



MEETING MINUTES

Planning & Zoning Commission

Thursday, May 18, 2017

AGENDA

- 1. Ohio Sinus Institute** **5378 Avery Road**
17-026Z **Rezoning (Recommendation of Approval 7 – 0)**
- 2. Kendall Ridge Offices and Condos PUD, Kiddie Academy** **6055 Avery Road**
17-031Z/PDP/FD P **Rezoning/Preliminary and Final Development Plans**
(Tabled 7 – 0)
- 3. Tree Replacement Fee Waiver**
17-041ADM **Administrative Request (Recommendation of Approval 7 – 0)**

The Chair, Victoria Newell, called the meeting to order at 6:33 p.m. and led the Pledge of Allegiance. Other Commission members present were: Chris Brown, Cathy De Rosa, Deborah Mitchell, Stephen Stidhem, Amy Salay, and Bob Miller. City representatives present were: Phil Hartmann, Vince Papsidero, Claudia Husak, Nichole Martin, Logan Stang, Shawn Krawetzki, Brian Martin, and Laurie Wright.

Administrative Business

Motion and Vote

Mr. Brown moved, Ms. Salay seconded, to accept the documents into the record. The vote was as follows: Ms. Newell, yes; De Rosa, yes; Mr. Miller, yes; Ms. Mitchell, yes; Mr. Stidhem, yes; Ms. Salay, yes; and Mr. Brown, yes. (Approved 7 - 0)

Motion and Vote

Mr. Brown moved, Mr. Miller seconded, to approve the meeting minutes from April 20, 2017, and May 4, 2017. The vote was as follows: Mr. Stidhem, yes; Ms. Mitchell, yes; Ms. De Rosa, yes; Ms. Salay, yes; Ms. Newell, yes; Mr. Miller, yes; and Mr. Brown, yes. (Approved 7 - 0)

The Chair briefly explained the rules and procedures of the Planning and Zoning Commission. She said the Ohio Sinus Institute case this evening is eligible for the Consent Agenda. She determined the Consent Case would be heard first and cases 2 and 3 would follow in order.



**1. Ohio Sinus Institute
17-026Z**

**5378 Avery Road
Rezoning**

The Chair, Victoria Newell, said the following application is a request for a rezoning of a 3-acre parcel from R-1, Restricted Suburban Residential District to SO, Suburban Office and Institutional District to allow for the expansion of the existing commercial/medical use. She noted the site is on the east side of Avery Road, approximately 700 feet south of the intersection with Rings Road. She said this is a request for a review and recommendation of approval to City Council for a Standard District Rezoning under the provisions of Zoning Code Sections 153.232 and 153.234.

The Chair said a formal presentation was not needed.

Steve Stidhem noted the site has an abnormal layout. He questioned whether it is zoned residential currently, and if so, how that was possible given the existing business. Logan Stang responded the site was part of an area-wide rezoning in 2007 so prior it was actually under township zoning. He said in the early 2000s, the City started to do a number of area rezoning's all throughout the City for properties that still had township zonings. At the time, he said, the business was operating when it was still under township zoning then the City rezoned it to give it a Dublin zoning classification and R-1 happened to be provided for this site. Mr. Stang said that the property owners also own the larger site to the south and west. He affirmed the site is zoned R-1 currently but the zoning to SO would bring the use into conformance. He reported that in 2011, the property owner split this three-acre parcel off of the larger parcel.

Mr. Stidhem said when he walked the site he found foul out by the barn and asked if this property was being actively used as a farm to which Mr. Stang said he did not believe that was the case. Mr. Stang added this may be a Code Enforcement issue and said he would look into the matter because he was under the impression that the barn was used for storage.

The Chair asked if there were any further questions or if any of the members would like a full presentation. [Hearing none.]

Motion and Vote

Mr. Brown moved, Mr. Stidhem seconded to recommend approval to City Council for the Rezoning request. The vote was as follows: Ms. Mitchell, yes; Mr. Miller, yes; Ms. De Rosa, yes; Ms. Salay, yes; Ms. Newell, yes; Mr. Stidhem, yes; and Mr. Brown, yes. (Recommended for Approval 7 – 0)

**2. Kendall Ridge Offices and Condos PUD, Kiddie Academy
17-031Z/PDP/FDP**

**6055 Avery Road
Rezoning/Preliminary and Final Development Plans**

The Chair, Victoria Newell, said the following application is for a rezoning of a 2.33-acre site from PUD, Planned Unit Development District (Kendall Ridge Offices and Condos), R-1 Restricted Suburban Residential District, and R-1B, Limited Suburban Residential District (Washington Township) to PUD, Planned Unit Development District (Kendall Ridge Daycare) to permit a 10,000-square-foot daycare center and associated site improvements. She said the site is northwest of the intersection of Avery Road and Tuswell Drive. She said this is a request for a review and recommendation of approval to City Council for a Planned District rezoning under the provisions of Zoning Code Section 153.050. This is also a request for review and approval of Preliminary and Final Development Plans she said under the provisions of Zoning Code Section 153.050.

