

***City of Riverside
Planning Commission Meeting***

May 17, 2021

Members Present: Julie Denning
David Owens
Harold Vazquez

Members Absent: Jonathan Hairston
Anthony Rodgers

Others Present: Nia Holt, Zoning Administrator
Gary Burkholder, Community Development Director
Pete Williams, Ex-officio

CALL TO ORDER: Chairwoman Denning called the City of Riverside Planning Commission meeting to order at 6:34 p.m.

ROLL CALL: Mrs. Denning, present; Mr. Hairston, absent; Mr. Owens, present; Mr. Rodgers, absent; and Mr. Vazquez, present. Ex-officio Mayor Pete Williams was present.

EXCUSE ABSENT MEMBERS: Mr. Vazquez motioned to excuse Mr. Hairston and Mr. Rodgers. Mr. Owens seconded the motion. All were in favor; none opposed. **Motion carried.**

APPROVAL OF MEETING MINUTES: Mr. Owens motioned to approve the minutes of the April 19, 2021 meeting. Mr. Vazquez seconded the motions. All were in favor; none opposed. **Motion carried.**

PUBLIC HEARINGS:

- A) **PC #19-0011 – Text Amendment – Public Hearing to consider the recommendation of an amendment to the City of Riverside Unified Development Ordinance Section 1115.01 regarding the permitted location of decks and porches in all zoning districts – Public Hearing**

Chairwoman Denning opened the public hearing for Case #19-0011.

Ms. Holt stated this is a request to amend the UDO of regulations concerning porches, decks and similar structures. Staff does not have the needed tools to accommodate the request coming in for these structures so research began in the fall of 2019 to amend. Definitions and regulations from municipalities across the region were reviewed. She reviewed the current regulations: porches not addressed at all in current UDO, decks were permitted in only side and rear yard with some setback requirements, and any structure constructed in the front yard had to be formed with the setback requirements of that particular zoning district. They need to get set definitions for many of the structures. The UDO does not have flexibility in setbacks and materials that were seen often. She

presented pictures of porches and decks and materials used. Chairwoman Denning stated that concrete was so expensive versus decking that residents wanted to put decking out front and the code didn't allow for it. Ms. Holt stated how some wanted to put a roof over these structures. She presented general proposed changes: definitions, materials, consistency with design of principal structure, and flexibility in specific situations where encroachments are permitted. New regulations permit uncovered structures to encroach 25% into the required front yard or 8', whichever is less that is when those specific situations that need flexibility are permitted. Balconies can encroach four feet into the required rear yard, but there is a caveat to that as long as they are no more than 1/3 of the length of the building wall. Other changes such as handicap ramps in any required yard are permitted as long as they are constructed in accordance with ADA guidelines and the Ohio Building Code.

No one wished to speak. Chairwoman Denning closed the public hearing.

Mr. Vazquez motioned to accept the proposed changes to the UDO for Porches, Decks, Patios, and Enclosures as presented in Case #19-0011 – Text Amendment for Section 1115.01. Mr. Owens seconded the motion. Roll call went as follows: Mr. Vazquez, yes; Mr. Owens, yes; and Mrs. Denning, yes. **Motion carried.**

B) PC# 21-0007 – Site Plan – 4641 Oakdell Avenue (Parcel ID # I39 00114 0043) – A Major Accessory Use application to construct a 10,800 sq. ft. rear addition – Public Hearing

Chairwoman Denning opened the public hearing for Case #21-0007.

Ms. Holt stated this is a site plan application for a rear addition on an existing structure on 1.49 acres. The site is located between Mayapple Avenue and Spinning Road on Oakdell Avenue. It is for a multi-purpose room to serve the existing Anchor Baptist Church. She provided a zoning map and aerial view indicating where the proposed addition will go. She presented the site plan along with site photos. She reviewed standards of approval. The proposed development complies with the parking, stormwater, and lighting requirements. They identified a variance is required for a rear yard setback and lot consolidation. The lot consolidation application has already been submitted. Staff believe additional landscaping should be incorporated into the site design to make up for the loss of green space. Other properties are adequately protected as the church installed a storm drain in 2010. She stated it will be consistent, but will have to see if the variance goes through. No changes are being made to the access points. The fire department had no comments on access, but will need to do inspections in the permitting process. Staff finds the site plan meets standards #2 - #5, but has concerns with #1 because of the loss of green space. Should the planning commission approve the site plan, staff recommends the conditions of applying for a variance and obtain all necessary building and zoning approvals and permits.

