

BUILDING & BUILDING CODES COMMITTEE MINUTES
APRIL 19, 2007

The Building & Building Codes Committee meeting was held on April 19, 2007, at North Royalton City Hall, 13834 Ridge Road. The meeting was called to order at 7:37 p.m.

PRESENT: Present: Chair Don Willey, Kurt McKee, Lisa Uffman-Kirsch; Council: Bob Stefanik, Denise Bobulsky, Larry Antoskiewicz; Administration: Law Director Mr. O'Donnell, Building Commissioner Rito Alvarez, Residents: Paula Recker, John Polonye, Robert Pleines, Robert Dumitru, Dan Fink, Joanne Dumound, Gary Petrusky and daughter.

Moved by Mrs. Uffman-Kirsch to approve the resubmitted minutes from February 19, 2007, seconded by Mr. McKee. 3 yeas/0 nays. Motion carried.

Moved by Mrs. Uffman-Kirsch to approve the resubmitted minutes from March 19, 2007, seconded by Mr. McKee. 3 yeas/0 nays. Motion carried.

UNFINISHED BUSINESS

1. Proposed Ordinance 07-10 Greenways Plan

Mr. Gentile submitted a memo this evening containing amendments he is recommending. Mr. O'Donnell was asked if he saw any problems with the amendments and responded that he did not see any problem with them. He wants to read the Master Plan to see how it will fit into the language of the Master Plan. Mrs. Uffman-Kirsch pointed out that language is repeated in the first "Whereas" clause. Mr. O'Donnell said that the language does not say anything about making it optional, voluntary, or if imposed by the city that the city will exercise its right to eminent domain or appropriate the property that would be required for this green space set-aside. Mr. O'Donnell said that if it is to be included in the Master Plan that it should say that it would be voluntary and if it is imposed that the city would then have to appropriate the property.

Mrs. Uffman-Kirsch said that the intent of this from the time it was first introduced was that it would be for willing sellers only. It was never meant to be a forced sale. The intent was to give property owners another option if their property came up for sale that the city could be the purchaser. The question was posed if the property is already owned and a plan is submitted for development that requires recreation fees of land or money and that the city chose to take the land and the parcel fell within the designation on the Greenways Plan showing it to be a preserved area whether a park, trailway or both then how would it work in the site plan approval process for the city to be able to say we would like to have this walkway or parkway in the site plan application as per the map which is part of our Master Plan.

Mr. O'Donnell said if the economic benefit to the property owner is diminished, the property owner would be entitled to pursue an action in eminent domain against the city to force the city to pay for that loss of economic benefit. That is why he thinks that the language should state that it is for willing property sellers only or voluntary or the city will appropriate.

Mr. Willey asked if we would have to identify the permanent parcel numbers of the properties that could be affected. If there is this line going through property he did not feel anyone would be willing to put a trail in the back of their property that may have no connectivity to the other. He thought a map should be developed so each who might be affected would know. The beginning and ending line of the trail should be identified for eventual connection.

Mrs. Uffman-Kirsch said that the reason the map was presented without parcels is because it was intended to not be that specific. It was intended to show the general area and manner where land should be connected. If it ends up being moved it would be fine.

Mr. Willey wanted to know how a citizen can responsibly respond in a public hearing as to the value. The response may be different if it is moved.

Mr. O'Donnell said if it is made specific then it would be walking into the argument of the property owner saying their property was just devalued. He would prefer that it would be just general and not impose on any property a plan that could change.

Mrs. Bobulsky wanted to reiterate that it was intended as a concept and it is then not concrete.

Mr. Willey said it should be stated so in the legislation. He does not like the word plan in the legislation since it is not a plan as just discussed. It was mentioned that Mr. Gentile addressed that in his proposed amendment in Section 3 of the proposed legislation 07-10 where it states "Master Plan for a proper planning guide."

