTOBER 18, 2023, 7:00 P.M.
REGULAR MEETING MINUTES**

PUBLIC HEARINGS

1. Joseph Misencik, 2209 Holly Lane, Rezoning

Joseph and Christine Misencik of 2209 Holly Lane are requesting a positive recommendation to City Council to rezone a portion of Permanent Parcel 04-00- 015-108-043 from C-2/R-1 to R-1 for an existing single-family home.

The Chair opened the public hearing at 7:00 p.m.

The Chair asked if there was anyone other than the applicant that had any comments.

Ms. Fechter indicated that it appears that Mr. Misencik is not present.

Mayor Jensen states that Mr. Misencik stepped out.

Mrs. Misencik states that since Mr. Greaney is present, Joseph Misencik her husband is not able to be present due to the active protective order between him and Mr. Greaney.

Mrs. Misencik states that she has Joseph Misencik on face time. Mrs. Misencik tells Mr. Misencik to begin speaking to the Commission.

Joseph Misencik states his address: 2209 Holly Lane, Avon, Ohio 44011.

Chair Witherspoon asked Mr. Misencik to explain his zoning request.

Mr. Misencik states the portion of property that he is requesting to be zoned residential, from his understanding was originally residential, but he found out that it is zoned partially residential and partially commercial. From the north to about halfway to the property going southbound. He would like to have the entire parcel zoned residential like it should have been, He states it was surveyed 25 years ago. He states that getting a survey shouldn't be an issue with what they already have existing. He states everything was approved 25 years ago. He wants to know from the City's point of view why it can't be completely one residential parcel like it should be.

Ms. Fechter states she wants to add the history to this situation. About 1 year ago it was brought to the City's attention that his property is zoned half C2 and half R1. The problem became that the portion that is zoned C2 is where his house is, so there would be a problem if something happened. If the house burned down, then he would not be able to rebuild because it is a commercially zoned parcel. As she went back through the records, she found that in 1991 the parcel has been split and rezoned in different areas because it was the Forthofer property several times. In 1995 the parcel was rezoned to commercial to accommodate a portion of that and to accommodate a parking lot expansion for the funeral home. In May of 1998 the parcel split from the funeral home so the Misencik's

could build their home. The legal description for the rezoning extended 60 feet further south than the actual lot split. In January of 1999 the topographical map was approved to build a house. Now Mr. Misencik is coming in asking if this parcel should have been residential and not commercial and could he rezone it. This is the situation today. He wants to take the whole parcel back to the residential zone that he feels it should have been.

Mrs. Misencik agrees with Ms. Fechter. She further states that they were always under the impression that it was residential. Her mother-in-law and father-in-law and them, together bought the lot years ago and then when they split it and gave them pieces for the funeral home to do what they needed, they took the rest as residential. They were always under the impression, and they had it surveyed and zoned and always thought it was residential. They have gone all these years assuming it was residential and never thought of it being any different until last year when it came to their attention when that other piece of property started having things done to it.

Ms. Fechter states when Garden Drive approached the city to build, that is when the city started looking around at the parcels and realized that there was that split zoning.

Mrs. Misencik states they want it to be residential like it should be.

Chair Witherspoon states this will be discussed under item number 1 unless there are any other questions.

Bill Greaney, 3511 Long, Avon, Ohio 44011. The Misencik Funeral home address is 36363 Detroit Road, Avon, Ohio 44011.

Mr. Greaney states that they would be the only ones affected by change. In 1998 his mother and father-in-law, and his wife were present as well. They are the ones that purchased the land and there was a portion that was sectioned out for her son and daughter-in-law (Joseph and Christine Misencik) to build on the parcel. It was purchased by Joe and Marilyn Misencik and then it was sectioned off for them to build a home. In 1998 the lot was transferred, and it became a parcel through the records. In 2000 a house was built, and it was transferred then as a home. It still showed commercial property. They purchased the funeral home in 2005 with the adjacent property being the commercial property. That is how they purchased the funeral home with commercial property next to them. In 2021, he purchased the other side, the west end of the property where Ms. Fechter mentioned where the bar (Avon Brewing Company) was going to be located. They purchased a parcel that is .68 acres that abuts to the other parcel, so it was 2 commercial properties. It is commercial to commercial. It is their intention to build a crematorium on that parcel. They have given the plans to the Fire Department; Fire Marshal and they are in the very preliminary plans of building it. The commercial change would affect them, and it would ultimately change the setbacks so they would not be able to build right up to the property line as currently planned. It would change their business plan as well. This property is commercial and was transferred again in September 2022, so it went through another change of transfer on the deed. Mr. Greaney states none of this was brought up then. He feels if this land is taken away, they are unable to build as they have planned and they have made a substantial investment, and they would be due

compensation because it would be taken by eminent domain. He further states if you make a judgment to change that property and they would need to conform to the new setbacks, they would be adversely affected. He understands that the Planning Commission is making a recommendation to City Council for a vote. He is prepared to have his attorney appear at City Council.