Chairwoman Denning asked if the application for lot consolidation not make it in time for the case. Ms. Holt confirmed that was accurate. Mr. Vazquez stated she said the parking still met the standards even when they add additional space to the property. Ms. Holt stated they have more than enough parking for their current use so the additional parking will be covered by that.

Mr. James Elliot, 131 Grange Hall Road, Beavercreek, OH, took the oath to give affirmed testimony. Mr. Elliot stated they have had weddings and functions and have just ran out of space. The church is set for 300 and they cannot go above that, but the fellowship hall is not set for 300 so they wanted to put the additional room on the side to give them additional space. He stated the COVID-19 thing brought to attention the need for space for people move in and out of, and they did not have it. Everybody likes the location they are at so the only option was to put the room on the back. In 2010, they put in a 14" storm drain all the way around the property. When they first moved in, a rain storm would show a lot of water going down Oakdell Avenue and a person could not get into the church building until the rain was done. Since putting in the drainage, that doesn't happen anymore. Any water coming off that property would be diverted to the drain. He asked if they had any questions for him. He added that all other attendees were from the church.

Mr. Rich Miller, 1313 Mayapple, Riverside, OH, took the oath to give affirmed testimony. Mr. Miller stated he lived just down the street from the church. He stated that everything they have done has been an improvement to the neighborhood not only the structures, but they took a house across the street that was dilapidated and rehabbed it. Everything they have done for the building has been fantastic and for that area and community for what they bring.

Chairwoman Denning closed the public hearing.

Chairwoman Denning motioned to approve the site plan for PC# 21-0007 with the conditions of doing the consolidation of lots, the board of zoning appeals approval, the certificate of occupancy, and construction approval from the City of Riverside, Montgomery County Building Regulations, and Montgomery County Environmental Services. Mr. Vazquez seconded the motion. Roll call went as follows: Chairwoman Denning, yes; Mr. Vazquez, yes; and Mr. Owens, yes. **Motion carried.**

Chairwoman Denning notified Mr. Elliot to work with Ms. Holt in getting together other pieces that are needed to begin construction. They need to get the lot consolidation, which will be on the next agenda in June and then they will need to see the BZA for the variance for the setback. Mr. Elliot asked if the setback is 25', if they moved into the 25' would they have to do the variance. Mr. Vazquez replied no. He asked if they went 80' instead of 25' it would be 22', would they still have to do the variance.

C) PC# 21-0008 – Site Plan – Final Plat – Old Troy Pike (Parcel ID # I39 00520 0091) – A Lot Split application to create two (2) parcels from one (1) lot – Public Hearing

Chairwoman Denning opened the public hearing for Case #21-0008.

Ms. Holt asked that the case be continued until June 21, 2021. They have spoken with the applicant and they are working to get the final plat to staff for review and her signature. Chairwoman Denning asked if the applicant is okay with that. Ms. Holt replied yes.

Mr. Owens motioned to continue the case until the next meeting. Mr. Vazquez seconded the motion. All were in favor; none opposed. **Motion carried.**

OLD BUSINESS/DISCUSSION ITEMS:

A) Text Amendments

I) Waivers– Ms. Holt stated through several applicant requests it came to their attention that the UDO does not contain the tools they need to deviate from design requirements as with Circle K wanting a second sign. The city did not have the tools to work with them on that. They are reviewing what other cities are doing and basing the language off of their own process for the variance, but this would go to planning commission as a waiver as that is what is being done in other communities. The definition is from other communities, but it specifies that standards based on public health and safety concerns may not be waived. There are some waivers that are staff level approvals so that will make the development process a bit quicker such as 15% or less reduction parking waivers, an additional ground sign, things like that. The information included in the planning commission is the initial first draft. Chairwoman Denning asked if this would also allow staff to issue a waiver on front yard fencing being a certain height, which is below the standard fence is that is bought. Ms. Holt stated it is strictly design. Chairwoman Denning mentioned the fencing issue they have had concerns about related to height. Ms. Holt stated there are minor variances that they are using for staff level waivers.