The Chair swore in anyone intending to address the Commission in regard to this case.

Nichole Martin presented an aerial view of the site that includes three parcels as well as a vacated City of Dublin right-of-way. She noted that parcels to the south are remnants from the construction of the roundabout at Avery Road and Tuswell Drive. As part of an Ordinance 67-06, she reported the City agreed to vacate the right-of-way just north of those parcels and combined the parcels as well as the vacated right-of-way with the 1.63 acres to the north that is currently zoned as part of the Kendall Ridge Office and Condominium Planned Unit Development; therefore, the total site area is 2.33 acres. As part of the rezoning application, she said Planning reviews the application against the Community Plan and Future Land Use recommendations. She said the daycare use is consistent with the neighborhood Office and Institutional recommendation for density as found in the Community Plan. She explained that rezoning is required for an existing PUD when either general development standards for a geographic area or use and density are unable to be met. She said in this instance, the rezoning portion and Preliminary Development Plan portion is required to incorporate the additional area into a new Planned District as well as permit a density of a 10,000-square-foot daycare facility located on the 2.33 acres.

Ms. Martin said the Final Development Plan portion of this request is as follows:

- 10,000-square-foot daycare;
- 40-space parking lot;
- Three fenced play areas with play structures;
- Dumpster enclosure;
- Sidewalk to the public right-of-way;
- Sign; and
- Additional landscaping.

Ms. Martin added a retention basin located on the western portion of the site provides stormwater management for the proposed development as well as the existing development to the west. She said the structure is oriented with the entrance facing Tuswell Drive as that is the proposed site access.

Ms. Martin said the proposed development text permits the site to be parked at the office parking requirement of 1 space per 250 square feet, or 40 spaces for a 10,000-square-foot building. While the Code requires daycares to provide parking based on staffing levels and enrollment, she reported that several facilities within Dublin have varied from that requirement.

Ms. Martin noted the landscape plans meet the requirement for interior parking lot landscaping and deciduous tree replacement. She said two light poles are located within the parking lot islands but these will be placed at least 10 feet from the trees as required by Code. She said deciduous trees are located every 40 feet around the parking lot; the parking lot is adequately screened with an evergreen hedge.

Ms. Martin said three sections of a low rubble wall are located adjacent to Avery Road and are complemented by landscaping and the wall design matches the walls around the roundabout. The development sign is proposed in front of the rubble wall near the roundabout, she said, and the walls are located outside of the right-of-way but the sign as proposed exceeds requirements and the applicant will need to reduce the size of the sign.

Ms. Martin said the landscape plan shows screening around the playground fence. A deciduous Bayberry hedge and Maple trees will be added, she said, to help buffer the use from adjacent properties. She affirmed that Staff will work with the applicant to substitute Lilac shrubs for some of the Bayberry to improve diversity.

Ms. Martin noted an aerator is proposed within the pond to help circulate the water, improve water quality, and add a visual amenity to the site. She indicated a starburst fountain is typically used within ponds in Dublin though the application does not specify a type; one will need to be identified on the building permit submittal.

Ms. Martin presented the proposed elevations along Tuswell Drive as well as the northern entrance adjacent to an undeveloped site to the north that includes architectural details for this traditional, single-story building to be clad primarily with a limestone veneer and an ivory Stucco finish.

Ms. Martin presented the Avery Road elevation and reported staff has requested that additional architectural detail be provided to have a more substantial and prominent presence along the public right-of-way to be consistent with other developments in Dublin. She indicated that Planning recommends the gas meter be screened and additional foundation plantings are provided along the east façade of the structure to soften the appearance along Avery Road.

Ms. Martin presented the Rezoning and Preliminary Development Plan criteria for which the applicant has met, therefore, staff recommends approval to City Council with no conditions. She said the Final Development Plan criteria have all been met with six conditions as follows:

- 1) That the plans and details be reconciled as to the proposed height of the playground fence, prior to submitting for a building permit;
- 2) That the applicant provide additional architectural detail to add prominence to the east elevation; subject to staff approval;
- 3) That the applicant provide wheel stops for the parking spaces located adjacent to the walkway in front of the building;
- 4) That the sign be revised to meet all Code requirements to be verified at sign permitting;
- 5) That the proposed fencing on the south and east sides of the building be eliminated to minimize landscape maintenance conflicts and to soften the appearance of the structure along Avery Road, unless daycare licensing requirements interfere with this request; and
- 6) That the applicant continue to work with staff, and be subject to staff approval prior to building permitting for the following items:
 - a. Substitute Lilac shrubs for Bayberry in select locations;
 - b. Select an aerator for the stormwater management basin;
 - c. Provide foundation plantings and gas meter screening along the east elevation; and
 - d. Extend the hedge and trees along the entry drive to the right-of-way to help buffer views into the parking lot.