Mayor Jensen asked Ms. Fechter if this was addressed in the conversations.

Ms. Fechter states that it was mentioned to Mr. Misencik the desire to have a 20-foot buffer at the edge of his property. The administration had talked about this when it was suggested to putting a 20 foot in between the Misencik home and the funeral home to allow Mr. Misencik to rezone his parcel to residential but also to not adversely impact the commercial business next to him. However, Mr. Misencik has asked that his entire parcel be rezoned to residential as he feels the intention was.

Mayor Jensen states to Mr. Gasior that they had talked about the legal remedy for that as Mr. Greaney has said that there would be an adverse effect to the funeral home. How do we make sure that we don't have an adverse effect on either party. This body would not want there to be an adverse effect on either party. He knows that there is a wrong and then trying to make it right but trying to change it to adversely affect either side would not be in the best interests of this body.

Ms. Fechter states that in her conversation with Mr. Misencik his feeling is that he does not want to give those 20 feet because the funeral home is already close enough to his property. It has a commercial setback and that is why he is requesting the entire parcel.

Mayor Jensen states this body cares about what is doing right on both sides. If you left it the way, it is now it doesn't adversely affect one over the other except if there was a fire you could not rebuild the house. Mr. Misencik is asking for something that adversely affects one or the other neighbors. Mayor Jensen states he would be opposed to that unless we can come up with some remedy that would not hurt either party.

Mr. Gasior states the remedy we came up with was the 20-foot strip. That is what we have in front of us.

Ms. Fechter states she does not believe the drawing shows that. All we had was the auditor site.

Chair Witherspoon states this will be further discussed under Item 1 after we have the rest of the public hearings.

Mr. Greaney states the 3 factors for this hearing are: the application, the hearing, but also must include reasons. Was there a reason given for the change?

Ms. Fechter states yes because if his house burns down, it can't be rebuilt. Mrs. Misencik agrees.

Mr. Greaney states that the proposal for the 20-foot change would help them and they would not be opposed to that change.

Chair Witherspoon states that he will have a chance to speak again under Item 1.

The Chair closed the public hearing at 7:12 p.m.

2. DJMG Properties-Rezoning

Michael Romanello representing DJMG Properties, LLC is requesting a positive recommendation to City Council to rezone a portion of Permanent Parcel 04-00-022-102-072 and 04-00-022-102-006 from R-1 to C-4 located off Middleton Road and within the “Halo” established with Ordinance 95-06.

The Chair opened the public hearing at 7:12 p.m.

The Chair asked if there was anyone other than the applicant that had any comments. There were no comments. This will be addressed under Item 7

The Chair closed the public hearing at 7:13 p.m.

3. Mark Ladegaard, Kinzel Road, Special Use Permit

Mark Ladegaard is requesting a positive recommendation to City Council for development of a Flag Lot to create 2 buildable lots for residential construction for PPN 04-00-014-105-068.

The Chair opened the public hearing at 7:13 p.m.

The Chair asked if there was anyone other than the applicant that had any comments.

Mark Ladegaard, 36355 Kinzel Road, Avon, Ohio 44011.

Mr. Ladegaard states that he has a parcel of land on record on Kinzel Road. It has 60 feet of frontage. He would like to develop this into 2 single family homes for both of his children.

Mary Brady, 3332 Center Road, Avon, Ohio 4401.

Mrs. Brady states her property abuts that parcel. She doesn't know what a Flag Lot is and would like that explained to her and what that would entail.

Ms. Fechter states a Flag Lot is a lot that looks like a flag. It has a post that goes up and then it opens in the back. It requires at least 60 feet of frontage on a road which he has. Mr. Ladegaard is requesting to take that flag lot, divide it in half, use drive easements and have one half, 3.5 acres for his daughter and one half, 3.5 acres for his son.

Mrs. Brady states ok, she just wanted to know what was going on and says thank you.

Chair Witherspoon says this will be discussed under Item 5.

The Chair closed the public hearing at 7:15 p.m.

4. Cooper's Hawk Winery, 35351 Chester Road; Special Use Permit

Cooper's Hawk Winery is requesting a positive recommendation to City Council to approve the Special Use Permit to create an Outdoor Seating area with 48 seats on Chester Road.

The Chair opened the public hearing at 7:15 p.m.

The Chair asked if there was anyone other than the applicant that had any comments. There were no comments. This will be addressed under Item 11

The Chair closed the public hearing at 7:16 p.m.

ROLL CALL

The meeting was called to order by Chair Witherspoon at 7:16 p.m. in Council Chambers. Present: Bill Fitch, Bryan Jensen, Mayor, Jim Malloy, Scott Radcliffe, Carolyn Witherspoon, Chair, Staff: Ryan Cummins, City Engineer; Pam Fechter, Planning Coordinator; John Gasior, Law Director; Duane Streater, Safety Director; Jill Clements, Zoning Enforcement Officer Susan Pintz, Planning Commission and Zoning Secretary

REVIEW & CORRECTION OF MINUTES

Motion to dispense with the reading of the minutes of the regular meeting held on September 20, 2023, and to approve the minutes as published.

