



PLANNING COMMISSION MEETING MINUTES AUGUST 26, 2024

I. OPENING OF MEETING

Chairman Bills opened the Clayton Planning Commission meeting, convening at 7:00 pm on Tuesday, August 26, 2024.

Call to Order: Present were Mr. Bills, Mr. Foley, Mr. Muncy, and Ms. Williams.

II. MEETING PROCEDURE AND OATH

Mr. Bills explained the meeting procedure for tonight's cases and administered the Oath to those in attendance who wish to speak on either case tonight.

III. MINUTES OF THE PREVIOUS MEETINGS

Mr. Bills asked for a motion to approve the minutes of January 22, 2024. Mr. Muncy made a motion to approve the minutes of January 22, 2024 as presented, motion was second by Ms. Williams. Voting: Mr. Bills-yes, Mr. Foley-abstain, Mr. Muncy-yes, and Ms. Williams-yes. Motion passed 3-0 with one abstention.

Mr. Bills then asked for a motion to approve the minutes of April 22, 2024. Mr. Foley made a motion to approve the minutes of April 22, 2024 as presented, motion was second by Mr. Muncy. Voting: Mr. Bills-abstain, Mr. Foley-yes, Mr. Muncy-yes, and Ms. Williams-yes. Motion passed 3-0 with one abstention.

IV. OLD BUSINESS

None

VII. NEW BUSINESS

Case PC24-02 A request to rezone the properties at M60 03109 0030 and M60 03109 0034 from RSD to CMX. The request was made by Gerald L. McDonald, applicant.

Ellen Snyder, Planning and Zoning Manager, advised case PC24-02 for a rezoning request was received on June 10, 2024. The applicant is Gerald L. McDonald, on behalf of the property owners. The property owners of M60 03109 0030 which consists of 2.044 acres, 4970 Wenger Road, is BLK94 Holdings, LLC. Note, the house was removed and no structure remains on the property; and M60 03109 0034 that consists of 3.0313 acres, 4940 Wenger Road where the house was removed but a small garage remains and 7870 Wenger Road where there is a residential home. Terry and Bonita Kipling are the owners. A public notice was printed in the Eaton Register Herald on August 14, 2024, and letters to property owners within 300 feet of the site were postmarked and mailed on August 16, 2024. The location of the parcels is near the intersection of Wenger Road and Hoke Road. Parcel IDs are M60 03109 0030 and M60 03109 0034 and have a combined acreage of 5.0753 acres. It should be noted that M60 03109 0060, 2.040 acres, was recently combined with M60 03109 0034, previously 0.993 acres. The current zoning is RSD, Residential Single-Unit District and the proposed zoning change is CMX, Commercial Mixed Use. Staff reviewed and provided to each Planning Commission Member the following documents: Application, Letter of Intent/Narrative Statement, a Site Plan, Residential Use Table, Commercial Use Table and Future Land Use Plan. Ms. Snyder

then shared images of the surrounding area in addition to the specific area for reference. The applicant desires to convert the existing Zoning of the parcels from RSD to CMX. The applicant does not desire to change the existing parcel layout as a result of the Zoning change. The property is located within the Clayton Improvement District #1, CID-1. The existing zoning of RSD allows a number of permitted and conditional Residential Uses. The proposed zoning of CMX allows a number of permitted and conditional Residential and Commercial Uses. The use of the one existing residential structure is permitted with the proposed Zoning and would not convert the structure to a legal-nonconforming status. The use of the one existing accessory structure is already considered legal-nonconforming. The applicant indicates no new development is proposed with this application. Any future modifications to the use of the property will require a Zoning Certificate, Building Permit, and other applicable studies/assessments. The Future Land Use Plan indicates the intent of this area to be Flex Use. Flex Use allows any combination of Commercial/Office and housing, again both in one area or in the same building. Flex Use supports the central areas of walkable city, creating a live-work-play environment. After evaluating the applicant's request, Staff recommends that the Planning Commission make a recommendation of approval to City Council for the Zoning District change from RSD to CMX as submitted.

Mr. Bills asked if there were any questions for staff, hearing none, Mr. Bills asked the applicant if they have any comments.