Mr. Stefanik noted that while it was mentioned that a willing seller is sought that there are specific parcels marked with a path through the middle of the property. He thought that someone looking to purchase or develop property might consider it as diminished value. Mr. O'Donnell did not think so as long as the text would be changed that is referenced in the "Whereas" clause to indicate this is voluntary; it is for willing sellers; and if imposed by the city that the city will appropriate the land. There is not an encumbrance placed on the land because it is voluntary. The city could during the developing process ask the developer to consider an alternate plan that would put the park system through the proposed development. If it happens that they lose lots as a result and the city is willing to pay for the loss they are made whole and there is no harm. The city could also choose to not ask to have the land if it is decided they do not want to pay for the loss. Mr. Stefanik did not see how the property that is marked could not be considered devalued. It is still hanging over the head of the property owner. With eminent domain as it is today this could cost the city a lot of money.

Mrs. Uffman-Kirsch said that we currently impose restrictions on land being developed with our current recreational requirement. We could decide to take land in lieu of money and she does not see how it is different than this. She wondered if it is felt that we would take more land than would be due with the current recreational requirement. She was thinking it would be possible to ask that the land to be designated be in the particular area where it would interconnect. Mr. Stefanik said the property owner on Ridge Road contacted him with regard to this. It was felt that this would impact the property if it were to be sold in the future if this legislation were to be passed as it is now. Mrs. Uffman-Kirsch said that it may not go through the middle; it could go around the perimeter. Mr. Stefanik said that the map designated it will go through the middle. Mrs. Uffman-Kirsch said that it is an idea; the line is drawn to show the idea. The line does not have to go right at the exact location. Mrs. Uffman-Kirsch thought that is part of the discussion with the site approval process to work with the developer for placement and preservation of the wetland area. Passive recreation is permitted and a trail is passive, a riparian zone needs to be protected and natural surface trails are permitted. She felt through the planning process a way could be found to make it work for everyone.

Mr. Willey asked if this legislation were passed was it suggested that we start working toward this. It is an incomplete plan. What would occur would be piecemeal. Mr. O'Donnell responded how did they do the Towpath Trail? They had to go through areas where the Canal did not connect and had to work out right-of-ways with private property owners. They did not have one big plan laid out that said we own all of this. Mrs. Uffman-Kirsch said it would have to be done in this manner over many years. Mr. Willey said that it was defined from the start. Mr. Willey said that future developers would then be faced with this within the next year. Mr. O'Donnell said they could be faced with it in June. The land was changed by a vote of the people to TCD when are we going to start that. Didn't we start to work on that as soon as it passed? How is that any different from the Greenways Plan? Mr. Willey said he sees it as impacting more properties.

Mrs. Uffman-Kirsch said it is similar to what is in place now, her question earlier to the Law Director was if the developer gives us land as required now does the developer have to give us the land where the city wants it on the site plan. Mr. O'Donnell said it would be give-and-take and that he did not feel we could force an exact location unless it does not impact the economic benefit of the developer. He would have to review the current section, but thought it left the choice to the developer. Mrs. Uffman-Kirsch said if the city wanted it in a particular location and the developer did not agree then in order to avoid a

taking it would have to be a calculated reduction of economic benefit and the city would have to compensate for that. Mr. O'Donnell advised that would be correct.

Mr. Willey said that the problem he sees is how to keep the line straight and connect. Mr. O'Donnell explained that it is similar to the problem currently when a developer comes in to develop a block of land in the middle of undeveloped land and our code says there must be a pattern of interconnecting streets. How do we force a stub to undeveloped land not knowing exactly what the interconnecting path will be. How is this any different? He has stub streets in his development because Planning Commission decided that there is going to be future development and streets are going to cut through. You must start some place; the next developer will come in and have to incorporate that stub. If there was green space and a path coming through the next developer will have to work with it. Mr. Willey asked what is to be done where there is no developer such as along Albion, Tilby, and Ridge. Mrs. Uffman-Kirsch said that along the main roads walkways would be considered or bike lanes. The idea is as the roads are improved we make a walking path to connect the areas. It could be a different connector going through depending on the opportunity that would arise. Mr. O'Donnell said that there is a lot of bartering in Planning Commission with a developer and the street connections for example.

