

BLUE ASH PLANNING COMMISSION

November 7, 2013

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**ITEM 1: MEETING CALLED TO ORDER**

Vice Chair John Berry called the regular meeting of the Blue Ash Planning Commission to order at 7:00 p.m. on Thursday, November 7, 2013.

MEMBERS PRESENT: John Berry, Paul Collett, Jr., John Moores, and Jim Sumner

MEMBERS NOT PRESENT: Raymond Schafer

ALSO PRESENT: City Manager David Waltz, Assistant City Manager Kelly Harrington, Community Development Director Dan Johnson, Vice Mayor Lee Czerwonka, Council Member Tom Adamac, and interested citizens

**ITEM 2: OPENING CEREMONY**

Pledge of Allegiance

**ITEM 3: APPROVAL OF THE MINUTES**

Commission members waived the reading of the minutes.

DECISION: Paul Collett moved, Jim Sumner seconded, to approve the regular meeting minutes of October 3, 2013 as submitted. A voice vote was taken. All members present voted aye. Motion carried.

**ITEM 4: HEARINGS**

**a. 9415 Plainfield Road – Schuermann Properties**

Zoning Map Amendment from R-2 Residential to R-4 Residential and Zoning Text Amendment to add professional office as a Special Use in the R-4 Residential District (tabled at meeting on 10/3)

DECISION: John Moores moved, Paul Collett seconded, to remove item from table. A voice vote was taken. All members present voted aye. Motion carried.

PRESENT: Ken Schuermann – Applicant

Dan Johnson provided a summary for the Commissioners who were not present at the previous meeting. While the Commissioners were not opposed to the concept, they were uncomfortable with regards to lack of detail. At the end of last meeting, the Commissioners requested that Mr. Johnson contact other communities to see if this was an option in their zoning codes. He was not successful in finding anything that directly applied, but did find what he thought was a good definition of “professional office” that would cover what Mr. Schuermann was intending. In the Staff Report, Mr. Johnson provided a list of criteria to be included in the Special Use chapter. Which also means any other applicants for Special Use would need to comply with all those same regulations that would specifically be applied to professional offices if allowed as a Special Use in that district. This was what he came up with based on the previous approval for this site and other things to help avoid conflicts between adjacent uses. Mr. Johnson said the list was reviewed with the applicant and he was comfortable with it.

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There was general discussion regarding the location and Dan Johnson added that there is no specific project at this time. What is being proposed now is a change in the Zoning Code and Zoning Map that would allow the applicant to proceed toward the type of project that he would like to do.

Mr. Schuermann said the location is approximately one acre located at Reed Hartman Highway and Plainfield Road and is currently zoned R-2. In 2007, a prior owner came to Planning Commission and City County and received approval for a small medical building project that never came to fruition. Mr. Schuermann is the current owner of the site. He would like to do a small medical or professional office development on the site, but the Zoning currently does not allow the professional office component. In talking with Dan Johnson, his suggestion was to change the zoning from R-2 to R-4 and do a Special Use for the professional office. Hopefully, after receiving all the approvals, he would be back in the near future with specific site plans, renderings, and elevations for a specific user.

Paul Collett commented that at the last meeting there were no objections for the change in zoning due to its proximity to other similar zoning and the fact that it is not abutting other single family residential.

Jim Sumner asked about the approval given in 2007. Mr. Johnson said there was an applicant who received a Special Use Permit for a medical office, but it was not rezoned. The previous owner said he was unable to find anyone willing to make the investment without having the flexibility at the end of life to sell it for something other than a medical office.

In answer to a question by Mr. Sumner as to why commercial was not considered, Mr. Johnson said this site does not abut any commercial zones and it is a fairly small lot. David Waltz said based on past practice and case law that the small size might trigger an allegation of spot zoning. Mr. Johnson noted that a commercial district could allow for retail, gas stations, and restaurant uses.

Paul Collett said there was previous discussion about the exclusion of animal or pet care facilities on that property or even in the new professional definition. Mr. Johnson said he did not include that prohibition in the proposed text, but the Commission could add it. He also explained that the Special Use process allows the Commission to add additional restrictions on specific applications to protect other properties.

John Berry inquired about the comments in the Staff Report regarding dumpster enclosures. Mr. Johnson said he was thinking about the previous approval and the desire to not have an enclosure near to Reed Hartman Highway. The previous approval is also where the hours of operation times and lower levels of illumination originated.

Jim Sumner asked where the other R-4 Districts were and what the implication is for them with this Zoning Text Amendment, especially if there might be buildable space on outlots. Mr. Johnson said every other R-4 district in the City of Blue Ash is occupied by an apartment complex or multi-family housing development of some type. Mr. Waltz said this was discussed and, while the probability is slim, they could do something under this limited set of rules. It could not be just anything and would require approval by Council.

