

Brookville Planning Commission
Regular Meeting
August 17, 2017

The Regular Meeting of the Brookville Planning Commission was called to order by Mayor Seagraves at 7:30 p.m. on August 17, 2017 in the City Council Chambers. The Pledge of Allegiance was recited. Members Bailey, Claggett, and Schreier; Clerk Wheeler, Law Director Stephan, Manager Burkholder and Zoning Officer Snedeker were present. Members Boose, Cantrell and Henderson were absent.

Mayor Seagraves welcomed everyone and informed a few Members are out of town on business.

Motion by Claggett, second by Bailey to approve the Agenda as presented. All yeas, motion carried.

Motion by Claggett, second by Bailey to approve the minutes of the July 20, 2017 Regular Planning Commission Meeting. All yeas, motion carried.

Zoning Officer Snedeker informed Mr. Darrell Flory Jr. is the owner of the property located at 304 Hay Avenue and he has applied for a Rezoning Application to change the current zoning of the property from I-1 (Light Industrial) to OR (Office Residential). He informed with current zoning regulations, the residential building is nonconforming in I-1 and changing it to OR would match the current zoning with the rest of the residential homes on Hay Avenue. Zoning Officer Snedeker informed Mr. Flory has plans to do a lot split with 316 Hay Avenue to make room for more parking at his business located at Flory's Antique Mall. Mr. Flory would like to add 30 feet to the west of the property line to make more room for parking, which would leave 304 Hay Avenue 70 feet of frontage that is required in OR. He informed that Mr. Flory is here tonight to answer any questions.

Member Claggett asked if 304 Hay Avenue is being rezoned and 316 will stay I-1?

Zoning Officer Snedeker stated 304 Hay Avenue is being rezoned and 316 will remain the same I-1.

Law Director Stephan advised City Staff strongly supports this and he would like a motion by Planning Commission to direct him to present a Rezoning Ordinance to City Council. He informed the applicant will need to come back at a future Meeting with a formal subdivision plat to show how the lot will be splitted and once the rezoning is completed, the owner could move forward with the parking in the lot.

Member Schreier stated it looks as if the zoning is being changed closer to what is already there. He asked how did the area get zoned the way it currently is?

Zoning Officer Snedeker stated that is the million dollar question.

Law Director Stephan informed that question has been discussed a lot and it appears that sometime in the 1980's the whole area along Sycamore was zoned Industrial. He stated at this time, Industrial Zoning doesn't really make sense for this house. He informed the Staff does strongly support this rezoning.

Member Claggett asked if there is a garage or shed?

Zoning Officer Snedeker stated there is a garage that will be removed.

Member Claggett stated he has no problem with this.

Motion by Schreier, second by Claggett to direct that a re-zoning Ordinance for 304 Hay Avenue presented to City Council. All yeas, motion carried.

Zoning Officer Snedeker reported Tracy Brown, the owner/operator of The Krafty Mama's located at 228-230 Market Street wants to have their grand opening on September 6th at 11:00 a.m. He informed everyone is welcome to attend, there will be food and drinks. He informed this building has been vacant for many years and the new owners have done a great job in renovating. He informed Victoria Sexton is the new owner/operator of Bear Naked Tanning and she is looking to have her grand opening around September 16th at the Brookside Plaza. He stated he will have more information on time and confirmation of the date soon.

Zoning Officer Snedeker informed that with the new businesses opening on Market Street, he has recently contacted Kaitlin Schroeder of the Dayton Business Journal Magazine. He stated hopefully, she will be interested in doing an article for the weekly magazine, which would give our City a little exposure in the Dayton area.

Zoning Officer Snedeker reported he and the GIS Intern, Adrian Nieto, have had their heads down a lot of storm catch basins collecting data on the flow and seize of the tile and were it ends up. He informed that all of this data is being transferred onto a layer on the GIS data base for future records. He informed they feel this will help in areas that continue to have standing water and/or flooding and once they compile the information, this could help determine a possible fix. He stated unfortunately, some of the man hole covers are not marked and opening a sewer lid is quite smelly. He stated Adrian has learned a lot about water runoffs and the flow and smelly sewers.

Zoning Officer Snedeker informed over the last couple of months, he has had a heavier than normal number of inquiries concerning lot splits, zoning changes, and new Ordinances to be added or changed. He thanked Law Director Rod Stephan for his legal guidance into these affairs. He stated Law Director Stephan has given him good advice and it has helped him look at

these issues from a different perspective. Zoning Officer Snedeker stated he has kept Law Director Stephan quite busy with these inquiries on top of his already heavy work load.

Member Schreier asked Zoning Officer Snedeker about the complaint on the detention area at Urban Lane that was brought up at the last Council Meeting?