Mr. Malloy moved, seconded by Mayor Jensen, to dispense with the reading of the minutes of the regular meeting held on September 20, 2023, and to approve the minutes as published. The vote was: "AYES" all. The Chair declared the motion passed.

REPORTS & CORRESPONDENCE

None

ADDITIONS & DELETIONS

Motion to add or delete items from the agenda.

Ms. Fechter indicates that there are some adjustments to the agenda.

Ms. Fechter states from the original agenda the changes are as follows:

Nicholas Rak Sewer District Modification and Lot Split. On the agenda first was the Lot Split and second was the Sewer District Modification. The order has been reversed to:
Item 2 is Nicholas Rak, 3889 Long Road, Sewer District Modification.
Item 3 is Nicholas Rak, 3889 Long Road, Lot Split

Item 8

Jacobs Group, 35351 and 35521 Chester Road Development Plan. That should read as follows: Aaron Appell of Bramhall Engineering and Jim Epple of Jacobs Group are requesting approval of the General Development Plan to include Cooper's Hawk Winery at 35351 Chester Road and Dick's Sporting Goods at 35521 Chester Road and Caribou Coffee at 35091 Chester Road.

Item 9

Jacobs Group, 35351 and 35521 Chester Road; Subdivision Plat. The new language should read as follows:

Aaron Appell of Bramhall Engineering and Jim Epple of Jacobs Group are requesting approval of Subdivision 6 to create a new 2.752-acre lot for Cooper's Hawk Winery.

Mr. Malloy moved, seconded by Mayor Jensen, to accept these changes to the agenda. The vote was: "AYES" all. The Chair declared the motion passed.

Motion to approve the amended agenda.

**Mr. Malloy moved, seconded by Mayor Jensen, to approve the amend agenda
The vote was: "AYES" all. The Chair declared the motion passed.**

1. Joseph Misencik, 2209 Holly Lane, Rezoning, PL20230057

Joseph and Christine Misencik of 2209 Holly Lane are requesting a positive recommendation to City Council to rezone a portion of Permanent Parcel 04-00- 015-108-043 from C-2-Central Business French Creek District/R-1-Single Family Residential to R-1-Single Family Residential for an existing single-family home.

Chair Witherspoon indicates that the Public Hearing and discussion was held on this matter.

Ms. Fechter asked Mrs. Misencik if she and Mr. Misencik would be willing to agree to the 20-foot or not?

Mrs. Misencik states that they would need to discuss this with their real estate attorney because it will have a negative impact when they put their home up for sale, especially if there is a crematorium in their front yard.

Ms. Fechter states that we could make this a first presentation, and have you come back next month and in the next 30 days both parties can do what they need to do and then we can have further discussions on what is the best answer.

Mayor Jensen states just for clarification he is the one who saw that the property was zoned commercial, and he remembers by Church Street, those houses like Lois Shinko are in a commercial district and realizing if those houses burn down, they would not be able to be rebuilt. When he looked at the map and saw the Misencik home was in a commercial zone, knowing that was the case brought it to the attention of their family. The intention was never to hurt either party, but we need to come to some sort of agreeable solution. It sounds like the intention is to prohibit the crematorium. Mayor Jensen believes it would be against this body's idea to try to hurt one party over the other to rectify something we saw, in that if

something happened you wouldn't be able to rebuild the house that you currently have. He further states when the Misencik's talk with their real estate agent, they need to keep this in mind. It would be very difficult for him and this body to approve anything differently if the other party were hurt by this. Leaving it the way it is puts the Misencik's in a bad situation but puts us in a worse situation to put something in front of us that could hurt another property owner. Mayor Jensen states he would like to see if the two parties can come together with something that would be acceptable for both parties over trying to make this deciding body do something that could possibly harm both sides.

Mrs. Misencik states it is not their intention to make anything difficult for either party. It is their intention to have what is rightfully theirs and what they were under the impression was rightfully theirs.

Mayor Jensen states that the way it sits right now is what you are asking the body to change something that could possibly hurt someone else. He would like to see it worked out before you come back next month if possible but not sure it can be and possibly a Judge might have to decide. This body does not want to do something that would hurt either one.

Chair Witherspoon states as it stands right now this will be a First Presentation and it will come up on the November agenda.

Mr. Greaney states in speaking to the law just basically. His attorney will not come tonight because Planning Commission is a recommendation only and he will only speak at the Council meeting where there will be a vote. He states the Planning Commission recommendation against is very important as well. If a government agency such as Avon zones a piece of property, an adjacent owner can no longer effectively use the parcel for their interest intended use, the property owner may be able to sue for compensation because the land has effectively been taken similar to when they take a place by eminent domain. His attorney can speak to that more at another governing body if need be. Mr. Greaney further states they would not be opposed to the 20-feet. They do not want to negatively affect any sale that they might produce. They are agreeable to the 20-foot space so it would not affect them.

