



**Oberlin Planning Commission
December 14, 2011, 4:30 p.m.
City Hall Conference Room #2
85 South Main Street, Oberlin, Ohio**

Members Present: David Gibson, Peter Crowley, Eric Gaines and Frank Carlson.

Members Absent: Marilyn Fedelchak-Harley.

Others Present: Gary Boyle; Wendie Fleming, Secretary to the Oberlin Planning Commission; Sharon Soucy, Council Liaison; Robert Brown; Sheila Rayman; Dennis Kirin, Oberlin Fire Chief; Howard Lane; Holly Linden; Eric Linden; Ray Anielski; Terrance Carroll; Jim Pierce; Glenn Miskov; Ann Murphy; Rick Murphy; John Whitman; Judith Whitman and Ken Hemminger.

Chair Carlson called the meeting to order at 4:31 p.m.

1. Approval of the October 26, 2011 Meeting Minutes.

Gibson made a motion to approve the October 26, 2011 meeting minutes as submitted. Crowley seconded. Motion carried unanimously.

2. Approval of the November 16, 2011 Meeting Minutes.

Gaines made a motion to approve the November 16, 2011 meeting minutes as submitted. Gibson seconded. Motion carried unanimously.

3. Application for Preliminary Plat Approval, Proposed Major Subdivision, Oberlin Crossroads, Triad Reality, LLC, 46223 United States Route 20.

Boyle advised that this application seeks the Planning Commission's approval of a Preliminary Plat for a major subdivision located in the southwest quadrant of the intersection of State Route 58 and United States Route 20. He indicated that the proposed subdivision would have the effect of creating four (4) lots for future commercial development. Boyle stated that the proposed subdivision will also provide for the construction of a future public collector street intersecting with United States Route 20 to create a four-way intersection with the Wal-Mart access driveway on the north side of that road. He noted that the proposed collector street is to eventually extend to the south of the subject property and is intended to connect with State Route 58 opposite the

Oberlin Planning Commission
Meeting Minutes
December 14, 2011
3 | Page

dedicated to the City and the proposed temporary right-in/right-out drive at State Route 58 would be removed at that time, assuming that the required Traffic Study supports it in the first place.

Gibson asked if there were any other issues with the property that are not included on the draft list of conditions besides the gas well? Boyle stated that no, all other potential issues are outlined in the draft list.

Carlson asked if there would be room for a westbound turn lane to be added for access to this site? Boyle advised that ODOT has indicated that a Traffic Study would be necessary to find out whether a turn lane is needed and whether one could be constructed in this location. Carlson asked if this was one of the conditions of approval? Boyle advised that it is Condition #4 on the draft list that was provided to the Commission requires the developer to prepare a Traffic Impact Study. He further noted that ODOT appreciated the Commission's efforts to keep it informed of projects and for its work on the development of a collector street system in this area.

Gaines asked for clarification on the effect of the large wetlands area on Lot 4. Rayman stated that the developer applied for a wetlands permit through the Army Corp of Engineers and they received a permit in 2009 for wetland mitigation as well as approval from the USEPA. She indicated that the property owner has secured credits through a "wetlands bank" and that those credits are for areas in the MetroParks in Wellington. Brown noted that this property had both wetlands and stream impacts.

Boyle stated that a drainage easement that the ODOT currently has in place may be removed in the future. He noted that this would help with the layout of buildings on the site and that all drainage would be handled on-site, including ODOT's.

Rayman stated that the existing drainage system on the property does not work well and all of the storm water would be channeled to the storm water retention basin on the site. She advised that the current easement for the storm water does not affect the whole site and she explained that some areas of the site would remain undisturbed so that there would be less storm water into the detention pond since some of the property would remain wetlands and unaffected by development.

Carlson asked what areas of the site would not be developed? Rayman stated that on proposed Lot #4 only one building would likely be constructed and that the wetlands area for this parcel runs along the south property line would be left undisturbed.

Carlson asked if the applicants were basically just exchanging one area of wetlands for another by obtaining wetlands credits? Rayman stated that yes, there is a wetlands mitigation bank and credits can be obtained in exchange for wetlands that a developer would like to build on. She noted that wetlands credits are only issued for wetlands that are in the same watershed and that at this time, very few of these types of permits are granted. Rayman advised that the credit exchange is a 1 to 1.5 credit. Carlson asked what the monetary consideration is for credits for this property. Rayman stated that the cost of the wetlands credits was approximately \$34,000.00.

Oberlin Planning Commission
Meeting Minutes
December 14, 2011
5 | Page

of the opinion that it would be temporary until such time as other development occurs to the south or west of this property and the collector street is extended. Brown indicated that the Fire and Police Departments required two points of access in the case of an emergency.

Gibson made a motion to approve this application subject to a list of conditions provided by City Departments and ODOT, as well as with the condition that the gas well be capped pursuant to ODNR requirements. Gaines seconded. Motion carried unanimously.