Chris Brown inquired about the placement of the entry drive. Ms. Martin explained location was determined based on the design of the roundabout at Avery Road, 200 feet east of the intersection with Tuswell Drive.

Mr. Stidhem asked how close the entry drive was to the neighbor's drive on the other side of the street.

Mr. Brown said his concern was when one is headed out in the morning, the car lights could potentially shine right into the neighbor's house. Ms. Martin indicated the house was oriented toward Kendall Ridge Loop.

Amy Salay inquired about the rubble wall. Ms. Martin said the intent is to match the character of the stone walls existing adjacent to the roundabout and that the applicant used the term "rubble wall" on their plans. Claudia Husak clarified that the stone is not stacked in mortar, but rather more loosely placed. Ms. Salay asked if that type of wall has durability over time. Ms. Husak said there are some of these walls in Ballantrae and a few stones have fallen. Ms. Salay said she would rather see a stacked wall with stones in place; the walls at Ballantrae are supposed to look like ruins. Ms. Husak said the design is existing in the vicinity so that is why staff thought it was appropriate.

Victoria Newell pointed out that there are a lot of dry-stacked stone walls in Dublin. She said if the walls are properly installed, they will stay that way for a long period of time before requiring maintenance.

Mr. Stidhem said there is a driveway that comes up Tuswell Drive and asked how close the entry/exit is to that person's driveway. Ms. Martin said she did not know the exact distance.

Cathy De Rosa inquired about the fencing. She said the applicant is requesting to have fencing all around the property. She said she also wanted to know staff's reasons for recommending to limit that. She noted the big retention pond behind the proposed building and wondered what type of fencing is required or prudent for that.

Ms. Martin indicated the applicant would be better suited to speak to the daycare needs with respect to the fence. She said generally, other daycares in Dublin that have been approved, have fencing only around the play areas and most of them have been approved for fences that are four feet in height with wrought iron character. She pointed out that the development text of the Kendall Ridge Office and Condominiums allowed for a five-foot high fence, which the applicant has continued in this proposed development text. She said staff is not supportive of the fence along the Avery Road and Tuswell frontages based on the character; however, the applicant has indicated there are some operational needs and potential state licensing requirements that necessitate a fence. She said the City's experience has been that a fence is not required for all sides of the structure to comply with regulations.

Ms. Martin said the original Kendall Ridge Office and Condominiums required the play area for this future daycare to be located in the north and west portion of the site likely to keep a fair amount of distance from Avery and Tuswell Roads. She said the stormwater pond is fairly large so it provides a buffer from the existing residential development to the west. She said an aerator will be installed into the pond to soften any noise. From a safety perspective, she indicated the fence is adequate to prevent children from accessing the stormwater basin.

Andrew Gardner, 6628 Burbank Place, Westerville, OH, said he was with Bird + Bull Engineers and Surveyors and the civil engineer for the Stonehenge Company and Kiddie Academy. In general, he said they agree with the staff's recommendations. He noted there is a height discrepancy on the plans with regard to the fence. He said their intention is to have a five-foot fence around the playgrounds and the fencing elsewhere would be four feet in height. He indicated he spoke with Ms. Martin about decreasing the amount of fencing in front of the building to where the doors are to eliminate it in front of the landscape beds. He said they have to have emergency exits from all of the classrooms. He said the main entrance of a daycare is monitored at all times. The other RC exits (albeit alarmed), need to have that fence outside for added security, he said.

Ms. De Rosa asked what the requirements are for schools and daycares with a close proximity to water. Ms. Husak said there are no zoning rules that address that.

Ms. Newell said some schools have concerns with it and can request a school district to have a fence.

Lassaad Driss, 6331 Meaghan Drive, said he has been a resident for 6.5 years with two little kids. He said his greatest concern is the main entrance that almost faces the condominium to the left and the safety of the roundabout as there is almost an accident there every day. He said now he has to worry about people picking up kids after a long day. He said he is an engineer and if the entrance were to be placed in the back, the problem may be solved. He suggested there are more properties available that would be better suited for this daycare; he is worried about his house value.

Jamie Schroyer, 6121 Tuswell Drive, said traffic was his main concern. Since the roundabout has been put in, the amount of traffic that goes past his house has doubled. He said when the daycare will have holiday presentations, with all the parents invited, there will be cars all up and down their street and

Tuswell is a narrow street anyways. He believes there is only supposed to be parking on one side. He said cars go flying through there; his two daughters are not allowed to play out front unless an adult is out there because the traffic is so bad.