2. Nicholas Rak, 3889 Long Road, Sewer District Modification, PL20230040

Chuck Szucs of Polaris Engineering representing Nicholas Rak is requesting a positive recommendation to City Council to amend the sanitary sewer district for a newly created lot off Split Rail Lane. The parcel will be deed restricted to allow one single-family home to be constructed with sanitary sewer. Public Hearing held at Planning Commission Meeting on September 20, 2023.

Chuck Szucs, Polaris Engineering, 34600 Chardon Road, Willoughby Hills, Ohio 44094.

Mr. Szucs refers to the drawing on the screen and indicates the cyan/light blue on the right-hand side. The rear acreage of the Rak property that fronts on Long Road, they would like to create a lot in the rear that will front on Split Rail Lane.

Ms. Fechter states that we saw the same scenario a few months ago for the Hricovec parcel and they did the study and were able to change the sewer district and we did that for one single

family home. This would be the exact same scenario. Staff comments have been addressed to our satisfaction and we would recommend its approval.

Mr. Cummins states nothing additional.

Mr. Radcliffe asked about the Lot Split

Ms. Fechter states that Mr. Gasior asked that the order of the Sewer District Modification and Lot Split be reversed the order to approval the Sewer District Modification first and then approval of the Lot Split with the deed restriction.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: “AYES” all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to recommend to City Council to amend the Sanitary Sewer District for a newly created lot split off Split Rail Lane for Nicholas Rak. The vote was: “AYES” all. The Chair declared the motion passed.

3. Nicholas Rak, 3889 Long Road-Lot Split, PL20230039

Chuck Szucs of Polaris Engineering representing Nicholas Rak is requesting approval to split off 6.6058 acres from the back of Permanent Parcel 04-00-012-102-053 for a single-family dwelling with access off Split Rail Lane leaving a remainder parcel of 2.7588 acres with an existing home at 3889 Long Road.

Chuck Szucs, Polaris Engineering, 34600 Chardon Road, Willoughby Hills, Ohio 44094.

Mr. Szucs states nothing further.

Mayor Jensen asked since we changed the sewer district, the 2.75 acres would not be changed in that sewer district. Is that correct?

Ms. Fechter states that is correct, that is not included, it is just the newly created parcel.

Mayor Jensen asked if they could still have a flag lot possibly off the existing piece of land, if it had enough room, but he doesn't think it has the frontage on Long Road, but if there was a house on the 2.75 acres it would not be included in the sewer district.

Ms. Fechter states that is correct.

Mayor Jense states no further questions.

Mr. Cummins states they have reviewed the survey and they have addressed all comments, and we see no objection to consideration for passage.

Mr. Gasior states it would be contingent on City Council approval.

Ms. Fechter states the Lot Split would be contingent on City Council approval of the Sewer District Modification.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: “AYES” all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to approve the split off of 6.6058 acres from the back of permanent parcel 04-00-012-102-053 for a single-family dwelling with access off Split Rail Lane leaving a remainder parcel of 2.758 acres with an existing home at 3889 Long Road continent upon the approval of the Sewer District Modification by City Council. The vote was: “AYES” all. The Chair declared the motion passed.

4. Mark Ladegaard, Kinzel Road, Special Use Permit, PL20230048

Mark Ladegaard is requesting a positive recommendation to City Council for development of a Flag Lot to create 2 buildable single-family residential parcels off Kinzel Road for PPN 04-00-014-105-068.

Mark Ladegaard, 36355 Kinzel Road, Avon, Ohio 44011.

Chair Witherspoon states the Public Hearing on this item was held earlier. She asked if there were any additional comments.

Chair Witherspoon asked if anyone from the audience has any comments on this item. No comments.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: “AYES” all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to recommend to City Council approval of the development of a Flag Lot to create 2 buildable single family residential parcels off Kinzel Road PPN 04-00-014-105-068. The vote was: “AYES” all. The Chair declared the motion passed.

5. Mark Ladegaard, Kinzel Road, Lot Split, PL20230047

Mark Ladegaard is requesting approval to split Permanent Parcel 04-00-014-105-068 into 2 new single-family parcels.

Mark Ladegaard, 36355 Kinzel Road, Avon, Ohio 44011

Ms. Fechter asked that this be contingent upon City Council approval of Special Use Permit.

Mr. Cummins has no comment at this time as they have not provided a lot split drawing as of yet.

Chair Witherspoon asked if we need the drawings before we can vote?

Ms. Fechter states the drawing provided is on the screen, he has not had the formal survey yet. He wanted to ensure that the Special Use Permit got approved by City Council and then he would do the surveys and drawings and that is why Ms. Fechter asked that it be contingent, it won't change from what you see but when the survey comes into Mr.