Mr. Antoskiewicz asked with respect to the comment of bartering, if we adopt this does it give the developer an upper hand. Right now bartering occurs and it does not cost the city. If we show this on the map the developer may come in saying it will cause loss of revenue and the city will have to make up the cost where now we say that the developer has to work with the street locations that need connection. Mr. O'Donnell said it might come to that issue. The flip side is if the city does not have the money that the city will back down.

Mr. McKee asked if we have the option now since they have to offer land now. Mr. O'Donnell said we do, but we do not currently have a location to put the park or trail. Mr. McKee thought we could watch the parcels for when they would become available.

Mr. O'Donnell tried to put it in a different perspective saying when a developer comes in and we say to put in something that has not been adopted, that was a plan that we have been keeping in mind, and we want to enforce this. The question would be was it adopted by Council or is it in the Master Plan. If the answer is no then we cannot force the developer to do something that has not been adopted, developed, etc., by the Planning Commission, the Master Plan or Council. So something is needed to work from. The idea here is that it is just a concept.

Mr. McKee said if we have the concept, but it is still going to be voluntary and a developer comes in and does not want to put it there and we insist, while we have an option to pay for it they can hold us hostage over the amount. Mrs. Uffman-Kirsch said that the developer will need to prove an economic devaluation. Mr. McKee felt if a developer sees this that the developer will say it is the most important point on the plans for the development and look for the city to pay a great deal of money for it. If we have a concept and the project begins there may come a time when the city will not afford to make the connections.

John Polonye of the North Royalton Greenways Committee said the important part of the concept is that it is desirous to be continuous and contiguous. There will be voids and problems and workarounds and a lot will be how the city is developed for future subdivisions. What is put as a dotted line through the property may become the sidewalk that goes through the subdivision. It could make perfect sense, but will not be known until it is at that point. Once you get to that point then comes the decision of whether to buy, appropriate or not. If it is no, perhaps it could be worked around in another part. At least there is a concept with some thought that brings forth the idea.

Mr. Antoskiewicz said if there was a single family homeowner who wanted to sell their house with no sidewalk, would this impact if the house is going to be sold and the buyer is told a sidewalk must go in because of the Greenways Plan. Would this be a voluntary option as well? Mr. O'Donnell said he did not think it affected the property at all. If the plan goes through the single family half-acre property that it

does not bind the property. It is voluntary. If sidewalks are required of the area then it would be part of that.

Mr. Stefanik said he likes the concept of having the interconnecting paths, but he wondered about being that specific. He still thinks it will cause problems down the road. He felt if it is shown to residents showing a particular location the path would go that might be a better way. Mr. O'Donnell asked if Mr. Stefanik would rather have a description instead of a map. Mr. Stefanik said placement along the right-of-ways would be fine, but he thinks it becomes a problem if it is too specific. He felt that the Law Director should decide if there would be a legal challenge if the map would be adopted by diminishing the value of the properties within that area. Mr. O'Donnell did not understand how it would harm the party if it is said this is merely a plan, it is voluntary and not mandatory. The city would like to see that and would be willing to pay for it.

Mr. Stefanik asked why it cannot be adopted without it going through private property.

Mrs. Uffman-Kirsch said that would have to be done everywhere and a line could not be drawn. All the area is not going to be developed since some of it is a flood hazard area, does that diminish the value of the property. There is legislation that is in place saying it is not an area able to be built. Does that diminish the value of the property?

Mr. Stefanik explained that the proposed line goes through the good property. Mrs. Uffman-Kirsch said that this is not set in stone; it can use land that is not useable; it can be moved around. Mr. Stefanik thought it might be better to take a starting point and ending point to give a general area so specific pieces of property are not impacted. The concept is good; he still thinks it will devalue property with the current proposal.

Mrs. Recker asked Mr. O'Donnell if stating that it is a conceptual planning guide would give the flexibility desired, or perhaps to resolve the concern, the idea of showing flexible lines or using the legend on the map saying that the designations are not specific as drawn. Mr. O'Donnell said it would help somewhat if the legislation does not use the word mandatory and only uses willing sellers along with a conceptual guide.

Mrs. Uffman-Kirsch said that with regard to the large property off Ridge Road that with such serious flood hazard areas on it one of the major intents of this is to have the walkways go through those areas with the natural trails.

