

PLANNING COMMISSION  
Regular Meeting  
Council Chambers  
100 W. Spring Valley Road  
Tuesday, January 28, 2020

At 7:00 p.m., Mr. Clark called the meeting to order and led the Pledge of Allegiance.

**ATTENDANCE**

Members Present: Paul Clark, Kevin Von Handorf, Robert Muzechuk, Bill Etson, Jim Durham, Amy Korenyi-Both, and Don Stewart.

Also present were City Planner Mark Yandrick, Municipal Attorney Scott Liberman, Assistant City Planner Joey O'Brien, Development Director Michael Norton-Smith, City Engineer Jim Brinegar, Staff Engineer Taylor Schindler, and Assistant Clerk of Council Donna Fiori.

**APPROVAL OF MINUTES**

No additions or corrections were submitted for the minutes of the Planning Commission meeting of December 17, 2019.

MOTION: Mr. Stewart made a motion for approval of the minutes of the Planning Commission meeting of December 17, 2019. Mr. Muzechuk seconded the motion. The motion passed 6-0-1, with Mr. Etson abstaining.

Mr. Clark read a statement for all present noting protocol for conduct of business during the meeting.

**PUBLIC HEARINGS**

**Application P-2019-0039: Rezoning, E. Whipp Rd. and Old Whipp Ct.  
Speedway LLC.**

Mr. Yandrick presented the staff report for the request by Rob Sweet (McBride Dale Clarion) on behalf of Speedway LLC to rezone approximately 1.73 acres of land, located at 5495 Wilmington Pike And East Whipp Road, from O-S, Office Service Zone classification, to B-2, General Business Zone classification in order to facilitate the possible future expansion of Speedway. Mr. Yandrick detailed the request to rezone with a presentation of background information, site specifics, staff analysis, and standards of approval. Mr. Yandrick advised Staff recommends approval.

Mr. Durham noted the 1999 rezoning decision of this property from R-3 (Multi-Family Residential) to O-S (Office-Service) was based on the fact residential use was not practical at this location, not because it was thought to be a less intense use as indicated in the staff report. Mr. Yandrick stated his information was obtained from minutes and noted the correction.

Mr. Durham inquired if the U.D.O. has restrictions for commercial traffic when a commercial property abuts a residential street and what does the U.D.O. require for screening in a front yard for property zoned B-2. Mr. Yandrick indicated the U.D.O. has no restrictions regarding commercial property abutting a residential street and screening in a front yard requires 2 canopy trees and 6 shrubs every 100'.

Mr. Liberman was asked if the City could prohibit vehicular access onto frontage to a public street. Mr. Liberman stated it could be restricted as part of the site plan process as determined by engineering. Jim Brinegar stated the City has some control over driveway locations based on safety and design; there are no set standards.

Discussion occurred about the history of Speedway's original arrangement on this property. Mr. Durham inquired what the minimum requirement based on B-2 zoning is for buffering. Mr. Liberman stated adjacent to a public street 10 feet is the minimum required. Mr. Durham expressed his concerns that rezoning would negate Speedway's original arrangement and allow future landowners to only be required to meet minimums for bufferyard, lighting and screening. Mr. Liberman pointed out a site plan approval would still be necessary.

Mr. Clark opened the public hearing.

Applicant Rob Sweet, with McBride Dale Clarion representing Speedway LLC addressed Planning Commission providing details on their need to rezone the property in order to add to the company's land bank for potential future modernization. Mr. Sweet acknowledged the screening, buffering, and access concerns stating the desire to emulate what's there now and to address safety concerns.

Mr. Logan Hall of 2591 Old Whipp Ct. addressed Planning Commission stating concerns with traffic exposure. Mr. Hall spoke in support provided proper buffering and abated light pollution.

With no one else requesting to speak on this matter, Mr. Clark closed the public hearing.

Mr. Durham asserted currently the property is in accordance with the U.D.O., which is in place to protect and buffer residential properties as well as preserve home values. The Commission discussed although buffering requirements are the same for both an O-S and B-2 zoning, relevant differences would be increased vehicular traffic and hours of operation in a B-2 permitted business.

MOTION: Ms. Korenyi-Both made a motion to approve. Mr. Von Handorf seconded the motion. The motion failed 0-7.

**Application P-2020-0001: Variance, 6500 Clyo Rd.  
Vectren Energy Delivery of Ohio.**

Mr. O'Brien presented the staff report with a presentation of each variance request, background information, site specifics, staff analysis, and standards of approval. Mr. O'Brien advised

Planning Commissioner a letter from a citizen in opposition to the variance requests was placed at their seats for review.

Applicant is requesting three variances which include:

1. Requesting a front yard fence height of 6 feet.
2. Requesting a chain link fence in the front yard.
3. Requesting a fence with barbed wire.