Rajasekhara Vuyyuru, 6323 Meaghan Drive, said his concern is traffic.

The Chair called for more public comment. [Hearing none] She closed the public portion.

Mr. Stidhem asked how long this has been planned to be a daycare. Since 2007, Ms. Martin answered. Mr. Stidhem asked if there is a condominium association to which Ms. Martin answered affirmatively. Mr. Stidhem asked if the developer had made any contact with the Homeowner's Association. Ms. Martin said staff always encourages developers to reach out to the HOAs, but that she is not aware of contact with the residents.

Ms. Salay asked the developer if they had any meetings with the Kendall Association. Mr. Andrews said his representative from Stonehenge was not present and could not answer that question accurately but to his knowledge there were no meetings with the association. He said he did not know that was expected with the zoning process. He said the location of the entrances were dictated by the City Engineers as the entrances had to be a certain distance from the roundabout. He said the drives are not really aligned. He said the information that this could be developed into a daycare has been available as long as that development has been there. He indicated he appreciated the comments from the residents.

Ms. Husak said the Ordinance regarding the right-of-way vacate for old Tuswell showed the access point for this parcel and was approved by Council in 2007. The access for the parcel to the south, if it ever were to develop, has also been approved; the City owns that portion as part of the realignment for the roundabout. Ms. Newell added that this property is already zoned for a daycare facility.

Ms. Newell said she has some questions about the Final Development Plan. She asked that the wrought iron fencing be clarified in the text, which would require an additional condition. She said she cannot recall a single daycare facility that has the whole perimeter fenced in. She said she understands the philosophy that if you really want to contain the children but we have never allowed that. In terms of the current text, she said permitted fencing at the height of five feet when our limitations are normally four feet in height. She said the Commission has made exceptions in the past for daycare facilities. She indicated that if adult daycare facilities requested the same five-foot fence she could not support it. She noted that in the past, the Commission has requested that the applicants break up the fencing with brick or masonry pier.

Ms. Husak said staff had a condition requiring the applicant to clarify where five-foot fencing was proposed and where four-foot fencing was proposed because there were some discrepancies on the plans.

Mr. Gardner said their intention after hearing the concerns on the fence is to go back and discuss with staff ways they can reduce the amount of fencing across the front and side. He said they would like to have fencing across the doorway areas with a gate. He said their intention is for the five-foot fencing to be placed around the play areas, the dividers internal to the play areas will be four foot, and any fencing remaining around the buildings would all be four feet in height.

Ms. Salay said she agreed with Ms. Newell about the perimeter fencing. She indicated she understands the applicant wanting to contain the children but that is a management issue that should be handled internally and to not rely on an external fence. She said she could not support any fence other than the one proposed for the west side to fence in the play area. She said breaking the fence up with stone pillars or landscaping would be needed. She said her concern about fencing across a door hinders emergency exits.

Mr. Gardner offered to sketch what he is suggesting for the front. He said along the back of the building there are a lot of egress doors and that is where the older children are (5 – 6 year olds/school age children) and would like to keep that fencing along the north elevation.

Ms. Salay asked the applicant about details of the fencing. Ms. Newell asked if the proposed fencing had been approved by Building Standards or the Fire Marshall. Mr. Gardner said that still needs to be worked out.

Ms. Salay indicated the proposal is not ready for a Final Development Plan approval.

Ms. Newell recalled that the Building Official and the Fire Inspector were not supportive of the fencing.

Ms. Husak reported she and Nichole Martin conducted a lot of research on other daycare centers in the area and found there are no daycares in Dublin that are completely fenced in as this one is proposed. Most of them, she said, have at least the frontage open for their main entrance. She recalled that Learning Experience that received approval for six-foot fencing and masonry columns around the playground area because it was located at the rear of the site and does not have fencing on frontage but it has fencing on all other sides as does Primrose, Goddard, and Gardner. Ms. Martin clarified that Primrose has play structures on three sides of the building so that is why they have fencing on three sides. She added that generally, daycares that have play equipment in one area will just have that area fenced in; The Learning Experience does not fit that model. They were also granted a six-foot fence with columns in between and a four foot fence along the two other sides but not along the front elevation. She said staff also compared the floor plans operationally and found the daycares are very similar to each other.

Chris Commarota, Kiddie Academy Domestic Franchising, 3415 Box Hill Corporate Center Drive, Abingdon, Maryland 21009, said they are different than the franchises mentioned. He explained they have an open design on the inside of the building and they provide two means of egress because of their design. He said the means of egress to the outside shortens the length of the exit path that the children have to use. He said the two means of egress also require them to conduct fire drills once a month. He explained that the staff member in front and the staff member in back take the children to the area of refuge, which is located likely in the playground area. He said the fence is to help corral the children and guide them to where they need to go. He explained that the purpose of the five foot fence is much more difficult for someone to reach over and grab a child. He indicated there are instances where parents have issues with each other and it is almost impossible for a parent to reach over.