4. Petition to Amend the Zoning Map, “R-1A”/Single-Family Dwelling District to “M-1”/Light Industrial District, Proposed Propane Distribution Operation, Linden’s Propane, Inc., 47244 United States Route 20.

Boyle indicated that a petition to amend the Zoning Map for property known as municipal number 47244 United States Route 20 has been submitted by Linden’s Propane, Inc. to City Council. City Council, at its meeting on November 7, 2011, moved to refer this request to the Planning Commission for a report and recommendation.

Boyle advised that the applicant’s present anhydrous ammonia distribution operation involves the use of an existing building and three (3) 30,000 gallon above-ground storage tanks. He noted that this property is zoned “R-1A”/Single-Family Dwelling District which zoning district does not permit such industrial operations. The present operation is considered a non-conforming use and it can continue as provided for under Section 1347.01 of the Zoning Code.

Boyle stated that the applicant’s petition seeks an amendment to the Zoning Map that affects property with a frontage of about 500 feet on the north side of United States Route 20, and an area of approximately 18.36 acres \pm . The applicant requests that the Zoning Map be amended to the “M-1”/Light Industrial District in order to accommodate a proposed propane storage/distribution operation.

Boyle indicated that per the Commission’s request staff published notice of this meeting and this request in the Oberlin News Tribune, and mailed written notice to property owners within 500 feet of the subject property informing them that the Commission would be considering this request at this meeting. He advised that when City Council sends out notices for its public hearing on this matter, notice will be sent to property owners within 200 feet as is provided for by the Zoning Code.

Boyle noted that the City’s Comprehensive Plan designates the subject property and other properties in this area for future “Low Density Residential” use and this request to amend the Zoning Map to the “M-1”/Light Industrial District zoning classification would not, therefore, conform to the City’s Comprehensive Plan. The City also has an Annexation Agreement with Pittsfield Township that affects this area. The Land Use Plan in that Agreement also identifies that this is a future “Low Density Residential” area. As a result, staff does not recommend the approval of the applicant’s request to amend the Zoning Map.

Oberlin Planning Commission
Meeting Minutes
December 14, 2011
7 | Page

when the new 2011 State safety standards were adopted, they did not have to make any changes or upgrades to their facilities because they had already been performing up to or above those standards.

Linden indicated that the Oberlin anhydrous ammonia plant was in the past used as a model for safety and their business has consistently had safety standards that exceeded what is required. She noted that the only changes that would need to take place at the Oberlin facility to convert it to propane storage would be to change the valves and piping.

Linden advised that Linden employees have a large amount of experience in working with Fire Departments on safety issues. She stated that Linden employees have come to Oberlin Fire Department to provide training for the firefighters in the county regarding propane handling and hazards. They have even provided free propane to firefighters for training exercises. Lane asked Linden what the likelihood was of an explosion at a propane storage facility like the one being proposed? Linden noted that this type of propane operation would, in her opinion, be much safer than a gas station and there are gas stations regularly located in residential areas. She indicated that even though a gas station's tanks are underground, gasoline is very flammable as there is a mixture of liquid gasoline, gasoline vapors and air in the tanks which creates an unstable mix. This mixture can cause ignition of the gasoline or gasoline vapors by a cigarette, static electricity, etc. Linden advised that in the propane storage tanks, there is only liquid propane and propane vapors which is much more stable. She noted that propane has a narrow ratio for explosion at ignition, and it requires a direct flame for ignition. She indicated that they have often done training demonstrations at local Fire Departments to show that there must be an exact air to gas ratio and a flame in order for propane to ignite.

Linden indicated that Eric Linden of Linden's Propane, Inc., who has worked for the company for a number of years and has transported both anhydrous ammonia and propane, was in attendance as well as Ray Anielski, the Operations Manager for Linden's Propane, Inc. who had also worked for Amerigas and has 50 years of experience working with propane.

Lane stated that he recognizes that the zoning of most of the properties surrounding Linden's Propane's property are in the "R-1A"/Single-Family Dwelling District and the propane storage facility is not a permitted use in that district and that the Comprehensive Plan has this as a "Residential" area. He pointed out to the Commission that this property is only a mile away from the intersection of State Route 58 and United States Route 20. That area has several gas stations, and other business uses. He reiterated that currently the property is being used for an anhydrous ammonia storage and distribution facility and that because of his client's anhydrous truck having been destroyed and fewer people needing anhydrous ammonia, they would like to convert this operation to a propane storage/distribution facility. Lane indicated that allowing this amendment to the Zoning Map would help to keep more tax money in Oberlin and would aid in servicing Oberlin area residents much more easily.

The Chair asked if anyone would like to speak to this request.