Mr. O'Brien advised Staff recommends approval of all three variances with no conditions.

Mr. Durham contended neither the standards of a unique circumstance or condition nor proof of hardship related to the chain link fence exist. Mr. Liberman verified a practical difficulty or hardship in using the land without the variance would have to exist.

Mr. Clark opened the public hearing.

Mr. Bryan Magoteaux, of Wenco Construction maintained there was existing chain link fence on the property and the addition of new chain link fencing would be set back and shielded by the wooded area along Bigger Rd.

With no one else requesting to speak on this matter, Mr. Clark closed the public hearing.

Mr. Durham expressed support of variance #1 based on practical difficulty related to the safety a 6 foot fence would provide. Mr. Durham spoke in opposition of variance #2 and #3 stating no legal basis for practical difficulty was presented. Mr. Stewart supported the statements of Mr. Durham.

Mr. Von Handorf pointed out the aluminum fence proposed indicates it can serve the same purpose as chain link; therefore, no hardship exists.

MOTION: Mr. Durham made a motion to approve variance #1. Ms. Korenyi-Both seconded the motion. The motion passed 5-2.

MOTION: Mr. Durham made a motion to approve variance #2. Mr. Muzechuk seconded the motion. The motion failed 0-7.

MOTION: Mr. Durham made a motion to approve variance #3. Mr. Von Handorf seconded the motion. The motion failed 0-7.

## **OLD BUSINESS**

### **Application P-2019-0038: Major Site Plan, 6500 Clyo Rd. Vectren Energy Delivery of Ohio. (Tabled at previous meeting)**

MOTION: Mr. Durham made a motion to remove the item from the table. Mr. Etson seconded the motion. The motion passed 7-0.

Mr. O'Brien presented the staff report with a presentation of the project proposal, site specifics, staff analysis, and standards of approval. Applicant is proposing to construct a 150-foot access driveway with a gate to access Bigger Rd., connecting to an existing parking lot, and create a 10' x 20' parking space outside proposed gate for AT&T utility access.

Mr. O'Brien advised Staff recommends Approval with the following three (3) conditions:

1. The applicant shall address all City Engineering comments for the Construction Document submittal.
2. The applicant shall coordinate with all utilities, including Montgomery County Environmental Services and Dayton Power & Light, for the Construction Document approval.
3. The applicant shall provide curbed landscape beds on the hashed areas of the existing parking spaces on the east parking lot in accordance with the U.D.O. parking lot landscaping requirements.

Mr. Clark and Mr. Durham requested clarification regarding ingress and egress for the proposed driveway expected to be majority employee vehicles not large trucks as was indicated in the December meeting. Mr. Yandrick stated the applicant could better address the question.

Mr. Von Handorf inquired about the 7.5% slope on the driveway. Mr. Brinegar indicated Staff would work with the applicant during construction document phase to reduce the slope to be closer to a typical 6% slope.

Deborah Hudson, Facility Manager of Vectren Energy, addressed Planning Commission, clarifying the intent of the driveway was to improve traffic flow through the property, alleviate backup and improve safety on exiting at the end of the day, and provide employees secure parking. Employees and lite duty utility vehicles would utilize the new access drive, while the larger utility vehicles would still utilize the Cloy Rd. entrance and exits.

MOTION: Ms. Korenyi-Both made a motion to approve the major site plan with conditions recommended by staff. Mr. Muzechuk seconded the motion. The motion passed 6-1.

## **NEW BUSINESS**

### **Selection of Vice Chair for Planning Commission**

The Rules of Procedure for the Planning Commission require the annual appointment of a Vice Chair for the Planning Commission. Mr. Clark announced that Mr. Von Handorf was his nomination to continue in the role as Vice Chair of the Planning Commission.

MOTION: Mr. Etson made a motion to appoint Mr. Von Handorf to the office of Vice-Chair. Mr. Durham seconded the motion. The motion passed with a vote of 7-0.

**COMMUNICATIONS**

Mr. Norton-Smith discussed an update on the Centerville Place projects, which were withdrawn.

Mr. Yandrick provided the following communications:

- Two variances are on the agenda for the February meeting. One for signage on a water tower and the other for a 6 foot fence in a front yard at the water tower.
- Anticipate a few site plans and development plans for March and April meetings.

Mr. Muzechuk inquired about the status of water towers at Cornerstone North. Mr. Brinegar stated we have not received any plans for a water tower but it is possible we may not if they decide to place it in the township. All water review is handled at Greene County level. The project is moving forward, but no additional information is available.

Mr. Durham requested to be excused from the February 25 meeting.

**ADJOURNMENT**

Seeing no further business, Mr. Clark adjourned the meeting at 8:22 p.m.



---

Paul Clark, Chair