Chris Brown asked why a fence is needed over the infant area. Mr. Commarota said they could sacrifice that. He said they like it on every doorway to promote the safety environment. He said they could compromise on the toddler area but the corridor on the east side is a challenge for them and they were hoping that landscaping would help to reduce the impact on the look of the building.

Ms. Newell inquired about the egress doors out of each classroom and confirmed that all the rooms on the front are toddler and infant occupied and the rooms across the back of the building have older children. She asked what the difference was for the treatment of the fence for the front versus the back. Mr. Commarota answered the infants will be coming out four in a crib and will be wheeled out so they are not a challenge; the children in the toddler room will come out in a buggy and under the control of a staff member; the children in the back (older toddlers) they will be walking with staff.

Ms. Newell said her concern is because the children are contained in that fence area and this has not been typically approved. She said her understanding is when you have a fence on the perimeter of that structure you are detaining someone from egressing the building and the travel distance needs to be

calculated from inside of the building and all along the fence area until they are reaching the designated area. She said before she could approve the fence, she would want to know the travel distance.

Mr. Commarota said they have 186 locations around the country including one that is opening on Monday and those locations have a fence around the building and some of them are larger buildings and all meet that requirement for the length of travel.

Ms. De Rosa agreed that the Commission needs to understand this a little bit more. She indicated the back fence from a water perspective made a lot of sense to her. She questioned what could or should be done around the retention pond.

Mr. Commarota said they have locations in Florida and New Jersey that have much larger retention ponds and staff is trained well to manage that. He said children are not allowed outside of that fenced in area.

Ms. Salay indicated there is additional work that needs to be done and is not comfortable voting on this. She said her concerns are the height of the fence, a revised sign, and a perimeter fence that will take away from the building and would like to see some nice perimeter landscaping on the eastern and southern elevations. She said for the fence along the back, she is interested in the Building Code issue and the distance of travel for egress. She reiterated that there are no other daycares that have a perimeter fence. She said before voting she would like to see the architectural details, fence plans modified, landscape plans modified, and see a landscape wall that is more in keeping with what we have in the roundabout.

Mr. Gardner offered to sacrifice the fencing along the southern and eastern facades and asked if the Commission would be supportive maintaining a fence along the north then.

Bob Miller said he would be in favor of that but it would need to be added as a condition depending on the validation of this travel distance issue.

Mr. Gardner said that is something they could show during the building permit stage and address the fire code issues to present to staff.

Mr. Miller said he supports Ms. Salay's perspective that the east elevation detail is valuable in reviewing this application.

In regard to the elevation, Mr. Gardner said they revised it once by adding a gable feature over the doors on the east and west sides. He asked what the Commission is looking for specifically on that elevation to give it additional prominence. He said a double door was mentioned but he is not sure that would work with the hallway width.

The Chair requested to see the staff conditions again. Ms. Martin presented the original six conditions as well as a draft of the seventh condition per Ms. Newell.

- 1) That the plans and details be reconciled as to the proposed height of the playground fence, prior to submitting for a building permit;
- 2) That the applicant provide additional architectural detail to add prominence to the east elevation; subject to staff approval;
- 3) That the applicant provide wheel stops for the parking spaces located adjacent to the walkway in front of the building;
- 4) That the sign be revised to meet all Code requirements to be verified at sign permitting;
- 5) That the proposed fencing on the south and east sides of the building be eliminated to minimize landscape maintenance conflicts and to soften the appearance of the structure along Avery Road, unless daycare licensing requirements interfere with this request;

- 6) That the applicant continue to work with staff, and be subject to staff approval prior to building permitting for the following items:
 - a. Substitute lilac shrubs for bayberry in select locations;
 - b. Select an aerator for the stormwater management basin;
 - c. Provide foundation plantings, and gas meter screening along the east elevation;
 - d. Extend the hedge and trees along the entry drive to the right-of-way to help buffer views into the parking lot; and

- 7) That the development text be updated to reflect a metal wrought iron style fence be required.

Mr. Stidhem asked for the justification for increasing the 7,500 square feet to 10,000 square feet. Ms. Martin answered from a staff perspective, the request meets the future land use recommendation and Community Plan for density. Ms. Husak said any daycares the City has approved in the last 14 years have been 10,000 square feet.

Mr. Commarota said their average size building is around 10,000 square feet, their largest is 16,000 square feet, and the oldest is smaller at the 7,500-square-foot range. He said the 10,000-square-foot centers came about 15 years ago.