Cummins, he will review and approve it and make sure it complies with he special use and it meets all of our codes.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: “AYES” all. The Chair declared the motion passed.

Mayor Jensen states to Mr. Gasior, if Council has some questions or reservations about this would it need to come back to Planning Commission if there were some changes made at the Council level?

Mr. Gasior states no, all council is doing is approving development of a Flag Lot, in this case this development consists of dividing the flag lot into 2 separate parcels. If they put some conditions on the development of those parcels it wouldn't affect what this body does.

Mayor Jensen wants to make sure if something changes it wouldn't have to come back to the Planning Commission and Council could take care of any changes.

Mr. Gasior states that any of the changes that he could foresee what be handled by Council.

Mayor Jensen has no further questions.

Mr. Malloy moved, seconded by Mayor Jensen, to approve the Lot Split as read contingent upon City Council approval of the Special Use Permit and Final Engineering Approval. The vote was: “AYES” all. The Chair declared the motion passed.

6. TBK Property, Just Imagine Drive, Lot Split; PL20230055

Chuck Szucs of Polaris Engineering, representing Bryan Weber of TBK Property, LLC is requesting to split the 3.1-acre parcel into 2 commercial zoned parcels at Just Imagine Drive PPN 04-00-028-102-189.

Chuck Szucs, Polaris Engineering, 34600 Chardon Road, Willoughby Hills, Ohio 44094.

Mr. Szucs states they are looking to split the one parcel into 2 parcels. He is not aware of uses or anything coming up, it is just the request to split this into 2 parcels.

Ms. Fechter states that she has had some conversations with the property owner, and they have a couple of interested buyers they are just trying to set this up for when they are ready to make the split, especially for the first parcel. They are not sure what they are going to do with remainder yet, but they will not be building in Avon right now.

Mr. Cummins had no comments.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: “AYES” all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to approve the request for a Lot Split of 3.1 acres into 2 commercial zoned parcels at Just Imagine Drive PPN 04-00-028-102-189. The vote was: “AYES” all. The Chair declared the motion passed.

7. DJMG Properties, Rezoning, PL20230056

Michael Romanello representing DJMG Properties, LLC is requesting a positive recommendation to City Council to rezone approx. 10.61 acres of PPN: 04-00-022-102-072 and approx. .10 acres of PPN: 04-00-022-102-006 from R-1-Single Family Residential to C-4-General Business District located off Middleton Road and within the “Halo” established with Ordinance 95-06. The remainder between Middleton Road and Detroit Road to remain residentially zoned.

Ms. Fechter states as Mr. Romanello comes up to present what he would like to do. She wanted to give some history. In ordinance 95-06 that is referenced it was set up to require rezoning of a residential parcel south of Interstate 90 to anything other than residential go to a majority of vote of the electors. In 2006 when they looked at the map again, they determined that there were a few parcels that should be commercial in that area and should not have to go to the vote of the people, we (in the office) refer to it as the purple box that you see in the overview map, but it is the “halo” area. These parcels are located within that area. In August of 2021 Mr. Romanello came in front of this body and we approved on July 20, 2022, a positive recommendation to City Council to rezone his parcel. He was also requesting a Lot Split at that time. It went to City Council and there were some back and forth on the right of way from Middleton Road, the drainage easements, some of the different things that were needed with the parcel. Mr. Romanello took a step back wanting to just rezone it because he wanted to put it out for sale. For now he is asking for a rezone for the portion that is inside of the purple box to commercial and then once he gets a buyer for the parcel he would come back in and go through the formal process of a lot split and discuss the right of way and easements required, but for marketing purposes he has been advised by his real estate agent it is better if we have the parcel rezoned and he has gone through that piece and then we will do the lot split later.

Chair Witherspoon asked for comments or questions.

Mr. Cummins states at this time he doesn’t believe we have been supplied with legal description of the areas that would fall under that rezoning. It’s within the “halo” and it’s part of one parcel and part of another parcel. We would want to see a legal description that is not based on parcels but based on the area within the “halo”

Chair Witherspoon asked if this would be a contingent recommendation or wait until the descriptions are supplied?

Mr. Cummins states he believes we would want this contingent upon the provision of the legal description.

Mayor Jensen asked if this is going before Council as well on this recommendation?

Ms. Fechter states yes.

Mayor Jensen states he would need to have the legal descriptions before Council would vote on it.

Ms. Fechter states we could make a positive recommendation to City Council and then have those documents supplied to City Council prior to City Council voting.

Mayor Jensen states we would want to make it contingent before Council would vote on it, not so much based on when he brings it in but before Council votes, we would need those legal descriptions.

Mr. Gasior states he wants to make it clear that we are not going to split the lot because there is no public right of way there. This is strictly to rezone a portion of the land to make it more marketable. The land remains in his name. Somewhere down the line if you want to convey that piece to the north that is going to potentially get rezoned you will have to come up with a public right of way.