As there were no additional questions for the applicant, Vice Chair Berry opened for public comments. There were none.

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Jim Sumner commented that normally a re-zoning is not done until there is a specific project with drawings and layout, although he was not opposed to it. The other Commissioners were also in agreement.

DECISION: John Moores moved, Jim Sumner seconded, to recommend approval to Council that the property at 9415 Plainfield Road be rezoned from R-2 to R-4 and that zoning text be amended to allow “Professional Office” as a Special Use in the R-4 district as described in the staff report. A roll call vote was taken. All members present voted aye. Motion carried.

**b. 9415 & 9409 Plainfield Road – JAE Capital LLC**

Zoning Map Amendment from R-1 and R-2 Residential to R-4 Residential

PRESENT: Michael Heines, JAE Capital – Applicant

Michael Heines said he plans to build townhouses on approximately 5 acres of wooded property west of Old Plainfield Road. He pointed out that a preliminary concept plan was provided. The property is topography-challenged and they would like to keep the integrity of the beautiful trees and woods. There could not be any additional building on either side of this property as UC Blue Ash is in the back, the elementary school to the north and the creek to the south.

He would like to build approximately 20 townhomes with a price range between \$299,000-\$450,000. All units would be for sale.

John Moores asked why he is not requesting R-3, where townhomes are included as a use instead of R-4 where it would be a Special Use. Mr. Heines said that R-4 was the recommendation given by City Staff based upon what is next to it and at the corner. Mr. Moores was not comfortable with that due to other alternatives that could come with R-4 should this project not mature. Mr. Heines said R-3 would still fit the spirit of this project so he would be fine with that too.

Dan Johnson said this property is immediately adjacent to R-4 and there is no R-3 in that area, but R-3 would provide the opportunity for the applicant to do what he is proposing to do. He noted that townhomes are also a Special Use in the R-3 district. Jim Sumner thought it was a great use for the property.

Paul Collett asked if the City was obligated to make improvements on the access road to the development. Mr. Johnson said that generally if there is an improvement required to support the development it would be the responsibility of the developer. However, we are not at that point yet since no formal plan has been proposed.

John Berry agreed that the topography of the site is quite challenging so having smaller townhome units that can be uniquely configured is a good alternative. Mr. Heines said his hope is to have a wooded view for each resident on both sides of the townhomes.

John Moores thought R-3 would be better than R-4 because R-3 would specifically state that it has to be done as townhouses where R-4 opens it up to multi-family.

As there were no additional questions for the applicant, Vice Chair Berry opened for public comments.

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Michaele Curnayn, owner of 4 acres of the site, said she preferred the R-4 Zoning request. However, after John Moores clarified that R-3 would prevent apartment buildings, she seemed satisfied with either.

Theresa Reed, owner of 9409 Plainfield Road, said she is in support of the project.

As there were no further comments, Vice Chair Berry closed the public hearing.

In answer to a question from Jim Sumner as to the differences in R-3 and R-4, Dan Johnson said they are very similar, but the townhouse regulation is more specific in terms of setback requirements. He said that either one is acceptable from a zoning perspective as long as the Special Use is properly evaluated when someone comes forth with an application. There is the ability to regulate in many of the same ways regardless of R-3 or R-4. His suggestion was R-4 because it is adjacent to R-4.

John Moores was still not comfortable with R-4. He said if an applicant wants to put up a multi-family apartment building there, they would be hard pressed denying it and he does not feel there should be another apartment complex.

John Berry thought the R-4 made the most sense based upon the adjacent properties.

Dan Johnson said, in the Special Use chapter of the Code, there are criteria that apply specifically to certain Special Uses. Multiple family housing does not have any specific criteria. Townhouses have specific criteria as it relates to the design.

Jim Sumner thinks that Mr. Moores is making a good point since the citizens of Blue Ash have given a clear message that there are enough apartments. If the R-4 gives more flexibility to allow an apartment at some point in the future and R-3 makes it easier to say townhomes, then he leans towards the R-3, as well. After reading through some of the Permitted Uses and Special Uses of R-3 and R-4, Mr. Sumner feels whoever wrote the Code intended for those to be different.

James Hahn of IDE commented that there are some other differences between the two zones that deal with density. They are proposing approximately 20 units; it would be extremely difficult to exceed that amount on the site because of the topography.

David Waltz clarified to the Commissioners that they could make a recommendation of approval, denial, or modification.

DECISION: Jim Sumner moved, Paul Collett seconded, to modify the request and recommend approval to Council the Zoning Map Amendment to rezone approximately 5.975 acres from R-1 and R-2 to R-3 Residential. A voice vote was taken. All members present voted aye. Motion carried.