Mr. Burkholder asked Ms. Holt to explain the difference between dimensional elements and design elements. Ms. Holt stated dimensional requirements deal with the height and size of a structure. If a person requests a accessory structure that is larger than the principal that would be something that could go for a variance. Or, if there is an encroachment to the setback that is dimensional. Something that has to do with the design like a ground sign or a privacy fence, even some landscaping fit into the design requirements. Chairwoman Denning asked if an applicant still have the right to request to come to the planning commission if they do not like staff's answer. Ms. Holt stated they would go to the BZA.

Ms. Holt stated this is a first draft. Mr. Vazquez asked if it has been run through the legal department, yet. Ms. Holt stated that will occur when they take it to council as she was told by legal staff. Mr. Burkholder added that they take it to legal prior to council, but in this case, it might be instrumental for the planning commission to see it. Chairwoman Denning stated in her opinion they should be working most of it out before it gets to council so that hopefully once it is to council they would go yea or nay. She stated they would like an overview of it. Mr. Burkholder stated he does not see a problem with legal counsel reviewing. He reviewed what recently went to the BZA regarding a second sign request and what occurred at that meeting. He stated that this is timely because they will have more development and will allow staff and planning commission more flexibility. He added they will have legal review and bring it back to staff and the planning commission. It would be a text amendment and need to be heard at planning commission level. Discussion was held on allowing two signs and the Circle K issue.

B) Training

I) APA training – Ms. Holt presented the commission with training from May 24 – 27 from 5:30 – 7:00 pm live, online. She stated they will register everyone who is interested;

there is a package price for a group and will send out a link to all those who are interested. Everyone registered will get a copy of all the recordings.

II) Work Session – Ms. Holt stated since they are having a late May meeting if they could change the work session to late June. Chairwoman Denning stated that may work better. Ms. Holt stated she would email out some dates. Chairwoman Denning asked that once dates are sent each commission member would rank the dates that work best to narrow down when they will meet. Discussion was held on some of the topics that would be covered at the work session.

ZONING ADMINISTRATOR DISCUSSION TOPICS:

Ms. Holt stated there were questions from David about the agenda. Mr. Burkholder stated they could discuss the standards for approval along with hearing from Attorney Jim Miller. Mr. Burkholder explained this is legal counsel with the city and with Buckley King. There were some questions as to why 2249 was not the agenda; it was pulled from the agenda at the advice of legal counsel. He wanted them to all be on the same page. He also wants to address the standards of approval that are in the UDO and the legal considerations as to why they want to base their legal decision on the standards listed for approval.

Mr. Miller stated he spoke with staff about the particular agenda item that had been slated to be on the commissions agenda for this month and it was removed. He stated it was perfectly fine as he reviewed, at length, the city charter provisions that enable the commission as well as the UDO that governs the commissions procedures and removing items is specifically permitted. In particular, the item was a site plan review and there are no notice requirements to put site plan review applications on or off of a planning commission agenda. There is a specific UDO section that indicates there are no notification procedures. The issue with this particular agenda item was spelled out in the UDO, which governs your parameters, your decision making; it provides them with their authority and sets the limits or parameters they make their decisions under. The UDO sets forth the application procedure as well. Before an application is put in, they have to go through a number of steps involving staff and the application process. The UDO is very clear that if the application procedure itself, let alone the substance of the application and should the prospective project be approved or denied or approved with conditions, before any of that, the applicant has an affirmative burden to follow the process and to submit the proper application, fees, material to staff to review with respect to that particular submission. There is also a duty to respond to questions from staff. City staff is well trained in looking at planning issues and often times has questions for applicants: is there a safety issue, is the development going to require a variance from the BZA, is this project in line with the overall city plan/comprehensive plan, does it violate the UDO. Staff is required by the UDO ask these questions of an applicant. An applicant is required by the UDO to provide that information to staff upon request. In particular, if the applicant does not provide that information, the application is considered incomplete and the UDO clearly states that an incomplete application may not be forwarded along the chain of approval processes so until or unless that applicant responds to questions provided by city staff, the application may not proceed. It may not come before the planning commission for consideration. That was the particular issue on the agenda item removed from this meeting agenda; there were outstanding questions from staff that remained unanswered or at the very best incomplete answers were given. It is strictly a matter of the UDO, the black letter law of the UDO says until those types of questions

