

**ASHTABULA CITY COUNCIL MEETING MINUTES
CITY OF ASHTABULA, OHIO
4717 Main Avenue, Ashtabula, OH 44004**

Public Hearing

Monday, April 3, 2017

The City Council met in a **PUBLIC HEARING**. The President of Council called the hearing to order at 5:15 p.m.

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|---------------------------|----------------------------|---------------------|
| Member(s) Present: | Mr. John S. Roskovics | (Ward 1) |
| | Mr. August A. Pugliese | (Ward 2) |
| | Mrs. Kristy L. Hosken | (Ward 3) |
| | Mr. Michael D. Speelman | (Ward 4) |
| | Mr. Kris E. Hamrick | (Ward 5) |
| | Mr. Christopher J. McClure | (Vice President) |
| | Mrs. Josephine Misener | (Council President) |

Member(s) Absent: None

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|----------------------------|-------------------------------|-----------------------------------|
| Officer(s) Present: | Mr. James M. Timonere | (City Manager) |
| | Mr. Michael Franklin | (City Solicitor—arrived at 5:45p) |
| | Mrs. Dana D. Pinkert | (Finance Director) |
| | Mrs. LaVette E. Hennigan, MMC | (Clerk of Council) |

Officer(s) Absent: None

SUNSHINE LAW: The Clerk of Council certified conformity to the Sunshine Law.

PURPOSE

1. Rezone 317 West 58th Street (PPN-05-117-00-137-00) and 321 West 58th Street (PPN-05-117-00-136-00) from R-2 (Single Family Residence District) to C-1 (General Commercial District), to accommodate the proposed Circle K new construction project. The President announced: In a February 27 letter from the City Manager to this Council President, it was reported that the Ashtabula City Planning Commission, did on February 23, approve Circle K's request for a Conditional Use Permit. For the record, a Conditional Use Permit does not require City Council approval. The letter also reported the Commission voted in favor of rezoning the above two parcels.
2. Amend Codified Ordinance Chapter 1133 (C-3 Shopping Center District) at Section 1133.02 (Permitted Uses) and Codified Ordinance Chapter 1127 (C-1 General Commercial District) at Section 1127.02 (Permitted Uses), for the purpose of allowing "Professional Services Including but not limited to Medical and Legal Services" to locate in both districts.

WELCOME

The President welcomed visitors.

DISCUSSION

Guests: Mr. John Iski, Real Estate Development Manager, Circle K Great Lakes Division and Mr. Bob Wellert, Wellert Corp

1. Rezone 317 West 58th Street (PPN-05-117-00-137-00) and 321 West 58th Street (PPN-05-117-00-136-00) from R-2 (Single Family Residence District) to C-1 (General Commercial District), to accommodate the proposed Circle K project.

City Manager

- This is a diagonal move for Circle K, who is now currently located across the street, facing Main Avenue. The new building will take up property from West 58th Street to Fox Drive on Main Avenue.
- The two residential properties, for which rezoning is requested, will be demolished. Properties on both sides of Fox Drive will remain.

Guests

- The building will look just like the Circle K being constructed on Lake Avenue, which is the first of the new Circle K prototypes - aesthetically and in layout. There will be a lot of green space; more than the Lake Avenue location.
- The current Main Avenue Circle K property is leased, therefore it will be up to the property owner to determine what happens once Circle K vacates. In accordance with the Buster Rules of the Bureau of Underground Storage Tanks, the property owner has one year from the time a tenant vacates to remove gas tanks, if gasoline services are not going to be offered.
- One of the residential properties, for which rezoning is requested, is occupied. It will be July or August before the sale of the properties close. Once the Planning Commission gives site plan approval and Circle K's internal due diligence is complete, the closing will be scheduled and landowners will be given a 30 day notice to vacate.
- Circle K projects are usually completed 120 days from the day the shove hits the ground, weather permitting. The Lake Avenue location is scheduled to be open by the end of this month.
- The last two parcels on Main Avenue near Fox Drive is where the above ground tank detention will be.
- West 58th Street is higher at Main Avenue, heading north. The project will face Main Avenue and would sit higher than Fox Drive to the north, but technically Fox Drive wraps around the corner. It is believed that Fox Drive is higher, going east. So the homes will be higher than the project. The Circle K building will slope down toward the site. The building will sit higher than Main Avenue, but the northern drive will be low to match the road.
- We anticipate a retention wall will not be required to stop erosion. With the acquisition of the two residential properties, coupled with setbacks, grading can be achieved by transferring elevation through the grassy area behind the building.
- If the Planning Commission requires a fence be constructed between the project and the residential properties, a fence will be installed.

