

**Minutes: Public Hearing
Russell Township Zoning Commission
Russell Fire-Rescue Station
June 23, 2016**

Present: Bruce Murphy, Vice Chairman
Donna Weiss Carson
Ben Kotowski
Tom Warren
Jim Dickinson

Also in attendance: Shane Wrench, Zoning Inspector; Jennell Dahlhausen, Zoning Secretary; Gary Gabram, Trustee; Liz Thrush; John Thrush; Bill Christianson; Jan Kaminsky; Tom Sloe; Al Benz; Lynn Benz; Bill Wokely; Sandy Wokely; Eric Rivelton; Dale Markowitz; Charlie Butters; Jim Hlavin; Tim Hegedus; Kelly Hegedus; Kevin O'Connor; Esther Andes; Shelley Chernin; Jeff Leggett; David Kruse; Pearce Leary; Paul Fantelli.

The Vice Chairman called the meeting to order at 7:35 p.m. The Zoning Secretary announced that a Public Hearing notice was properly advertised in the News Herald. A Sunshine Notice for this meeting was also sent to the Chagrin Valley Times, Geauga Maple Leaf, and was posted at the Administration Building.

The Zoning Commission welcomed new Zoning Inspector, Mr. Shane Wrench and the new Zoning Secretary, Ms. Jennell Dahlhausen. The Commission also welcomed new Commission Member, Mr. Jim Dickinson.

MINUTES OF MAY 25, 2016: *Mr. Warren moved to approve the minutes of the May 25, 2016 meeting, seconded by Ms. Weiss Carson. In favor; Mr. Murphy – yes, Ms. Weiss Carson – yes, Mr. Kotowski – yes, Mr. Warren – yes. Abstained: Mr. Dickinson. Motion passed.*

PROPOSED ZONING AMENDMENT #2016-1 – MAP CHANGE – CORRECT ERROR ON ZONING MAP – REZONE 3 PARCELS TO R-5 – *Mr. Warren moved to open the continued Public Hearing on Amendment 2016-1 to correct an error in the Zoning Map, rezoning 3 parcels to R-5, seconded by Ms. Weiss Carson. In favor; Mr. Murphy – yes, Ms. Weiss Carson – yes, Mr. Kotowski – yes, Mr. Warren – yes, Mr. Dickinson – yes. Motion passed.*

Mr. Murphy explained there are three parcels shown on the Zoning Map as PPD Passive Park District that are actually in the R-5 Residential zone. Amendment 89-2 in 1989 rezoned PP# 26-707009, 20.57 acres between Russell Road and Riddle Road, in the name of the Russell Land Conservancy, to PPD. The three parcels on either side of that parcel were not included in the amendment. The 1992 Zoning Map shows PP# 26-707009 correctly zoned PPD and the three parcels correctly zoned as R-5. In 1993, some minor revisions/corrections were made to the Zoning Map which did not require an amendment. When CT Consultants made those changes, the configuration of the PPD was changed to include the three parcels.

The Commission notified the affected property owners with no response from them and there were no comments from the visitors that attended the Public Hearing. The Geauga County Planning Commission approved the amendment as well.

Mr. Warren moved to recommend amendment 2016-1 to the Russell Township Zoning Resolution, consisting of 12 pages, marked Exhibit A, and an amendment to the Russell Township Zoning Map marked Exhibit B, seconded by Ms. Weiss Carson. Roll call: Mr. Murphy – yes, Ms. Weiss Carson – yes, Mr. Kotowski – yes, Mr. Warren – yes, Mr. Dickinson – yes. Motion passed and the Public Hearing for Amendment 2016-1 was closed.

PROPOSED ZONING AMENDMENT #2016-2 – AMEND SECTION 5.3 C-S COMMERCIAL AND SERVICES ZONE – *Mr. Warren moved to open the continued Public Hearing on Amendment 2016-2 to amend Section 5.3 C-S Commercial and Services Zone, seconded by Ms. Weiss Carson. In favor; Mr. Murphy – yes, Ms. Weiss Carson – yes, Mr. Kotowski – yes, Mr. Warren – yes, Mr. Dickinson - yes. Motion passed.*

Mr. Murphy explained this amendment will split Section 5.3 into two C-S Commercial and Services zones. Sanitary sewers have been installed at the S.R. 306/S.R. 87 intersection but not at the Music Street/S.R. 306 intersection. This amendment will allow for retail food service within lots that have sanitary sewers, the proposed C-S-1 district. The proposed C-S-2 district, which has septic sewers, will not allow the food service use.