are answered, city staff is prohibited from putting that project in front of the planning commission. Mr. Miller added he even found case law to support this so that he was presenting the most accurate and thorough information to the planning commission. There is case law in Ohio where courts intervened in planning commission or BZA decisions and if they are not made pursuant to the process set forth in the enabling ordinances, or for Riverside in the UDO, the court can reverse those decisions and undo what they do. The city is then on the hook for court costs and attorney fees. He stated it was a collaborative and purposeful decision to remove the agenda item because it was not in compliance with the UDO requirements to move forward. Staff is working with the applicant to attempt to rectify that. If the applicant provides the necessary information, it will move forward according to the UDO processes and in front of the planning commission to adjudicate when complete.

Mr. Burkholder asked if there were any questions regarding the standards for approval. Chairwoman Denning stated she thought they would discuss this more at the work session. Mr. Burkholder stated they don't have to go into great detail, but they want to get on track with the standards for approval as they continue to get development coming in. He stated the BZA uses standards of approval, and they also want city council to follow the standards of approval particularly when it comes to rezoning. He hears many times it is "just a rezoning", and rezoning are not "just rezoning". It relates to the future use of that land and can have impact that affects the community for decades to come. He stated Mr. Miller mentioned legal ramifications of not following standards of approval and that is why Ms. Holt sent out what those are. Their reports are drafted and presented answering those questions that deal with the standards for approval. Staff wants to work with the commission to follow those and how those should be presented at a meeting and have the commission go through each one of those standards and have discussion and presentation by staff along with questions and comments by the commission as well. They need to be in compliance with the UDO. He is aware of the different approaches from different zoning administrators, but Ms. Holt has done some work to get into the code and make sure they are in full compliance. If there are challenges down the road, they can justify the decisions of the commission based on the fact they actually followed the code. They can have Mr. Miller or a representative present at a future training or future work session to go into a presentation but also give commission members an opportunity to ask any questions they may have regarding the process.

Mr. Vazquez stated that a majority of the issues they have had in the past the standards have been the fact that a lot of the UDO needs to be revised. If that is to be the measuring stick, they need to make sure that the UDO is fixed. He is in agreement to following the standards of approval, but if applying those to a faulty standard, which is what they have today, it is going to cause additional problems in the future that is why one of the reasons Chairwoman Denning had expressed in the past they need to fix the UDO before they apply the standards using the UDO. He understands they have to follow the standards for legal purposes. There are quite a few discrepancies in the UDO today; and they have been trying to fix those things over the years. Ms. Holt stated she understands his point, but she is working with the tools she has while trying to make changes as she can. Chairwoman Denning stated it is time to dive in to the UDO as they did at her first meeting about 12 years ago. Mr. Burkholder reviewed their future steps as there are proposals to redo the comprehensive land use plan. They are also submitting an application to the land bank for grant money to that. The land use plan can take 9 – 12 months to process and will lay the foundation for

how they want to develop the land and see future land use. A follow up project that has to be done is a total comprehensive look at the UDO to make sure it is in compliance with current law, but also giving some extra tools like the PUD so they can be more creative and flexible and deal with challenges as they have had on their most recent cases. Discussion was held on the code and concessions that have been made.

Mr. Burkholder stated that while the code may be from 2005 and some of it may no longer be effective for today's standards; there are many parts of the code that are still applicable. He stated the market is changing and he feels they are changing it at a time where it is transformational not only locally but across the United States.

Ms. Holt reported that the signs for cases are working as she is receiving more calls than she has before. People are seeing them.