Zoning Officer Snedeker informed the GIS Intern has not mapped that area yet, but is working his way through town. He stated once all the data is collected and entered in, it will help to prioritize what needs to be done.

Manager Burkholder informed the situation on Urban Lane that was discussed at the last Council Meeting was actually not as dire of a situation as what it was made out to be. He informed there is no standing water. He stated after the Council Meeting, one Council Member went by to look at the area and then thanked him for getting it cleaned up so quickly, when actually nothing had been done to the area yet. He stated he will have photos at the next Council Meeting. He informed some of the issues have been addressed now and some of the brush does still need to be removed along the walnut trees. He stated at this point, it will be a cleanup operation. Manager Burkholder informed there are no cattails and no standing water at this time, there has been standing water in the past after a heavy rainfall. He described the area is well mowed, the City does mow the area.

Zoning Officer Snedeker stated the GIS Intern has been a tremendous help.

Mayor Seagraves stated he is a welcome addition and is doing work that is much needed.

Manager Burkholder informed an extra computer has been added to the Zoning Office so that Zoning Officer Snedeker and the GIS Intern can both have a computer and being doing GIS and Zoning at the same time.

Manager Burkholder provided Members with a copy of the City of Englewood's Ordinance on landscaping and trees. He also provided a list of trees that Brookville has had in the past of acceptable trees to be planted. He suggested the list of past acceptable trees may need to be revised for trees to be planted in the right-of-way.

Manager Burkholder provided Members with a copy of the application process for the Montgomery County LandBank relative to applying for grant funds to do a Strategic Plan. He informed the City of Clayton is now in their Draft Form and their draft can be viewed on their website. He suggested Planning Commission Members review Clayton's plan because it should give a good idea of what a good plan would look like. He would like Members to review and give feedback at the next Meeting and then we can move forward with the Miami Valley Regional Planning Commission (MVRPC). He stated this is a long process but we are starting our process and he is very pleased to move forward with this project, it will be very helpful.

Member Claggett stated he noticed two of the trees on the City's list of approved trees are ash trees and he thought you couldn't buy those anymore.

Law Director Stephan stated the list was probably made about 10 years ago. He informed former City Manager Wright and Finance Director Keaton created the list and had reached out to a nursery for recommendations on trees when making this list.

Member Claggett asked if whatever policy we come up with, will we list in the Ordinance specific areas where trees cannot be planted in the right-of-way because of not enough space?

Manager Burkholder stated he knows of other cities that have listed specific sized park strips that trees are not allowed to be planted. He stated there are places on some streets where there is virtually no lawn. He informed other ideas that some communities do are permits. Someone would fill out an application, pay the fee and then the Zoning Officer would make sure it meets the standards of the Ordinance.

Mayor Seagraves stated there was some testimony received at the recent Public Hearing. He informed Kim Duncan and Gene Lathrop of Maple Street both spoke up. He stated the one point that was driven home was if a tree dies, a resident should have the opportunity to replace the tree, especially on a street like Maple Street that is made up of so many trees.

Member Schreier it needs to be decided how we want to interpret the current Ordinance and how can it be enforced. He stated he would be open to a complete re-write of the Ordinance.

Mayor Scagraves stated whatever we do, we need to have something we can rely back on because right now some of our Ordinances do not make sense.

Law Director Stephan stated the current Ordinance states no tree is to be planted between the curb and the sidewalk, but that has not been enforced. He stated so essentially all the trees that have been planted over the last several years between the curbs and sidewalks are technically in violation. He stated the City is trying to update the policy so everyone knows what it is and can move forward. He informed the current Ordinance prohibits trees and shrubs from being planted between the curbs and sidewalks. He stated a lot of testimony was received during the Public Hearing suggesting that we look at allowing certain trees to be planted. He stated he has looked at other communities and the City of Englewood does have something in their Ordinances about planting in the right-of-way for beautification of the community, they do require a permit and inspection and has a list of preferred trees. He stated we could do something similar but need to come up with a revised draft. He suggested tabling this until the next Meeting in order to work on a revised draft that would allow some trees in the curb line.

Mayor Seagraves stated he would like to do that.

Jean Lathrop, of 222 Maple Street informed she printed copies of Oakwood's Tree Policy and their Johnny Appleseed Program. She informed she couldn't find anything for Germantown, Lewisburg, or West Milton.

Steve Williams, of 237 Maple Street, informed last weekend he put a tree on hold to replace a tree that died two years. He asked if he plants a tree this weekend then will it be in violation.

Law Director Stephan stated the current Ordinance does prohibit it but it has not been enforced. He asked what type of tree?

Mr. Williams stated a pear tree.

Zoning Officer Snedeker asked him to call him so they could meet on site.