Michael Romanello agrees.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to recommend to City Council to rezone approximately 10.61 acres of PPN: 04-00-022-102-072 and approx., .10 acres of PPN: 04-00-022-102-006 from R-1 Single Family Residential to C-4 General Business District located off Middleton Road and within the "Halo" established with ordinance 95-06 and the remainder between Middleton Road and Detroit Road to remain residentially zoned contingent upon legal descriptions for this area being submitted for the City Council consideration . The vote was: "AYES" all. The Chair declared the motion passed.

8. Jacobs Group, 35351 and 35521 Chester Road; General Development Plan; PL20230049

Aaron Appell of Bramhall Engineering and Jim Eppele of Jacobs Group are requesting approval of the General Development Plan to include Cooper's Hawk Winery at 35351 Chester Road and Dick's Sporting Goods at 35521 Chester Road and Caribou Coffee at 35091 Chester Road.

Carl Frey, Jacobs Real Estate Services, 600 East Superior Avenue, Suite 2440, Cleveland, Ohio 44114.

Mr. Frey states these are 3 projects as Ms. Fechter pointed out that are shown as additions to this General Development Plan. On an overall basis we have been consistent with what we have anticipated for the overall development. Starting on the east end, the smallest parcel is a Caribou Coffee. They submitted their plans yesterday (October 17, 2023), we also submitted the Subdivision Plat last Friday (October 13, 2023). This is anticipated to be at the November Planning Commission Meeting. There will be no new access plan for that, that will be served off the driveway at Planet Fitness and off the extension off the cross-access driveway that we have been building throughout the project across the back. More centrally located next to McAllister's Deli is the proposed Cooper's Hawk Winery, that is the new parcel that is anticipated for Subdivision 6 for the 2.75 acres parcel. No new access for that project, no new storm water management for that project. They will be served by the basin that is in

front of Ashley furniture. We have expanded the drainage area there, but Bramhall was able to make that work with some minor modifications. From a General Development Plan standpoint same stormwater and access as the adjacent projects. The largest one is the west end, and you may recall we anticipated a potential theatre project. We presented that to Planning Commission as a General Development Plan. That did not happen, and they suspended that project. The site had been prepped, the stormwater management systems that were done with mass grading for that project have been in place. The basin in the front is what Raising Cane's and Chili's use so that will also be used by the parking field for this project and the basin in the back will finally be put into service. This building (Dick's Sporting Goods) is about the same size as the theater would have been around 50,000 sq. ft. The parking field is a little smaller than what was anticipated. No new access and no new storm water management. This project will be between Main Event and Duluth Trading.

Chair Witherspoon asked if there are any questions or comments.

Ms. Fechter had no comments.

Mr. Cummins had no comments.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to approve the General Development Plan include Cooper's Hawk Winery at 35351 Chester Road and Dick's Sporting Goods at 35521 Chester Road and Caribou Coffee at 35091 Chester Road. The vote was: "AYES" all. The Chair declared the motion passed.

9. Jacobs Group, 35351 and 35521 Chester Road; Subdivision Plat; PL20230050

Aaron Appell of Bramhall Engineering and Jim Eppelle of Jacobs Group are requesting approval of Subdivision 6 to create a new 2.7524-acre lot for Cooper's Hawk Winery.

Aaron Appell, Bramhall Engineering, 801 Moore Road, Avon, Ohio 44011.

Mr. Appell states this is Chester Road Subdivision 6, they are creating an approximately 2.75 acres lot just east of McAllister's. This site will have access to McAllister's and on the southside with the access road being extended. No new access to Chester Road is being proposed.

Ms. Fechter said we are acceptable to the Lot Split. She is requesting that this be contingent upon the final language being drafted between Mr. Gasior and Mr. Eppelle for the easement on the ditch.

Mr. Cummins states that they have reviewed the subdivision plat and did not have any comments and would recommend its consideration for approval.

Chair Witherspoon asked if there were any questions.

Mr. Appell states that for the ditch agreement that is for Dick's Sporting Goods so that would not be related to this plat.

Ms. Fechter states she is aware of that, Mr. Gasior states we had talked and wanted something to hold on to in order to make sure that we get that easement language completed.

Mr. Gasior states he thought by holding up the lot split in order to get the easement document. He hasn't seen the document in about 2 months.

Mr. Eppelle, Jacobs Real Estate Services, 600 East Superior Avenue, Suite 2440, Cleveland, Ohio 44114.

Mr. Eppelle states that he met with Mr. Gasior to discuss the proposed amendment to the declaration we made in 2020 for the ditch parcel. Those comments were transmitted back to the attorneys for the developer Reality Link and the attorneys for Dick's Sporting Goods. They have accepted those comments. Mr. Eppelle states he has received a re-draft of that agreement. There are also 2 other parties to the agreement, Raising Canes and FPG, who is the owner of Chili's parcel. We are in the process of getting everyone's comments. The comments that Mr. Gasior made on behalf of the city have been accepted with no changes, there is no issue there. It is a matter of getting the document in file form and getting all the parties to sign it.