Gerald McDonald stated we're requesting those parcels to be zoned from residential to commercial mix use, and this is consistent with the Land Use Plan which is Flex Use. The Flex Use is the closest to the CMX rezoning. The CMX which is defined in section 1111.13 of the code is very similar because it promotes a mix of commercial uses, high density residential in proximity to suburban residential developments and the desire is for the CMX districts to be along commercial corridors, and that's what we have here with the Hoke and Wenger Roads which are commercial corridors. The catalyst of this is the proposed changes to Hoke and Wenger Roads being widened and putting in the roundabout there and we believe this is also quite consistent with what we're looking for on the commercial use. There is no current development, we're just two properties in the midst of several properties where commercial use is not only desired by the city, but it's also creeping up from the south. We believe these are important parcels for the city to control. What is requested by us and more importantly recommended by staff is you take the first step in the city's vision and the city's intent and rezone those properties.

Mr. Muncy stated when you look at the zoning regulations concerning this modification, there are eight subparts and almost half deal with a proposed use, and the application was explicit that there is no proposed use. There are things that make me caution should we go forward with this because there is no proposed use. I understand we get what we want by changing the zoning now, but if we do then there's a lot of permitted uses that maybe we don't want. Now it's residential and I think we better protect the neighborhood. Has there been any interest in this property. Mr. McDonald stated because of the size of the lot you are not going to get any big developments; you're not going to most restaurants that have a drive thru because of where curb cuts are going. It's more suited for office, but we do not have an end user. Our goal is to have it rezone with the improvements that are coming in for Hoke Road. Residential use is not going to work when they put in the roundabout.

Mr. Muncy stated there is no other commercial uses in this neighborhood right now, there are a few blocks down, there is a Goodwill, but the rest is residential single family.

Ms. Williams stated there is one parcel in middle that looks like it is excluded, so it will remain residential. Did that homeowner not want to be included in this deal. Mr. McDonald they originally were included but later changed their mind. The one thing that was articulated most to me was, I'm afraid what it's going to do to my taxes.

Mr. Muncy asked if Russell Gearhart backed out. Mr. McDonald replied yes, and another property owner, David Cox. I can't speak to why they backed out.

Ms. Williams so if this goes through, their property will be an island. Mr. McDonald stated they are fully aware of what we're planning, and I have spoken to both within the last two weeks and neither had a problem. Neither of them are here this evening.

Walter Kern advised he is the property owner, and to answer the question about offers on property, there have been four since 2004. Then to answer the question if there are any other businesses in this area, there are currently two businesses being ran out of residential homes, one landscaping and I believe one plumbing or HVAC. Mr. Kern then read a statement that he is currently the managing partner of BLK94 Holdings LLC and proved the history of the LLC which consists of four siblings. BLK94 Holdings LLC was established as neither a development nor an investment company, but a simple partnership to sell the property. Per the 2018 Future Land Use Plan, the city of Clayton had designated all of the property abutting Hoke Road between Smith Drive and Wenger Road as Flex Use. Based on the current Hoke Road reconstruction project currently in or close to the final planning stages, the lot at 4970 Wenger Road will not be a viable option for residential use. The current plans for the roundabout allows no driveway access onto the property from either Hoke or Wenger Roads because of the length of the lane separation curves connected to the roundabout and the size and location of the detention pond on the property. The landlock condition of the property does not allow any residential use of the property.

Mr. Muncy asked when was the house removed. Mr. Kern stated in November of 2019.

Mr. Muncy asked when was it first marketed as commercial use. Mr. Kern in 2004 was when a for sale sign was put on the corner.

Mr. Muncy then asked why did the house burn down. Mr. Kern replied no, the family believed there were issues with mold or physical implications in the house affecting the health of their Mother. None of the children live in area, and the family did not want to rent the property so it was taken down.

Mr. Muncy asked if it was a residence between 2004 and 2018. Mr. Kerns advised yes, and the for sale sign implied both, residential or commercial.

Mr. Muncy asked since 2018 until now has it been marketed residential or has it just been commercial. Mr. Kern advertised it's been marketed as a vacant lot, there is no house there, and there has only been one offer for residential. Unfortunately, there were enough unknown facts that we did not believe it was a legitimate offer, because of the timing he somehow knew that the road was going to be redone and he saw that corner lot as the primary parcel of land that would be used for the reconstruction.

Ms. Williams asked, the driveway is on Wenger Road. Mr. Kern replied yes.

Ms. Williams then asked when the house was torn down were all utilities removed. Mr. Kern stated yes, the only thing still there is the concrete driveway and a small 8x10 shed.

Mr. Foley asked Ms. Snyder when is the roundabout scheduled to go in. Ms. Snyder replied it will start fiscal year 2026.