Manager Burkholder stated he fears people will try to rush and plant trees before the new legislation comes about since the old legislation wasn't being enforced.

Mr. Williams stated that is why he raised the issue now.

Manager Burkholder stated he is not opposed to people planting trees, he thinks a proper procedure should be followed.

Mayor Seagraves stated he does not think it is fair to tell Mr. Williams he has to wait two months to plant a tree for the new Ordinance to be effective.

Ms. Lathrop stated she does not think it fair either, since the Ordinance has never been enforced.

Mayor Seagraves stated most homeowners probably do not even know they are in violation, they just plant a tree, not that they are trying to break any rules, they just want a tree in their yard. he stated that is why we need some clarification and something to work with moving into the future.

Member Claggett stated a homeowner is responsible to repair sidewalks or curbs if damage by their tree. He stated that is the reason he has never planted a tree between the curb and sidewalk of his home.

Ms. Lathrop state she has lived in her home on Sycamore Street for 25 years and has never had to repair a sidewalk or curb because of her trees.

Manager Burkholder asked Law Director Stephan to talk about the dead tree part of the policy.

Law Director Stephan stated the current Ordinance requires homeowners to trim or remove branches of a tree if it is blocking passage of a sidewalk or alley or to remove a dead or decaying tree. He stated we have tried to strengthen this process and clarify it, so the Zoning Enforcement Officer can notify a property owner if a tree is blocking a sidewalk or dead, particularly in a right-of-way. Then the homeowner would have 30 days to comply and if they do not, the City can go in and remove and assess the cost back to the property owner. He informed if a tree falls

into the street and it's an emergency situation, it would be removed immediately and the homeowner would be assessed. He informed the current Ordinance does not prohibit shrubs from being planted between the curb and sidewalk unless they are eleven feet tall, which makes no sense to him. He stated he is trying to provide regulation with respect to shrubs that are also between the curb and sidewalk. He stated right now in the proposed new Ordinance, they are being prohibited, but we can re-visit that issue also. He stated we could allow certain trees and not shrubs. Law Director Stephan stated the other issue raised was flowers, this Ordinance would still allow flowers, but he would like to add prohibiting planters in the revised draft because they can block the line of sight, or be an obstacle in the right-of-way.

Law Director Stephan stated moving forward there would essentially be a permitting process with a list of approved trees. He stated then the Zoning Officer would approve the location, which is essentially what the City of Englewood is doing.

Law Director Stephan stated if the direction from Planning Commission is to permit certain types of trees to be planted between the curb and sidewalk, then he will present a revised draft at the next Meeting.

Members Bailey, Schreier and Claggett all agreed.

Mayor Seagraves stated Carolyn is here tonight and she is the head of the Leaf and Blossom Club, who planted the flower planters throughout town. He stated the planters look beautiful and thanked them for their work on the flower planters in town. He stated a lot of towns do not have that that and it is an added benefit for our City.

Member Claggett asked if a new plat is built, can a subdivision have a section in their plat rules trees being prohibited between the curb and sidewalk and if so, would their rules overrule the City's?

Law Director Stephan advised the City enforces Zoning but a subdivision can adopt covenants that could restrict planning or require a landscape plan. He stated the Homeowner's Association would have to enforce the covenants. He has seen landscape requirements in some covenants.

Law Director Stephan informed there was also a Public Hearing on Mobile Produce Vendors. He informed testimony was received from two vendors who sell in the Brookside Plaza who expressed concerns about having to go through a permitting process. He informed another citizen commented about the fees and stated since most vendors are only there a few times a week, we shouldn't charge a high fee for this type of permit. Law Director Stephan stated with the way the Ordinance is drafted, both would still be able to sell they would just need to apply for a permit. He stated the City can have the permit approved by Planning Commission or administratively, which would help to speed up the process. He stated the reason this was discussed in the beginning was for Planning Commission to review who, what, where, adequate parking etc. for vendors.

Member Schreier stated he heard the testimony at the recent Public Hearing. He stated because Planning Commission only meets once a month, it could hold up the process, but if Zoning Officer Snedeker could review the applications it would make a smoother, quicker process for the vendor. He asked what the typical Zoning fees are?

Zoning Officer Snedeker informed the normal fee is \$35.

Law Director Stephan stated there are higher fees for subdivisions such as, plats and zoning. He informed there are a different range of fees because some take more time than others.

Member Schreiber stated he understands the permitting process isn't free.

Law Director Stephan suggested looking at a small fee because he does think this is something Zoning Officer Snedeker could review and approve.

Mayor Seagraves stated he does think we should have a permit, that way Zoning Officer Snedeker has the needed information on the vendor and could shut someone down if he had too. He agreed on a lower permit cost.