Mr. Tom Sloe stated that he didn't agree with making the two separate zoning districts because he owns property at the Music Street/S.R. 306 intersection (proposed C-S-2 district) and would like to have the ability to utilize his property the same that the C-S-1 district would permit. Mr. Murphy stated the change wouldn't affect the way he is able to use his property currently but will allow regulations for a food service business for the properties that have sanitary sewer at the 306/S.R. 87 intersection. Mr. Murphy thinks that Mr. Sloe's comments pertain to amendment 2016-3, which specifies the permitted uses.

Ms. Lynn Benz attended the meeting to express her disinterest in allowing for food service within Russell Township.

Mr. Warren stated if the Commission votes down amendment 2016-2, the decision will effect amendment 2016-3.

Mr. Bill Christianson expressed his disinterest in both amendments 2016-2 and 2016-3.

Ms. Liz Thrush asked the Commission to explain why they are adding amendments 2016-2 and 2016-3 to the Zoning Resolution. Mr. Warren responded that they currently don't have anything in place for food services, so it would be hard for the Zoning Department to enforce requirements if someone were to submit a permit to establish a restaurant. They are putting restrictions in place so they are able to regulate the request, which will protect the neighboring properties.

The Commission is trying to be proactive before they receive a request and has been discussing these requirements for about six years. They researched requirements of many other townships in Ohio and the Geauga County Planning Commission, Prosecutor and Health Department have given their input as well. Strict and extensive requirements include restrictions on noise, smell, lighting, landscaping, a minimum lot coverage, traffic control, and several other items to ensure the neighboring properties are minimally disturbed. If there are any traffic concerns, this would be reviewed by the Ohio Department of Transportation (ODOT) since these zones are on state roads.

Ms. Kelly Hegedus said she is opposed to the change that would allow for food service at the 306/S.R. 87 intersection, but not the Music Street/S.R. 306 intersection. She said if it is allowed at one commercially zoned district, then it should be allowed in both districts.

Ms. Benz asked what will prohibit car sales, car part stores and other like businesses from locating to Russell Township. She is also concerned about food smells and excessive noise in the area. Mr. Murphy explained these areas will be regulated for health and safety and the amendment for these zoning districts place restrictions for outdoor use on the property as well.

Mr. Kotowski also stated that amendments 2016-2 and 2016-3 were drafted so the Zoning Department is able to regulate a food service use in the case that a request is submitted. With the availability of sewers within the 306/87 Commercial district there is no longer a rational basis to deny a food service use. If the food service ban was to be challenged in court, the Township would likely lose that challenge and have the conditions for a food service use imposed by the court. The proposed amendments protect the residents by proactively establishing reasonable limitations on these uses that will reduce potential impacts of food service uses on residents as much as is legally allowed.

The audience stated that they felt the Trustees did the residents a disservice years ago by allowing sanitary sewers along S.R. 87, now that they are allowing food service in the area. Mr. Dickinson stated that he was on the Board of Trustees at the time the sewers were approved. The problem was that the Ohio Environmental Protection Agency (OEPA) would have required the installation of sanitary sewer, even if it wasn't approved by the Trustees.

Mr. Kevin O'Connor attended the meeting with his disinterest in allowing for these regulations but now realizes the Zoning Commission is being proactive by regulating food service requirements. Mr. O'Connor praised the Commission for their work.

Mr. John Thrush asked about permitting of liquor licensing. The Commission responded that they don't regulate the permitting of these licenses and that they are applied for through the state.

Mr. Murphy explained that the Public Hearing was held to allow for public comment and all of the objections and arguments presented so far were considered when drafting the amendments.

Mr. Bill Christianson said he read the proposed amendment and he feels the section that states "recognizing that Retail Food Service may be desirable within the Township" is promoting food service. Mr. Murphy stated this isn't the case and that the Commission is just trying to be

proactive in putting regulations in place that can be enforced and will minimize impacts on Township residents.