Ms. Salay asked if there is a limit as to how many children are permitted based on square footage. She asked if they have a plan for 182 children maximum here for 10,000 square feet of space to which the applicant agreed. She asked if the square footage was reduced to 7,500 square feet, how many children would they be permitted. Mr. Commarota answered it would reduce the capacity but does not know the exact number. He said that business model may not work for the developer or the franchisee.

Deborah Mitchell said she agrees with her fellow Commissioners about the perimeter fencing and finds the applicant's willingness to reduce fencing is a positive step in the right direction.

The Chair asked the applicant what he would like to do this evening. Mr. Gardner said they formally request to table the Final Development Plan but could get a vote on rezoning.

Ms. Husak said since the rezoning has included the five-foot fence height in certain geographical locations, and the applicant is not currently in agreement with those, it may be beneficial to table both.

Mr. Brown suggested the fence on the north side be kept at four feet and five feet around the play area to discourage abduction from disenfranchised parents.

Ms. Newell said she agreed with the five-foot elevation.

Mr. Brown requested a rendering of the elevation with the stacked wall that shows more prominence and gravity so it reads well from the street such as with landscaping and the elimination of the fence on the east and south side.

Ms. Mitchell agreed and said she does not have an issue with the 10,000 square feet and the business model with this proposal.

Mr. Stidhem highly recommended that the applicant talk with the Condominium Associations to gain their feedback before going on with next steps. He said a proposal is always more powerful when the applicant comes before the Commission with the support of the Condominium Associations and no objections.

Mr. Gardner requested to table both the Rezoning and the Preliminary and Final Development Plan Reviews.

Motion and Vote

Mr. Brown moved, Ms. Mitchell seconded to table the Rezoning, and Preliminary and Final Development Plan Reviews. The vote was as follows: Mr. Miller, yes; Ms. Newell, yes; Ms. De Rosa, yes; Ms. Salay, yes; Mr. Stidhem, yes; Ms. Mitchell, yes; and Mr. Brown, yes. (Tabled 7 – 0)

3. Tree Replacement Fee Waiver 17-041ADM

Administrative Request

The Chair, Victoria Newell, said the following application is a request for an update to the Tree Replacement Fee Waiver policy as requested by City Council. She said this is a request for a review and recommendation of approval to City Council for an Administrative Request to update the Tree Replacement Fee Waiver policy.

Claudia Husak indicated she would provide a brief presentation to allow more time for receiving feedback from the Commission. She introduced two city employees who will help answer questions as they are more knowledgeable about trees: Shawn Krawetzki, Landscape Architect, Parks and Recreation Department; and Brian Martin, Arborist and Landscape Inspector, Planning Division.

Ms. Husak stated there is a requirement in the Zoning Code that requires tree replacement for trees removed and considered protected, which are trees with the 6-inch caliper diameter and above, in good and fair condition, to be replaced inch-for-inch, if development occurs.

Since that Code was adopted, she said, there have been sites that have had a difficult time meeting the inch-for-inch replacement, which prompted City Council's approval for relief of that requirement. Council requested from staff a policy for a Waiver of the Fee-in-Lieu or inches to be replaced and that has been in place now for 16 years. She explained that under the typical Waiver, as it is in place today, there would be an allowance for a replacement of tree-for-tree rather than inch-for-inch for any trees that are less than 24 inches in diameter; trees 24 inches in diameter or greater are considered landmark trees. She added landmark trees are still be required to be replaced inch-for-inch.

Ms. Husak reported that 22 requests were made during those 16 years that Council approved with one request disapproved. She noted Council reviewed a Waiver in the fall of 2016 that was discussed at length; as a result, Council requested that staff follow-up regarding potential modifications to the City's approach to addressing tree replacement waiver requests.

Ms. Husak said a memo was provided to Council April 10, 2017, laying out options or different processes as to how this policy could go forward for updates and Council instructed staff to devise a new policy. She presented the updates proposed:

- Extensive and detailed submission requirements
- Eligibility criteria for wooded sites, preservation percentage, permit required
- Clarifying multi-stem landmark trees
- Tree prioritization based on species, size, health
- Replacement on a sliding scale based on priority
- Permits 33% of replacements as evergreens or ornamental trees

Updates being proposed as part of this revised policy, Ms. Husak said, include more extensive and detailed submission requirements because currently the Tree Replacement Fee Waiver policy is just a policy and not a codified process. She said eligibility criteria was included to address a wooded site and how much of the site/area is actually considered to be wooded. She noted there are not many wooded sites left in the City but as they do come forward and get developed, it is important to have criteria in place. She explained staff is proposing that a percentage be used for preservation requirements so

preservation will remain. She said the most important change is to prioritize replacement based on the species, size, and health of the tree that is being removed. She explained that trees would be identified based on four levels of prioritization, one being the most valuable for trees with exceptional aesthetic quality or historical significance or rareness as determined by the City Forester or designee. She added staff is requesting that replacements could now include evergreens or ornamental trees for up to 33%.