**Oberlin Planning Commission
Meeting Minutes
December 14, 2011
9 | Page**

has educated many people about propane. He indicated that the propane storage tanks are much thicker than gasoline storage tanks and twenty times stronger. Additionally, employees have extensive safety training and stringent procedures to follow to keep an accident from occurring. Anieliski noted that the propane industry has developed and implemented a number of safety improvements over the last 30 to 50 years. He stated that statistically, the odds of there being a fatal propane explosion are 1 in 37 million. He noted that the propane industry spends more on training than the cost of the product itself. There are very few fatalities from these types of operations. Anieliski advised that he is currently scheduled to do training with two local Fire Departments regarding propane safety, and they regularly perform training related to propane trucks and handling accidents involving propane trucks, etc. He reiterated that safety in handling, hauling and storing of propane has improved tremendously. The State Fire Marshall can confirm that small tanks for house grills are safe.

Terrance Carroll, of Linden's Propane, indicated that he was a very good friend of Phil Linden. He stated that Mr. Linden converted cars and trucks to run on propane and they drove them to California and Florida. He has delivered propane in the past for Linden's. Carroll advised that his house is heated with propane and lives about 2/10ths of a mile from Linden's Lagrange propane storage facility. He noted that people only hear about catastrophic events such as a propane plant explosion, but the reality is there have been very few of these types of explosions. Carroll indicated that the safety measures for propane plants are extremely stringent and that this rezoning request should not be denied because of safety concerns as he considers this to be a non-issue. He stated that it is the general public's ignorance about propane that creates fear. Carroll advised that he also has handled the anhydrous ammonia business for ten years and he would like to allay people's fears with respect to the potential for a propane tank explosion by reiterating that employees go through extensive training with respect to safely handling propane and stringent handling procedures are practiced. Carroll also noted that Anieliski, who spoke earlier, worked for the national company Amerigas for many years and he too lives very close to the Lagrange propane storage plant.

Glenn Miskov stated that he owns a 24 acre parcel of land which almost abuts the property owned by the Linden's. He advised that this area is currently zoned for residential development and that even though he understands the need for businesses to be located in Oberlin, he does not feel that a propane storage facility is compatible with this area, especially in light of the City's visions/plans for how this area of the City should develop in the future. Miskov indicated that he does not live on this property at this time, however, he may do so in the future. If a propane storage facility is allowed to operate here, he has concerns about how this could affect the future development of this overall area.

Lane advised that the zoning amendment that they are requesting for this property is not being done so that the storage capacity on this site could be increased. He indicated that the number and size of tanks would remain as they currently are.

Holly Linden stated that their business is increasing and there is a greater need for servicing customers in the Oberlin area. She noted that she lives on the property in Lagrange where their

Oberlin Planning Commission
Meeting Minutes
December 14, 2011
11 | Page

collaboration with the Township went into developing the vision for development in this area as included in the Annexation Agreement.

Gaines advised that the Commission had developed the "C-3"/Planned Highway Commercial zoning district specifically for the intersection of State Route 58 and United States Route 20 because of the uniqueness of this area. The intent is not to see business use just spread along United States Route 20.

Crowley stated that he understands that non-conforming uses are permitted to remain in place as long as no changes are made to the current operation, but noted that this non-conforming use will become more and more of an issue as residential development increases in this area. Gaines noted that a non-conforming use does have a right to continue as it is indefinitely. Carlson advised that there are limits to those rights with respect to changing the nature of the non-conforming use. He stated that this zoning amendment request would be spot zoning. Such spot zoning is not an appropriate exercise of the Commission's planning and zoning authority. Carlson advised that there are some properties that are zoned "M-1" District south of Hamilton Street on the west side of State Route 58 as well as some other areas zoned "M-1" District that are inconsistent with the Comprehensive Plan. The Commission should not add new ones. He indicated that Linden's Propane is a great business partner for the County and appears to be a very safe business, but he cannot support the rezoning of this property to "M-1" District for the reasons he has mentioned previously.

Gaines agreed that this rezoning would be spot zoning and advised that for many reasons, especially for safety purposes, it would be best for businesses like this one to be concentrated in the already zoned "M-1" District such as the Industrial Park areas of the City.

Gaines made a motion to recommend to City Council that the request to amend the Zoning Map to the "M-1"/Light Industrial District for the subject property not be approved by City Council as the rezoning does not conform with the City's Comprehensive Plan or with the City's Revenue Sharing Agreement with Pittsfield Township and would constitute spot zoning. Gibson seconded. Motion carried unanimously.

Gibson stated that Linden's Propane appears to be a safe, well run operation, but reiterated that even though the additional business would benefit the City, this particular use would not be compatible with other uses in this area and is not consistent with the City's Comprehensive Plan.

Soucy asked that the remainder of the rezoning process be explained for the public. Carlson noted that the Planning Commission's recommendation would be forwarded to City Council. City Council will hold a public hearing and notice of that hearing will be published and sent to neighboring property owners. Council will then consider the matter at that public hearing and either approve or deny an ordinance to change the Zoning Map as requested in this petition.