- There is a preliminary lighting plan. After this meeting a revised layout will be reviewed because of the acquisition of the extra properties. The standard practice, when against a residential district, is to shield the lights. With the homes being lower than the Circle K building, the lights should not be a problem. The lighting and photometric plan will be demonstrated for the Planning Commission.

QUESTIONS/COMMENTS - COUNCIL AND ADMINISTRATION QUESTIONS

- When asked if the last two properties on Main Avenue towards Fox Drive are already zoned commercial, the Manager responded yes.
- Is the request scheduled to go back to the Planning Commission? The Manager said usually a site plan will have to go back to them for general approval, but that he intends to work closely with Circle K, through his departments. If it is determined that the fence along the rear needs to be higher than 8 feet, a variance would be required and that request would go before the Administrative Board. As discussed in Planning Commission, the way the back of the property slopes, an 8 foot fence might actually be 12 foot from store level, just because of the grading, depending on where they decide to put the fence. Circle K has been very easy to work with. They did some modifications on the Lake Avenue property, which they did not have to do based on our zoning, but did so at our request.”
- The area under the railroad underpass is prone to flooding and gets water coming from West 58th Street, Fox Drive and Main Avenue. What is the plan to mitigate water from the proposed project to lessen the potential for increased problems? The Manager said new construction now requires retention ponds, which are planned to be located on the property. Mr. Wellert said the acquisition of the two extra properties along Main Avenue towards Fox Drive will help.

QUESTIONS/COMMENTS – PUBLIC

Mrs. Leanne Pahkakanas, Resident-Owner - 324 Fox Drive

- She attended the Planning Commission meeting when the rezone request was discussed.
- She expressed gratitude that concerns property owners had about erosion were addressed.
- A landlord told residents he received notice that the fencing behind his house has to be removed. He also told residents their fences were on property purchased by Circle K, and they would also have to be removed. She never received the letter and also has a garage that sits on part of the property said to be purchased by Circle K.
- How far back is the fence/retaining wall going to sit towards Fox Drive, so she knows if she is losing property.
- Mr. Iski: Part of the standard “due diligence” is to survey. Based on the survey, from a legal stand point, their attorney issues a title objection letter. The survey showed a majority of the garage butts up against the Circle K property are on the properties they have under contract. We are not going to come to you and tell you to move your garage.
- She said her property was surveyed when she purchased it.

- Mr. Iski: We went to the owners and said if there's a fence and it's in disrepair, we would like you to take it down. Frankly, we're not going to kill the project if they don't; we'll deal with it in our construction. There were several garages that encroached the property lines – I assume that happens 60/80, I don't know. It's nothing you did; it's nothing I did; and we're not coming to you and saying your garage is 3 feet on our property, tear your garage down.
- She said if she has to remove the fence she has no problem with doing so; but she just would like to know.
- When the President asked Mr. Iski if anyone was going to be asked to remove any structures or fencing; he responded, "No, not at all".
- Mrs. P: Most of the homes are two-story homes. The master bedrooms are on the side that will abut Circle K. Her husband's work schedule is such that he needs to sleep during the daytime hours; therefore she was glad lighting was addressed.
- We are not opposed to the project. They want to inquiry and address potential concerns prior to construction, so they will be informed.