**c. Park Manor – Park Manor LLC**

Amendment to the approved Special Use Permit (Ord. 2009-26) to allow the buildings to have more than 2-stories above ground

PRESENT: Patricia Payne, Sibcy Cline – Applicant  
Rob Sibcy, Sibcy Cline  
Richard Arnold, McGill Smith Punshon  
Kurt Zobrist, Zobrist Design Group Inc.  
Paul Zellwanger, builder

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Richard Arnold introduced those present. In April, 2009, they received approval for the east side of the project for 10-unit buildings with 2-stories. During the slow time due to the economy, they were able to receive feedback from the market as to what would be of interest to purchase in this area. Building 1 has 5-units per floor with average floor area between 1,500-1,800 square feet. Based on what they heard from the market, 2,000 square feet would be more desirable. In trying to redesign the buildings based upon the market, they were not able to get 5-units per floor. What they are requesting now is 3-stories with a total 12-units per building.

Kurt Zobrist said they were given the task of keeping these major items: density within the approved limit, the character of the existing buildings, building footprints, and building materials. They came up with 12-units because of the footprint size and 3-floors for the remaining buildings. In the new design, the ceilings have been decreased to 9 feet per floor. They also decreased the massive rooflines to help conceal roof-mounted HVAC. The mean height of the new proposed building is 41 ½ feet, which is 6 ½ feet greater than the allowed 35 feet. The existing peak of the two story building is approximately 41 feet. The peak of the proposed building is approximately 45 feet. The parking requirements will stay the same and will meet the two per unit requirement.

In answer to a question by John Berry if the height is an issue, Dan Johnson said the development was issued a Special Use Permit with a limitation in the conditions that there would be no more than two occupied floors above ground. This would actually need to go before the Board of Zoning Appeals relative to the allowable mean height as it relates to the Code, but it also is an issue as it relates to the Special Use Permit because that specifically addressed the number of floors above ground.

David Waltz added that even if the height was within the regulations, the nature of a Special Use is that a specific plan was approved. Since this is a modification to what was approved, a new approval needs to be given. Mr. Johnson added that the Code allows the Planning Commission to approve minor modifications to the plan, so they would also need to determine if this is considered a minor modification.

Jim Sumner asked about the target price of the new units. Mr. Zobrist said the price will be similar, maybe slightly higher due to the increased square footage. The feedback they received for the original units are just too small, so they needed to increase the square footage to provide the amenities people wanted.

Patty Payne said she is in the Builder Services Division of Sibcy Cline. Besides Blue Ash, she is also involved with what they are doing in Mariemont, Madeira, and Hyde Park. When the opportunity to start this next building in Blue Ash came along, they listened to what was going on in these other communities and what the prospective buyers of Park Manor were requesting. The general consensus was that they needed to be a little bit bigger. The only way to do that was to add a floor, minimize what they had to do to the building to get those extra units, and make it a more marketable product.

Rob Sibcy said being the owner of this property has been a tough one because of the drastic downturn of the market. The townhomes they were originally building were changed to flats because more and more people did not want steps. They wanted elevators and underground parking. With the market pressures being what they were, they tried to scale them to a smaller size. However, with the improving market, they are having difficulty adjusting into that size of space when coming from a single family home. The redesigned units will be 2,000 square feet with two bedrooms and a den, which is what they are hearing people want. Those types of units are selling out in Mariemont. That is when they decided to make those types

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of units fit within the scope of what is here. By lowering the ceiling heights and reworking the roof to not be as massive, they were able to get the difference down to 6 ½ feet. He said he likes the look of the new design better. He thinks it looks prettier, has more detail to it, and will blend in perfectly since all the materials will be the same. When they are finished, he feels it will be a unique development in Blue Ash.

Jim Sumner asked about the demographics of the folks interested in these units. Mr. Sibcy said they are mostly empty nesters, ranging between the ages of 55-75, that want to remain in the community.

As there was no further comment, Vice Chair Berry closed the public hearing.

Paul Collett does not think this is a minor modification going from two to three stories and feels it is a ROI decision on the part of the developer.

John Moores said he would like to see it completed because it has been an eyesore for the community. He agrees that it a major deviation, but not much difference on how it looks from the outside and that he would be fine with calling it a minor modification. Jim Sumner agreed, especially considering the location of the buildings.

DECISION: Jim Sumner moved, John Moores seconded, to approve the amendment to the Special Use Permit as submitted and consider as a minor modification. A voice vote was taken. Three members present voted aye and Paul Collett voted nay. Motion carried.

**ITEM 5: MISCELLANEOUS BUSINESS**

Dan Johnson advised that he provided the Commissioners with some articles to read.

**ITEM 6: ADJOURNMENT**

DECISION: There being no further business to be discussed, Jim Sumner moved, John Moores seconded, to adjourn the Planning Commission meeting. A voice vote was taken. All members present voted aye. Motion carried. The meeting was adjourned at 7:30 p.m.

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John Berry, Vice Chair

MINUTES RECORDED BY:

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Traci Smith