Ms. Fechter asked Mr. Gasior if we can put the contingency on Dick's Final Development Plan.

Mr. Gasior says yes.

Ms. Fechter stated that we were trying to help so that you could keep moving forward but if you think this is something that will be cleared up then we could put it in with that.

Mr. Eppelle states yes, he states it needs to be cleared up before we can close the deal, regardless of what the city's position is, it has to be resolved before we can close the deal.

Ms. Fechter states we prefer that the project not go too far down the road without getting that language.

Mr. Eppelle states it won't get anywhere down the road. It will not close without it. It is a very high priority. There are 5 different attorneys involved and 4 different property owners.

Mr. Gasior states based on your representation, just follow it up and email it tomorrow.

Mr. Eppelle states he will email Mr. Gasior the re-draft that he received so that he knows there could possibly be other changes to it in other sections. The section that Mr. Gasior commented on which is the ditch maintenance will not change.

Mr. Gasior asked Mr. Eppelle to send the agreement in an email.

Mr. Eppelle states he will do that.

Ms. Fechter said she would recommend the approval of the Subdivision Plat

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: “AYES” all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to approve Subdivision 6 for Jacobs Group to create a new 2.7524 acres lot for Cooper’s Hawk Winery. The vote was: “AYES” all. The Chair declared the motion passed.

10. Cooper’s Hawk Winery, 35351 Chester Road; Final Development Plan; PL20230051

Aaron Appell of Bramhall Engineering, representing Jen Lingle of Cooper’s Hawk Winery is requesting approval of the Final Development Plan to construct an 11,040 sq. ft. Restaurant, Parking Lot, Outdoor Seating, and related improvements at 35351 Chester Road.

Aaron Appell, Bramhall Engineering, 801 Moore Road, Avon, Ohio 44011

Mr. Appell states that Cooper’s Haw Winery will be east of McAllister’s Deli. This will be a single story and approximately 11,000 sq. ft. restaurant, 750 sq. ft. outdoor patio. There are 2 access spots off of McAllister’s and those were stubbed when McAllister’s was built. The access road on the south side will be extended to the east to provide an additional access point. We do have Jen Lingle of Cooper’s Hawk to answer questions.

Ms. Fechter asked Ms. Lingle to come to the podium. She had a great pre-application meeting. She is very passionate about her company and has been there for a while.

Jennifer Lingle, Cooper’s Hawk Winery, 3500 Lacey Road, Suite 1000, Downers Grove, Illinois, 60515

Ms. Lingle states she represents Cooper’s Hawk Winery and Restaurant. She is currently the Entitlement Manager and has served many roles within the company. She has been there for 15 years. They are very excited to come to Avon. They talk about this project every week and she is privileged to have a major role in it and happy to be here and speak to everyone. She states they are opening their 61st restaurant on Monday in Bloomingdale, Illinois. They are currently working on many other locations: Illinois, Florida, Virginia and working to spread out throughout the country.

Ms. Fechter states they have a great business model and are very excited that they chose Avon to bring another location.

Chair Witherspoon asked if there were any questions.

Mr. Radclifffe asked how many employees do they plan on having and what are the operating hours? Would these be regular restaurant hours?

Ms. Lingle states the hours of operation are Sunday through Thursday 11:00 a.m. to 9:00 p.m., Friday and Saturday are 11:00 a.m. to 11:00 p.m. There will not be any live music on the patio. It is very family oriented. They target to have about 150 employees.

Mr. Malloy asked if this is more of a casual or upscale restaurant?

Ms. Lingle states it is casual in dress; you can dress up or down as much as you want. We do have an extensive menu, so there is something for everyone. The menu consists of steaks, pasta, salads, vegetarian, gluten free options and kids' menu. It can be as dressy or casual as you like.

Mayor Jensen tells Ms. Lingle welcome to Avon.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to approve the Final Development Plan to construct an 11,040 sq. ft. Restaurant, Parking Lot, Outdoor Seating, and related improvements for Cooper's Hawk Winery at 35351 Chester Road. The vote was: "AYES" all. The Chair declared the motion passed.

11. Cooper's Hawk Winery, 35351 Chester Road; Special Use Permit; PL20230052

Aaron Appell of Bramhall Engineering, representing Jen Lingle of Cooper's Hawk Winery is requesting a positive recommendation to City Council to approve the Special Use Permit to create an Outdoor Seating area with 48 seats on Chester Road.

Aaron Appell, Bramhall Engineering, 801 Moore Road, Avon, Ohio 44011.

Mr. Appell states he is happy to answer any questions about this. He also states that there is also a location in Orange Village, this consists of the same team and very similar restaurant, similar outdoor patio as well.

Ms. Fechter refers to the drawing on the screen, pointing out the bollards around the patio area which faces the parking lot.