MATTERS BY THE COMMISSION: Mr. Vazquez stated a few months ago Mr. Owens brought a proposal to them to start considering consolidation of non-conforming lots, and do to an overview of those properties to see if the residents would consider consolidating if they have multiple lots on their property. Chairwoman Denning stated that the last time they brought it up they were told they didn't have the staffing to do that. Mr. Burkholder stated that council will at the next meeting have a second reading and public hearing on the vacant property and foreclosed property ordinance. It is a registration program for any commercial or residential owner that has a vacant property will have to register with the city. It will generate revenue, but also give a comprehensive list of foreclosed and vacant properties. He stated it is a monumental task when properties are just left and finding who the property owner is; there may be liens against the properties. The program will be beneficial to the city and takes a lot of staff time. They have asked for more staff from council. He reviewed the number of staff and changes since 2018. He added that almost daily they get a call regarding a property complaint of someone living where they shouldn't and the city is trying to board up and then mow the properties. Many times, the invoice for those services never gets paid back to the city; it has to go on to the property tax and that may not be realized for a very long time. He discussed infill of non-consolidating lots and how at times neighboring properties want to buy a vacant lot to add to theirs. The challenge comes when someone wants to buy a non-conforming lot and put a house on it. They would like to explore how to redevelop neighborhoods when they have a lot of aging housing stock. Chairwoman Denning commented that Mr. Owen's original proposal wasn't so much about non-conforming lots, but how a person owns two or three lots versus it being one lot. Mr. Owens added that a lot of them with three lots in a row would be non-conforming because the building is sitting across the property lines. They wanted to figure out where those were and figure a way to consolidate. Chairwoman Denning mentioned that they talked about possibly offering an amnesty day for one time on these properties and send letters to the owners and do a replat of those lots. They may have to pay county fees, but possibly forego planning commission fee on one opportunity to try and get plats laid out better and have less non-conforming and partials.

Mr. Vazquez stated he appreciated insight on the staffing as he was not aware to the extent as it was explained. Mr. Burkholder stated that part of his job is to tell that they could do a lot more with more staff. There is one code enforcement officer for 9.7 sq. miles and he speaks to him everyday and some days it is amazing what gets done and the things that happen. Going to court

does not get them much resolve. Mr. Burkholder stated they are looking at changing their enforcement fines and maybe issuing more fines to gain more compliance. They need additional staffing to take on worthwhile projects. Chairwoman Denning stated they had a few cases in a short amount of time that had lot issues. Mr. Owens found a number of properties in Riverside like this in a short amount of research time. He stated just going to a small section in the high plat area there were quite a few instances; it was like a domino effect in the area. Mr. Burkholder shared how he came from a municipality where they merged a township and the village; there is so much more infrastructure that has to be paid for and maintained. Chairwoman Denning added that if they do get to that point maybe there is an option to encourage residents to come in and get help and perhaps be able to forego city fees. Discussion was held on consolidating lots and being able to sell and get bank loans done quicker as issues have come from this before with zoning.

Mr. Burkholder stated there is money in the budget for the comprehensive plan if they are awarded by the land bank, but they cannot pick a firm until the grant has been awarded.

Mr. Owens congratulated staff on the announcement of the K-Mart property. Mr. Burkholder stated it was a year-long process, but they feel it will be a dynamite development for the area and set the tone for redevelopment throughout the city. Staff has been working with the Kroger Company on the site plan review; the project is moving forward.

Chairwoman Denning asked if the Circle K was moving forward. That was confirmed. She asked about Waffle House. Mr. Burkholder replied he hasn't heard anything since, but will call and follow up on. Discussion was held on restaurants in the area. Chairwoman Denning mentioned that the franchise owner of Dunkin' Donuts also has franchises of Popeye's Chicken. She stated they didn't go with Airway Shopping Center because Airway won't sell them any land. They want a piece of land to purchase, but they would like to be in the area. She added that she feels Flying Ace will be huge after talking with their marketing director on some things they want to do in the community and being involved.

Chairwoman Denning also discussed plans to present a plaque to Mr. Rick Kaufhold at the June meeting for his years of service on the planning commission. She will also invite council members. Mr. Kaufhold has 15+ years on planning commission.

ADJOURNMENT: Mr. Vazquez motioned to adjourn. Mr. Owens seconded the motion. All were in favor; none were opposed. The meeting was adjourned at 7:55 pm.

Chairwoman

Date