Mr. Sloe stated the Geauga County Planning Commission recommended that the Zoning Commission retain consistency when approving the amendments, and splitting the zoning districts to C-S-1 and C-S-2 is not consistent. Mr. Murphy stated the Planning Commission approved the amendment without any revisions.

Ms. Esther Andes asked if there have been any recent requests to establish a food service business within the township. The Commission said there haven't been any recent requests, but reiterated that they are trying to be proactive.

Mr. David Kruse asked what would prohibit a developer from purchasing several contiguous properties and requesting to establish a restaurant. Mr. Warren stated the Zoning Department can't deny a permit that conforms to all zoning requirements, but they do have the ability to regulate what the zoning allows.

Ms. Weiss Carson moved to recommend amendment 2016-2 to the Russell Township Zoning Resolution, consisting of 9 pages, marked Exhibit A, and an amendment to the Russell Township Zoning Map marked Exhibit B, and including 43 pages with deeds, seconded by Mr. Dickinson. Roll call: Mr. Murphy – yes, Ms. Weiss Carson – yes, Mr. Kotowski – yes, Mr. Warren – yes, Mr. Dickinson – yes. Motion passed and the Public Hearing for Amendment 2016-2 was closed.

PROPOSED ZONING AMENDMENT #2016-3 – NEW SECTION 6.5.J RETAIL FOOD SERVICE – *Mr. Warren moved to open the continued Public Hearing on Amendment 2016-3 to add Section 6.5.J Retail Food Service to the current Zoning Resolution, seconded by Mr. Dickinson. In favor; Mr. Murphy – yes, Ms. Weiss Carson – yes, Mr. Kotowski – yes, Mr. Warren – yes, Mr. Dickinson - yes. Motion passed.*

Mr. Warren read the amendment restrictions that were noted in the requirements. He reminded the residents that attended the Public Hearing that the intention of putting these restrictions in place isn't to try to promote restaurant business, but to restrict what applicants are permitted to do in the case that a property would meet the proper zoning requirements for a restaurant business.

Ms. Weiss Carson read the heading of proposed amendment 2016-3, and read the first paragraph of Section 6.5.J. She added that the amendment was established by the Commission with their desire to regulate and control any future requests.

Mr. Paul Fantelli would like to see some additional requirements added to the amendment to enforce odors. Mr. Warren stated that odor could be addressed when approving a conditional use permit from the Board of Zoning Appeals. The Board could state that one year from the approval, all requirements will have to be reviewed to ensure the requestor isn't in violation.

Several other members of the audience agreed with Mr. Fantelli and asked that something be added to the amendment to guarantee there won't be a problem. Mr. Murphy stated this concern

was already addressed with the Geauga County Prosecutors Office and the Geauga County Planning Department and that the Commission did not want to add anything to the amendment that would not stand up legally in court.

Mr. Christianson said he thinks there is a tool that can monitor odor.

Mr. Fantelli said he would also like to see stronger language added to the amendment concerning noise. Mr. Murphy stated the current amendment restricts outdoor use and hours of operation. If there is an issue, Mr. Murphy stated the neighbors can file a complaint with the Police Department under the Townships existing noise regulations.

Ms. Benz stated she would like to see a stricter time frame for the hours of operation.

Mr. Warren stated that he feels the Zoning Commission owes the residents time to consider their requests and asked that the amendment be posted online for additional public comment. Mr. Kotowski agreed.

Mr. Kotowski moved to continue the Public Hearing on Amendment 2016-3 to add Section 6.5.J Retail Food Service to the current Zoning Resolution, seconded by Mr. Warren. In favor; Ms. Weiss Carson – yes, Mr. Kotowski – yes, Mr. Warren – yes, Mr. Dickinson - yes. Opposed; Mr. Murphy. Motion passed and the Public Hearing for Amendment 2016-3 was continued for the July 27th meeting.

PROPOSED ZONING AMENDMENT #2016-4 – MAP CHANGE – REZONE 1 PARCEL OWNED BY RUSSELL PARK COMMISSION TO PPD PASSIVE PARK DISTRICT –

Mr. Warren moved to open the continued Public Hearing on Amendment 2016-4 to rezone 1 parcel owned by the Russell Park Commission to PPD Passive Park District, seconded by Mr. Kotowski. In favor; Mr. Murphy – yes, Ms. Weiss Carson – yes, Mr. Kotowski – yes, Mr. Warren – yes, Mr. Dickinson - yes. Motion passed.