DISCUSSION

2. Amend Codified Ordinance Chapter 1133 (C-3 Shopping Center District) at Section 1133.02 (Permitted Uses) and Codified Ordinance Chapter 1127 (C-1 General Commercial District) at Section 1127.02 (Permitted Uses), for the purpose of allowing "Professional Services Including but not limited to Medical and Legal Services" to locate in both districts.

City Manager:

- The City has C-1, C-2 and C-3 residential zoning; M-1 Light Industrial; M-2 Heavy Industrial.
- As zoning progresses from C-1 to M-2, there are lists of acceptable uses.
- Everything allowed in C-1 is allowed in C-2, plus additional X Y Z type businesses.
- The Ashtabula Plaza, on Lake Avenue where Premier Fitness is located, and which the Ashtabula County Medical Center purchased, is the only C-3 (Shopping Center District) parcel in the City.
- Times have changed and various type businesses make more sense along C-1 and C-2 corridors.
- The request is to permit Professional Services, such as, legal and medical offices, to be allowed in C-1 and C-3 zoning districts. Presently they are listed as a "conditional use" in C-1, which means each time such a business type wants to locate in C-1 they have to make application, "we would deny it", and then it would then go to the Planning Commission for approval.
- The recommendation for rezoning is being made because such requests would receive Planning Commission approval anyway, so why not make it more "business friendly".
- He cannot think of a space in the City where legal and medical offices could not be located
- Persons interested in projects that locate in commercial districts are usually last minute and are on a tight timeframe.
- It is the Planning Commission's recommendation to amend C-1 and C-3 zoning districts to permit legal and medical offices, which would, in turn, be permitted in all zoning districts in the City to allow such uses.

CITY COUNCIL AND ADMINISTRATION QUESTIONS and/or COMMENTS

- Railroad property abutting the Lake Avenue plaza was discussed.
- The Manager said not all areas located against railroad tracks are zoned M-1 or M-2; some are zoned residential, such as in the Chestnut area.
- The Manager said the language only would have to say “Professional Services” because legal and medical would be encompassed therein.
- The Clerk of Council asked if “Professional Offices” will be defined, since the verbiage being suggested is “including but not limited to”. The Manager said it could be a dentist office (which would fall under medical), a Certified Public Accountant (CPA), etc. He said the Solicitor suggested “Professional Offices” when he told him he needed to rezone for medical use.
- The Solicitor said he believes the language he suggested was Professional Offices, including medical and legal offices; and that professional services are services that would include accounting, potentially insurance offices – it would be offices where services are provided that require some sort of educational achievement or professional certification in order to hold oneself out as offering the services – an investment broker, investment counselor – those sorts of things. It would be different from services such as massage therapy, tattoo parlor, or the like.
- The Ward 1 Councilor inquired about the statement, “No building could be designed, constructed or altered for use for dwelling purposes”. He said since ACMC bought it, if someone is there receiving treatment overnight or if down the road it is used for a nursing facility, would that be considered as “dwelling”. The Solicitor said “that would be very different”.

The Ward 1 Councilor recognized the presence of Ashtabula County Medical Center (A.C.M.C.) President & CEO Mr. Michael Habowski, and said, “What a wonderful facility we have, how lucky we are to have that, and the fact that they’re even going to do more for our community; as a Councilor, I really just appreciate that. So, thank you for being here for this.”

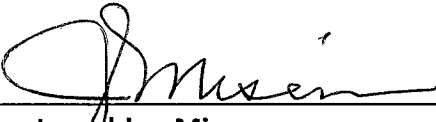
ANNOUNCEMENT

The President announced that, by law, no formal action may be taken at a public hearing. The rezoning of C-1 and C-3 districts is scheduled for a vote at this evening’s Regular Council meeting. The Clerk announced there is no legislation to address the Circle K request. The Solicitor said the legislation will be ready for the April 17 Regular Council Meeting.

ADJOURN

Hearing no further business to come before this Council, the President adjourned the Public Hearing at 5:33 p.m.

DATE APPROVED: May 1, 2017

ATTESTED BY: 
Josephine Misener
President of Council

ATTESTED BY: 
LaVette E. Hennigan, MMC
Clerk of Council