Ms. Husak reported that staff found through its review of the Riviera Development that there should be an allowance for replacements to have a 1.5-inch caliper tree because there is more variety to be had and they grow fast. She indicated that a 1.5-inch caliper tree would reach the growth as a 2.5-inch caliper tree in just a couple of years.

Ms. Husak presented an overview of four developments of examples that have been approved by the Commission: Stansbury, Hawthorne Commons, Riviera, and Autumn Rose Woods. She explained the Tree Waiver analysis she presented and focused on inches to compare Code versus the current Waiver versus the Waiver being proposed by staff this evening. She said staff has conducted a lot of research and there is not a good comparison in other municipalities. She said she has reached out to a few people in the area and it seems a lot of the municipalities look at it from "if development occurs in a PUD, we write it in", but she said that it seemed as though Council preferred an approach where everybody could be treated equally.

Ms. Husak emphasized staff feels strongly about the submission requirements and having more details at an earlier stage as well as prioritizing the replacements based on the types of trees removed.

Ms. Husak said a recommendation of approval to City Council is being recommended.

Chris Brown indicated the proposed Waiver appears to increase the number of inches to be replaced. Ms. Husak agreed.

Mr. Brown said he has planted over 50 trees in his yard over the years, anything from 1-inch caliper to 3.5-inch caliper and he found growth depended on the species as to how fast the root system starts taking off.

Mr. Brown questioned the ornamental percentage being proposed.

Brian Martin clarified that evergreens would be included in that 33% to provide diversity.

Shawn Krawetzki stated the other piece of that is, for edges of wooded areas, you can get more of the dogwoods and redbuds, etc. and that is a perfect place for them to gain a separation in the character of the wood line growing in a more natural way. With the evergreen side, he said, a forest may have more evergreens being cut.

Mr. Brown supported staff's recommendation for submitting a plan for replacement and not just letting the developer do what they want. Ms. Husak added that a developer may have a plan but then when it comes time to plant, the plants they intended to use may not be available so there are a lot of substitutions used.

Mr. Krawetzki said the applicant could explore more of the native palettes because nurseries do not typically grow for commercial sale and the smaller nurseries may not grow the quantity of 2.5-inch caliper trees. From a forestry standpoint, he said, if two trees are planted and both are the same species, and one is a smaller caliper tree, the smaller tree will quickly grow as it adapts to the soil conditions faster.

Bob Miller inquired about the impact of these proposed changes to the applicant.

Ms. Husak said in areas where there are heavy woods with trees growing tightly together, staff would not be able to distinguish one tree from another and if the tree survey states they are all in good condition staff is asking for some marking on these trees for easier identification (tag, ribbon, or something easy to remove).

Ms. Husak addressed the question about replacement being a burden on the applicant. She said it depends on what trees are on the site. She said if there are a lot of large trees, a lot of trees that staff would consider to be in the Priority 1 category, then our proposal would require the applicant to pay more or replace more than what the policy states currently because the current policy does not distinguish what type of tree is being removed.

Deborah Mitchell said adding more dimensions beyond just the measurement of inches is a great idea. She asked if a tree would be categorized based solely on species. Mr. Krawetzki said some of those old, large trees with wonderful canopies will become landmark trees, which are treated differently. Ms. Mitchell clarified landmark trumps species. Ms. Husak said historical value will also be taken into account.

Steve Stidhem inquired about the Fee-in-Lieu requirement. Ms. Husak explained that each development would have an inch requirement for replacement. She said staff would work with the applicant to determine how many inches can actually be placed on site as overcrowding does not allow the trees an opportunity to grow. She said any inches above what is determined to fit on site would be paid as a Fee-in-Lieu.

Mr. Stidhem inquired about the fee amount, which has been \$100 for a long time. He indicated fees can run \$100 - \$175 per inch in surrounding areas. Ms. Husak said ultimately, it would require Council action for an increase in the fee amount.

Cathy De Rosa suggested a statement of intent be added at the top of the policy update. She thought it would help applicants to understand the "why" of our requirement. She asked if the City ever conducts landmark tree surveys of the City. Ms. Husak answered the Girl Scouts volunteered to do it over 20 years ago but it was not necessarily completed professionally.

Amy Salay indicated that landmark trees are identified as sites develop.

Ms. De Rosa asked if it would make sense to do a landmark tree survey.

Vicki Newell said there were naturalists in the community that were great advocates for these things in the past. She indicated the City used to give tours. She recalls that the City has Paw Paw trees and trees that are endangered species.