Ms. Williams asked Ms. Snyder why was the city recommending approval. Ms. Snyder advised most of this is in the future land use plan and is identified as flex use.

Mr. Bills stated hearing no further questions, he asked for a motion to open the floor to public comment. Motion by Mr. Muncy to open the floor for public comment, motion was second by Ms. Williams. Voting: Mr. Bills-yes, Mr. Foley-yes, Mr. Muncy-yes, and Ms. Williams-yes. Motion was approved 4-0.

Hearing no comments for or against this case, Mr. Bills asked for a motion to close the floor for public comment. Motion by Mr. Foley to close the floor for public comment, motion was second by Ms. Williams. Voting: Mr. Bills-yes, Mr. Foley-yes, Mr. Muncy-yes, and Ms. Williams-yes. Motion was approved 4-0.

Mr. Bills asked if there were any additional comments from the Commission members. None heard. Mr. Bills then asked for a motion to recommend approval, approval with conditions or disapproval of the applicant's request. Mr. Foley made a motion to recommend to City Council that we change the zoning district from RSD to CMX as presented. Motion was second by Ms. Williams. Voting: Mr. Bills-yes, Mr. Foley-yes, Mr. Muncy-no, and Ms. Williams-yes. Motion was approved 3-1.

Case PC24-03 A request to rezone the property at M60 03206 0020 from RCD-2 to RSD. The request was made by Clayton Land Holding LLC, property owner.

Ellen Snyder, Planning and Zoning Manager, advised Application PC24-03 for rezoning was received on July 2, 2024. The applicant is Bill Parker, on behalf of Clayton Land Holding, LLC, the property owner is Clayton Land Holding, LLC, parcel M60 03206 0020 that consists of 10 acres. There are no structures on this parcel. A public notice was printed in the Eaton Register Herald on August 14, 2024, and letters to property owners within 300 feet of the site were postmarked and mailed on August 16, 2024. The location of this parcel is near the intersection of Westbrook Road and Hoke Road. Parcel ID is M60 03206 0020, and has an acreage of 10 AC. The current zoning is RCD-2, Rural Conservation District. The proposed zoning is RSD, Residential Single Unit District. Ms. Snyder then shared images of the surrounding area in addition to the specific area for reference. The applicant desires to convert the existing zoning of the parcels from RCD-2 to RSD. The applicant does desire to change the existing parcel layout as a result of the zoning change. The minimum acreage for RCD-2 is 10 acres; the applicant must request a zoning change in order to reconfigure the parcel layout. The applicant intends to sell four acres to an adjacent property owner to the North. The applicant intends the sell the remaining six acres to an interested buyer; who may have an interest in developing the property into a small residential neighborhood. This property is not located within the Clayton Improvement District #1, CID-1. The existing zoning, RCD-2, allows a number of permitted and conditional Residential Uses. The proposed zoning, RSD,

allows a number of permitted and conditional Residential Uses. The applicant indicates no new development is proposed with this application, but that future development is possible. Any future modification to the configuration of property that will exceed the creation of five parcels, dedicate right-of-way, or create easements will require Planning Commission and City Council approval as major subdivision. The Future Land Use Plan indicates the intent of this area to be Industrial. Industrial development can consist of light industrial, mid-scale manufacturing, warehouse and distribution, research and development, or large employment facilities such as corporate office headquarters in a campus-like setting. The proposed zoning change to RSD would present a less intense land-use and is more desirable to residential property owners on adjacent properties. After evaluating the applicant's request, Staff recommends the Planning Commission make a recommendation of approval to City Council for the zoning district change from RCD-2 to RSD as submitted.

Mr. Bills asked if there were any questions for staff.

Mr. Muncy stated it would be a minor subdivision and for them to divide the north four acres off and sell it to Mr. Tackett. Ms. Snyder stated after the zoning change, they would then be permitted to divide the parcel into smaller acreage, they can't do it with RCD-2 because the minimum acreage is ten acres.

Ms. Williams asked for clarification on the property location and stated so it's the neighborhood's desire this to be residential and not a factory. Ms. Snyder replied that our understanding is Mr. Tackett would like to purchase the four acres to create a buffer for the potential of a small subdivision.

Hearing no further questions, Mr. Bills asked the applicant if they have any comments.