Mr. Willey said that if it is moved on to Council that he will ask for an impact analysis because our resources are stretched and we will be taking on acreage of responsibilities that we do not have the resources to maintain. At the point in time that we connect the city as proposed that will be a major maintenance issue.

Mr. Stefanik asked the Law Director to check further into putting actual paths on a working map.

Mrs. Uffman-Kirsch said to also include changing the legislation to reflect the discussion regarding voluntary, conceptual, and willing sellers.

Mrs. Bobulsky asked once all the amendments and changes have been agreed upon and that the Law Director looked into them if we can move forward with public hearings after the meeting next month. They will be separate public hearings with Planning Commission and then Council.

2. **Chapter 1282 Off-Street Parking and Loading (1282.01-1282.04 April—1282.05-1282.07—May)**

The committee discussed proposed changes to 1282.01-1282.04 with Mr. O'Donnell and Mr. Alvarez.

- 1282.02. Mrs. Uffman-Kirsch thought it needs a cross-reference to the additional parking requirements and regulations for Town Center District (TCD) in Chapter 1281 the conditions and design standards are different for anything in the Town Center District. Mr. O'Donnell said there is a reference in 1281.11 to Chapter 1282 and he does not feel any mention is needed.

- 1282.03(b). Should be if approved by the ~~Planning Commission~~ Building Commissioner. Mr. O'Donnell thought this was handled by the Planning Commission during the plan approval process and questioned that after the fact the Building Commissioner is reducing it. It seems to change the formula. Mr. O'Donnell felt that it could potentially change the layout of the property and if it changes it really needs Planning Commission approval. It cannot be unilaterally changed. He said he thought that most of this is settled when the Planning Commission approves the plan including the area for parking. The footprint for parking should not change. If it does change Mr. O'Donnell feels they need to have their plan re-approved by the Planning Commission. Mr. Willey presented an example where the Building Commissioner may need to approve instead of the Planning Commission. Mr. O'Donnell would like to discuss this further.
- 1282.04(a). The proposed new language needs to be checked further.
- 1282.04(b). and 1282.04(c) had word changes proposed.

Sections 1282.05 through 1282.10 will be discussed next meeting.

3. Sign approval process by Building Department and/or ARB

Mr. O'Donnell said he had a discussion with Mr. Hartman who was questioning banners and how they are defined. Mr. O'Donnell proposed proceeding with the legislation that has already been discussed and sent in his recommendation on February 23rd to the committee. He will look at the question posed by Mr. Hartman later. Mrs. Uffman-Kirsch said the committee has not reviewed this information from Mr. O'Donnell yet. Mr. O'Donnell will discuss the legislation with Mrs. Haller if it will be as an exhibit or within the legislation. He will have draft legislation for the next meeting.

4. Public Hearing requirements

Mr. Willey reviewed that Mr. O'Donnell said previously that we currently hold public hearings in both Planning Commission and Council on zoning code matters. The question was then posed if we want to eliminate one. Mr. O'Donnell said if it is eliminated it would have to be the Planning Commission requirement. The Council public hearing cannot be eliminated. Mr. O'Donnell said that it takes us long to get proposed zoning code changes through because we go through the extra step of an extra public hearing. That could be eliminated. He has heard objections to this because of the openness of government. Mr. Willey said it provides for another opportunity for people to speak.

Mrs. Uffman-Kirsch said that what Planning Commission is looking at may differ from what Council sees.

NEW BUSINESS

1. Lawn parking regulation

Mr. McKee said it was brought up at the ward meeting by a resident to create a regulation requiring parking on a hard surface rather than the yard or a front lawn. Mrs. Bobulsky said that she also gets complaints from residents and thought a new code addition or a single paragraph to address the situation would be needed. She will supply her suggestion to Mr. O'Donnell. Our code does not currently prohibit parking on front lawns. Mrs. Uffman-Kirsch felt that it was not a problem in all areas.

Mr. McKee moved to adjourn the meeting, seconded by Mrs. Uffman-Kirsch. 3 yeas/0 nays. Motion carried. Meeting adjourned at 9:08 p.m.