Ms. Husak clarified that the policy speaks to replacement requirements and not to preservation. Vince Papsidero said preservation is something we could address as other municipalities have; Dublin has just never had a policy written for preservation.

Ms. Salay indicated that she understood the rub at Council was they have given a lot of Waivers over the years and it was not so much preserving trees and it was about money and how much a developer going to have to pay to develop their site. Council had given breaks she thought and there is a legal discussion in this because we could make it completely and financially impractical to develop a site. She cited Autumn Rose as an example; they would not be permitted to cut any trees because they are all landmark trees. Then we have said the site cannot be developed. She suggested there be another discussion about tree preservation and in a more robust way than before.

Ms. Newell directed the Commission to go to the Department of Natural Resources for information as there is a list of endangered plant species whether its trees, plants, or beneficial weeds. She said that information should be considered if move forward with preservation.

Mr. Brown directed everyone to the GIS Survey because it shows different layers that include utilities, endangered species and protected sensitive areas and such and identifies quite a few. He said there are Paw Paw trees, Rock Cress growth, and Columbine identified.

Ms. Mitchell said endangered species and protected sensitive areas will represent value space choices if we choose to go down this preservation path and it is very important to consider. She said one value could be about preserving landmark, large trees, and another would be preserving endangered or rare species. She suggested this be discussed with City Council and others; there should be some guidelines around this.

The Chair asked staff how they would like the Commission to proceed this evening. Ms. Husak responded that staff can address many of the concerns heard this evening in a revised draft but some of the issues might be better addressed during the Code update that Council also requested from staff. She said this policy update was started first.

Ms. Husak said Council has subcommittees that deal with certain subjects in the community and this might be something we could take to the Community Development Committee, per Council.

Ms. Newell said it is one thing to identify a tree as a landmark tree because it is 24 inches in diameter but not everything we will want to preserve is going to be 24 inches and it needs to be included within this text because this is what we are enforcing on the PUDs where just the caliper is discussed. She said we should be considering rare and endangered species as well.

Mr. Krawetzki pointed out that staff has a provision that the City Forester can identify those trees and it is then their prerogative to bump them up to a higher priority.

Ms. Husak said in the policy being proposed, if a tree were put in a higher category based on the City Forester's judgement that it does not require preservation but that is not the intent of the policy. She emphasized that this policy is to alleviate some replacement burden.

Mr. Papsidero said this is a tool to deal with the present issue of the Tree Replacement Waiver requests. He said it would take a true comprehensive effort to look at conservation that would have multiple layers to it including protecting certain species, certain sizes, regardless of this policy.

Ms. Husak said, to that point, we probably would also want to have the development community be part of the discussion.

Ms. De Rosa asked if with this policy going to Council that it also be stated that this is what we have going with preservation and this is what we would address there. She indicated that Council can decide how urgent that is on the list of priorities. She said she likes a value space being incorporated into this policy because it meets the spirit of what we are trying to do.

Ms. Salay said this is really important for Council to hear and reflect on as it goes to the heart of our community values. She said it would be hard to find a Dublin resident that is not all about trees.

Mr. Brown said he thought staff has heard the Commission and will continue to work on refinement of the policy. He said he was ready to make a motion that we approve the Tree Replacement Fee Waiver with a recommendation that staff continue to refine it before final approval by Council while taking into

consideration for conservancy and updating the full tree replacement Code. Ms. Mitchell said she seconded that motion.

Motion and Vote

Mr. Brown moved, Ms. Mitchell seconded to recommend approval to City Council for the Administrative request to update the Tree Replacement Fee Waiver policy as staff continues to refine it before final approval by Council while taking conservancy into consideration and updating the full tree replacement portion of the Code. The vote was as follows: Ms. De Rosa, yes; Mr. Stidhem, yes; Mr. Miller, yes; Ms. Newell, yes; Ms. Salay, yes; Ms. Mitchell, yes; and Mr. Brown, yes. (Recommended for Approval 7 – 0)

Communications

Vince Papsidero said on June 19, 2017, Council has a work session on the Mobility Study and the downtown Dublin Parking Management Study.

Bob Miller inquired about pending development on Hyland-Croy Road. Phil Hartmann indicated that discussions are on-going.

Mr. Miller asked for confirmation that the Dublin City Schools purchased the old Verizon building to use for academic purposes. He asked if rezoning would be forthcoming. Ms. Husak indicated staff has been working with the schools and the rezoning would come before the Commission for review.

Chris Brown noted page six of the Chair Agenda. He told his fellow Commissioners to read it, understand it, and any questions should be directed to Vince Papsidero, Claudia Husak, or Phil Hartmann as to what the Commission's obligations are when voting no.

The Chair asked if there were any additional comments. [Hearing none.] She adjourned the meeting at 8:35 pm.

As approved by the Planning and Zoning Commission on June 22, 2017.