The Commission notified the affected property owners with no response from them. The Geauga County Planning Commission approved the amendment as well.

Mr. Charlie Butters stated that he doesn't agree with changing the zoning of the park property and that he is a member of the Park Commission. Mr. Kotowski asked Mr. Butters if he attended the meeting representing the Park Commission or as a resident. Mr. Butters stated that he came as a resident to voice his concern and added that it would be beneficial to keep the property zoned as it is in the case that the Park Commission would want to swap the property for another parcel in the future.

Ms. Weiss Carson moved to recommend amendment 2016-4 to the Russell Township Zoning Resolution, to rezone 1 parcel owned by the Russell Park Commission to PPD Passive Park District, seconded by Mr. Warren. Roll call: Mr. Murphy – yes, Ms. Weiss Carson – yes, Mr. Kotowski – yes, Mr. Warren – yes, Mr. Dickinson – yes. Motion passed and the Public Hearing for Amendment 2016-4 was closed.

PROPOSED ZONING AMENDMENT #2016-5 – MAP CHANGE – REZONE 1 PARCEL OWNED BY GEAUGA PARK DISTRICT TO PPD PASSIVE PARK DISTRICT – Mr.

Warren moved to open the continued Public Hearing on Amendment 2016-5 to rezone 1 parcel owned by the Russell Park Commission to PPD Passive Park District, seconded by Mr. Kotowski. In favor; Mr. Murphy – yes, Ms. Weiss Carson – yes, Mr. Kotowski – yes, Mr. Warren – yes, Mr. Dickinson - yes. Motion passed.

The Commission notified the affected property owners with no response from them. The Geauga County Planning Commission approved the amendment as well.

Mr. Dale Markowitz attended the meeting to represent the Geauga Park District. He stated that zoning doesn't apply to county owned properties and the Geauga Park District is opposed to the rezoning of the property. Mr. Markowitz added the Park District is concerned if the zoning is changed, they may not be able to utilize the park for certain functions that they currently provide.

Mr. Warren stated that the Commission would like to change the zoning so this property is compatible with other park properties. Mr. Warren added if Mr. Markowitz statement is accurate that zoning doesn't apply to county owned properties, then their use ability won't change anyway.

Mr. Dickinson moved to recommend amendment 2016-5 to the Russell Township Zoning Resolution, to rezone 1 parcel owned by the Russell Park Commission to PPD Passive Park District, seconded by Ms. Weiss Carson. Roll call: Mr. Murphy – yes, Ms. Weiss Carson – yes, Mr. Kotowski – yes, Mr. Warren – yes, Mr. Dickinson – yes. Motion passed and the Public Hearing for Amendment 2016-5 was closed.

PROPOSED ZONING AMENDMENT #2016-6 – MAP CHANGE – REZONE 3 PARCELS OWNED BY 306 MUSIC, LLC TO LB LIMITED BUSINESS – Mr. Warren
moved to open the continued Public Hearing on Amendment 2016-6 to rezone 3 parcels owned by the 306 Music, LLC to LB Limited Business, seconded by Mr. Kotowski. In favor; Mr. Murphy – yes, Ms. Weiss Carson – yes, Mr. Kotowski – yes, Mr. Warren – yes, Mr. Dickinson - yes. Motion passed.

The Commission notified the affected property owners with no response from them. The Geauga County Planning Commission approved the amendment as well.

Mr. Markowitz stated the properties he is requesting to be changed to LB Limited Business currently aren't in use, except for a cell tower on one of the properties. The current permitted uses for the C-S zoned properties and the fact that they do not have access to sewers, which requires an on-site septic treatment system, has limited outside interest to utilize Mr. Markowitz properties. There is a landscaper interested in the properties but the current C-S zoning doesn't allow for a landscaping business. Mr. Markowitz also said that testing of the property soil has been completed in the past.

Mr. Dickinson stated that the biggest concern with landscaping companies is the gas and mulch odors.