Chair Witherspoon asked if there were any questions.

Ms. Fechter asked if this is a lease or purchase option.

Ms. Lingle states this is a purchase.

Ms. Fechter states when it comes to the Special Use Permit is the Cooper's Hawk Avon LLC the legal name, would that be the owner and operator.

Mr. Appell states yes.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to recommend to City Council to approve the Special Use Permit to create an Outdoor Seating area with 48 seats on Chester Road. The vote was: "AYES" all. The Chair declared the motion passed.

12. Dick's Sporting Goods, 35521 Chester Road; Final Development Plan; PL20230053

Aaron Appell of Bramhall Engineering, representing Dick's Sporting Goods is requesting approval of the Final Development Plan to construct a 59,602 sq. ft. Retail Building to include a Parking Lot and related improvements at 35521 Chester Road.

Aaron Appell, Bramhall Engineering, 801 Moore Road, Avon, Ohio 44011.

Mr. Appell states this is between Main Event and Duluth Trading and just south of Chili's and Raising Canes restaurant, As Mr. Frey explained earlier there 2 storm water basins were constructed a few years ago and set up for this development. Those will be utilized for storm water management, slightly modified and storm sewers will be extended to them. We do have interconnection points for the drive aisle and driveways. We have 2 to the west to Main Evena and 1 directly to Duluth Trading and 2 to the north which takes us to the existing access drive that also services Raising Canes and Chili's.

Ms. Fechter states as you are seeing this entire area develop that during our planning review meetings the Fire, Police, Streets, Utilities and Building departments are all involved in these meeting to ensure that as we move forward that we have the proper hydrants for the location, that the access road is continuing to move forward. Hopefully in the very near future we will have a complete development with interconnection and road systems throughout. We are monitoring that as it moves forward.

Mr. Cummins states we did review the engineering submittal, all comments have been addressed and would recommend its consideration for approval.

Mayor Jensen asked Mr. Appell if there is someone here from Dick's Sporting Goods.

Mr. Appell states we have Ryan Krall from Reality Link.

Ryan Krall, Reality Link, LLC, 201 Riverplace, Suite 400, Greenville, South Carolina, 29601

Mr. Krall states we will lease this to Dick's Sporting Goods and our responsibility will be developing the land, the parking lot, all the infrastructure and bring the utilities there. Dick's Sporting will build the building.

Mr. Radcliffe asked if we have renderings of the building.

Ms. Fechter states we do not.

Mr. Appell states he does have a rendering that we can put on the screen.

Ms. Fechter asked if this would be similar to the one in Elyria.

Mr. Appell states yes it would be.

Mr. Radcliffe states in keeping with the same color combination with the bricks on the other large buildings or is this lighter looking.

Ms. Fechter states she is not sure because we don't have architectural reviews. However, Mr. Eppele and Mr. Frey review that.

Mr. Frey states there was no intention of trying to match the Main Event, which is a different color scheme, but we did review this. We mention there isn't as much parking demand for this facility. We have an opportunity to have nice landscaping and we will be using a lot of greenery on the buffers. He thinks this will present very nicely.

Mr. Radcliffe asked if we will be getting some updates later of the renderings when this gets finalized.

Ms. Fechter states this rendering was submitted with their sign application and that is a separate submission.

Mr. Frey states the other change that doesn't affect any of your zoning criteria. On the back wall, which is the truck dock appendage, we raised the sign facing Interstate 90 so it will be a little higher and give it a little more presence. This is essentially the building, and it complies with zoning and building height.

Mr. Malloy moved, seconded by Mayor Jensen, to suspend the rules. The vote was: "AYES" all. The Chair declared the motion passed.

Mr. Malloy moved, seconded by Mayor Jensen, to approve the Final Development Plan to construct a 59,602 sq. ft. Retail Building to include a Parking Lot and related improvements at 35521 Chester Road. The vote was: "AYES" all. The Chair declared the motion passed.

COMMENTS

Mayor Jensen stated that in Council meeting they have Barb Brooks, Clerk of Council read the long wording and he was thinking maybe having someone else read it. Maybe Mrs. Pintz could read those for Chair Witherspoon. We can have a discussion about that at another time. No other comments.

Mr. Malloy, no comments

Mr. Radcliffe, no comments

Mr. Fitch, no comments

Ms. Fechter, Happy Halloween

Mr. Cummins, no comments

Mr. Gasior, no comments

Ms. Clements, no comments

Mr. Streater, no comments

Chair Witherspoon asked if there were any comments from the audience.

Don Meyer, Avon, Ohio states please vote, there are a lot of things on the agenda and would request everyone get out and vote.

ADJOURN

Mr. Malloy moved, seconded by Mayor Jensen, to adjourn. The vote was: "AYES" all. The Chair declared the motion passed. The meeting adjourned at 8:09 p.m.

Carolyn Witherspoon, Chair

Susan Pintz, Planning Commission &
ZBA Secretary

Date