Member Bailey suggested if a student wants to sell vegetables for FFA, could we waive the application cost?

Zoning Officer Snedeker stated so far everyone selling are not students.

Law Director Stephan informed there is a special exemption for special public or charitable events, so FFA would not need a permit.

Mayor Seagraves stated he likes the idea of approving the applications administratively and thinks Zoning Officer Snedeker should be able to make an administrative call because someone may not be able to wait one month for the next Planning Commission Meeting because they could miss the season.

Law Director Stephan stated if Zoning Officer Snedeker wanted to deny an application for some reason than the applicant could come to Planning Commission to appeal the decision. He stated he will re-work the language of the Ordinance. He stated the Ordinance is pending and he will need to amend the text of the Ordinance and then it will need to go back to City Council for two more readings.

Zoning Officer Snedeker asked for some type of guidance from Planning Commission on anything they do not want to see. He asked if they only want fruits and vegetables? He stated he would like some sort of guidelines to be fair.

Manager Burkholder stated one situation we have is on the public lot on Arlington Road. He stated the issue has been raised in the past of people coming off the interstate, setting up in the lot for a little bit to sell their goods and then taking off. He stated particularly when people are on public property, we need some sort of mechanism to register and permit people.

Mayor Seagraves stated a few years ago, someone came in and set up to sell mattresses of the side of the road.

Law Director Stephan stated the Code will cover anyone selling prepared food or beverages and states they must have a food license, adequate parking, be on an approved lot, or permission from an owner of an approved lot. He stated there are some controls there and aren't really expanding it beyond fruits and vegetable vendors. He stated the Code is not allowing anything beyond that. He stated if Snedeker has anyone he doesn't feel fit exactly fits the guidelines then he could recommend they come to Planning Commission. He agreed that sometimes vendors do are limited to the amount of time they can sell during the summer, so if someone does not come in until May, they do have a limited time during the summer that they would be able to sell.

Motion by Claggett, second by Bailey to recommend the approval of the Mobile Produce Vendor Ordinance to City Council with the amendment that Zoning Officer Snedeker is permitted to approve the permits. All yeas, motion carried.

In New Business,

Manager Burkholder reported as a follow up to a conversation about the Safe Routes to School Program, as mentioned at the last Council Meeting, he met with Superintendent Hopkins yesterday to follow up. He requested the school data we would need to apply for a Planning Grant that would enable us to apply for grant funds to help construct sidewalks in the City to help make it safer for students walking to and from school. He stated he learned the schools applied once before and there were concerns about the sidewalks constructed on private property. He informed he had a great conversation with Mr. Hopkins and he will gather the data and send to him. Manager Burkholder stated there is a problem with that area because the right-of-way on Johnsville Brookville Road is not within the City's jurisdiction. So it is not a simple case of constructing the sidewalks and then assessing the property owners. He stated he and Mayor Seagraves will be meeting soon with Paul Gruner the Montgomery County Engineer.

Mayor Seagraves informed they will be meeting with Mr. Gruner this Tuesday morning. He explained Mr. Gruner is aware of the situation and that it's sort of a weird deal where the county and township share a jurisdiction. He stated Mr. Gruner will work with us during the application process. He stated it is such a dangerous area for the kids to be walking to and from school with no sidewalks or crosswalks. Mayor Seagraves stated we do have some concerned citizens on the issue, but the City is doing the best they can. He stated the City can't do this project without

approval because it is not our area, as much as we would like sidewalks in there tomorrow, we just can't without approval from Trustees and Commissioners.

Member Schreier stated is interesting how there is Township, City and County right-of-ways all mixed in within about a quarter mile and hopefully, a solution can be determined.

Manager Burkholder informed it has been asked why sidewalks couldn't be put in when the road is repaved with the STP Project. He informed with the STP Program, which is a federal program, you can't include sidewalks, it is merely resurfacing and it does not include any handicap ramps either. He stated the STP program is a great program and we received a significant amount of money but it does not include sidewalks. He stated he will clarify that point at the next Council Meeting also.

Member Claggett stated the roads look very nice that have recently been repaved.

Manager Burkholder stated Wagner Paving has done a great job, the City has worked with them before. He informed there are still more streets to be done. He stated work on Vine and Crosswell will take place mid September because of curb work that will need to be done first.

Member Claggett stated it was nice that they fixed the broken curbs too.

Manager Burkholder stated he would do more examining of our underground before resurfacing or curb work takes place. He stated he would like more investigative work done in advance to make sure if anything needs to be torn up it is done prior to the resurfacing.

There was no Old Business.

Motion by Bailey, second by Schreier to adjourn. All yeas, motion carried.



Meghan Wheeler, Clerk



David E. Seagraves, Mayor