Bill Parker advised he is one of the co-managing members, advising they purchased the property about 20 years ago to acquire this property concurrent with the development of Moss Creek, which is making a comeback, somewhat. We acquired this to potentially develop some medium density residential homes. What I've seen on your Comprehensive Land Use Plan, I've never seen a transition light industrial going into potentially a reasonably nicely developed Moss Creek Golf Club. A year ago, there was a major subdivision planned for this lot that when reviewed and found that the density was pretty sophisticated, it was 16 to 18 units and it wasn't what fits this property. So given that we protect the property owners to the south because I wouldn't want industrial in there, and we accommodate Mr. Tackett with some additional open space. It would also accommodate the neighbors across the street that is residential. We could get more money out of this property as industrial.

Mr. Foley asked, if Mr. Tackett doesn't follow through on the purchase of the four acres is there any impact. Mr. Parker stated we've had amendments to the contract and we feel we're protected with the covenants and restrictions with the contract in terms of us rezoning the property.

Mr. Bills stated hearing no further questions, he asked for a motion to open the floor to public comment. Motion by Mr. Muncy to open the floor for public comment, motion was second by Mr. Foley. Voting: Mr. Bills-yes, Mr. Foley-yes, Mr. Muncy-yes, and Ms. Williams-yes. Motion was approved 4-0.

Alvin Bloomer stated Westbrook and Hoke is a very dangerous intersection and there are many accidents there, and was concerned with additional housing on that corner will only make it worse.

Hearing no further comments, Mr. Bills asked for a motion to close the floor for public comment. Motion by Mr. Muncy to close the floor for public comment, motion was second by Mr. Foley. Voting: Mr. Bills-yes, Mr. Foley-yes, Mr. Muncy-yes, and Ms. Williams-yes. Motion was approved 4-0.

Mr. Bills asked if there were any additional comments from the Commission members.

Mr. Muncy stated, correct me if I'm wrong, if I'm not mistaken its presently zoned rural conservation and what's the acreage for a house on rural conservation district. Mr. Parker stated I believe it's ten acres.

Ms. Williams asked, in splitting this lot is there any potential use for the remaining four acres. Mr. Parker stated it is under contract with the four acres to the north, the remaining six acres we anticipate some type of cul-de-sac development.

Mr. Muncy stated the application submitted has no end use. The zoning code analysis should be based on the proposed use. In this instance not only does it require a zoning change, but then it also goes against the guide whether or not the proposed use in the guide is better, as industrial. In my opinion the application is insufficient because it doesn't address the use at all and it specifically says we're not proposing a use. In not proposing a use, use being that specific use conditional or permitted under the zoning code. Generally, what should happen here is the developer should come with a plan and stand in the shoes of the property owner or applicant and say here is what we're going to do.

Ms. Williams asked is the application to prevent industrial going in there, is that what they are trying to avoid. Ms. Snyder advised in talking with Mr. Tackett, the gentleman who would like to acquire the northern four acres, that is his intent, to preserve the property around him and his own.

Mr. Muncy stated it's a rural conservation district, so the industrial use unless I'm mistaken can't go in there, but they could ask for a variance to split the lot.

Mr. Parker asked, please keep in mind it is your comprehensive land use plan, the future land use plan and by our rights we would have the right to come in here and ask for rezoning of industrial. We're hoping we could sell it to one person.

Mr. Muncy stated just to be fair the comprehensive land use plan there's no right to the rezoning if someone comes in here and asks for it to be zoned industrial, we've already established that. Prior zoning issues we've had in Clayton and right now there cannot be an industrial use in that spot, so if that is your concern if that's the sole basis of the rezoning then, we're already there. Like I said, I would like to see a developer come in with a plan, show us what's going to be there.

Hearing no further comments, Mr. Bills then asked for a motion to recommend approval, approval with conditions or disapproval of the applicant's request. Mr. Muncy made a motion to disapprove the application. Motion was second by Mr. Bills. Voting: Mr. Bills-yes, Mr. Foley-no, Mr. Muncy-yes, and Ms. Williams-yes. Motion to disapprove passed 3-1.

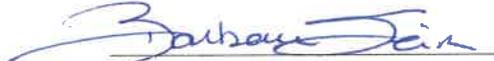
VIII. END OF MEETING

Motion by Mr. Foley to adjourn the meeting, motion was seconded by Ms. Williams. Voting: Mr. Bills- yes, Mr. Foley-yes, Mr. Muncy-yes, and Ms. Williams-yes. Motion was approved 4-0. The meeting adjourned at 8:25 PM.



Mr. Dave Bills, *Chairman*

11.25.24
Date



Ms. Barbara Seim, *Secretary*

October 28, 2024
Date