

**CITY OF WEST CARROLLTON
PLANNING COMMISSION
May 3, 2018**

Members Present

Dominic Rinaldi
Rebecca Lucas
Roger Gibson
Kim Hagerman
Douglas Fields

Members Absent

Staff

Greg Gaines, Director of Planning and Community Dev.
Carl Enterman, Chief Code Enforcement Officer
Connie Lewis, Planning Secretary

City Council Liaisons

Amanda Zennie
Leanne Nash

City Council Members

None

Mr. Rinaldi called the meeting to order at 6:00 p.m. Following the Pledge of Allegiance, the roll call was taken with all members present except Mrs. Hagerman. (Note: Mrs. Hagerman arrived at 6:25 p.m.)

APPROVAL OF AGENDA

Mr. Rinaldi asked if there were any proposed changes to the agenda as published. There being none, Mrs. Lucas made a motion with a second by Mr. Gibson to approve the agenda. The motion was approved.

APPROVAL OF MINUTES

Mr. Rinaldi asked if there were changes or corrections to the minutes of the meeting of December 7, 2017. There being none, and Mr. Gibson made a motion with a second by Mrs. Lucas to approve the minutes as written. The motion was approved.

PUBLIC HEARINGS

CU-18-1, 347 W. Central Ave. (Elite Tint and Graphics)

Mr. Rinaldi explained the procedures for conducting a public hearing and opened the public hearing. Mr. Gaines was sworn in for testimony.

Mr. Rinaldi asked if proper public notice of the application had been given. Mr. Gaines said that a legal notice was published in the Miamisburg-West Carrollton News, notices were mailed to abutting property owners, a sign was posted on the property, and the public hearing was advertised on the city's website.

Mr. Rinaldi asked if any Commission members had any potential conflicts of interest which might jeopardize their ability to render an unbiased decision on the application. Commission members disclosed none.

Mr. Rinaldi asked if any Commission members had any ex parte communications to disclose, including letters, phone calls, e-mails, site visits, and conversations, which might influence their decision on this case. Mrs. Lucas noted that she drove by the property.

Mr. Gaines presented the staff report dated April 27, 2018, which was entered into the official record as Exhibit 1. That report and PowerPoint presentation are attached.

Mr. Enterman presented the narratives describing code enforcement violations by the applicant concerning operation of his business.

Mrs. Lucas asked if the storage container shown in one of the property photos was on the subject property and if there was any public safety issue because it was open. Staff confirmed that it was on the property. Mr. Enterman replied that he observed no safety issues. He stated he did not know if it was empty.

Mrs. Lucas asked if the application were to be approved and the conditions were not subsequently met, could the approval be rescinded. Mr. Gaines replied that the enforcement of the conditions would fall to staff. If the conditions are met, a final Certificate of Occupancy would be issued. In the past, a Temporary Certificate of Occupancy has been issued to allow the business to open, but ultimately all conditions must be met to receive the final Certificate of Occupancy. Mr. Enterman stated that a Certificate of Occupancy could be revoked in the event the conditions are not met. The Conditional Use approval cannot be revoked.

Mr. Gibson asked if the building was still condemned and how long it would remain condemned. Mr. Enterman stated that the condemnation would be determined by the outcome of the hearing.

Mr. Gibson asked for confirmation that there was suspected illegal activity at this business. Mr. Enterman replied that during staff's investigation they were informed of possible illegal drug activity at that location regarding the applicant. That information has been referred to the Police Department and they are looking into an investigation.

Mr. Fields asked if Mr. Enterman noticed any maintenance activity other than window tinting at that location. Mr. Enterman stated that he has not seen other activity.

Mr. Gibson asked if the nonconforming house on the property would have an impact on the application for Conditional Use. Mr. Gaines stated the house is grandfathered and can continue its residential use until it is discontinued for six months.

Mrs. Lucas asked if the tan storage building was part of the application. Mr. Gaines replied that because it was not included in the information submitted he assumed that it was not part of the application. He said he did not know how the storage building was being used and that may be a question for the applicant. Mrs. Lucas stated that she had read in the narrative that someone had been seen exiting the storage building. Mr. Enterman confirmed that on three separate occasions an older male subject had been observed leaving the storage building and entering the subject business location.

Mr. Rinaldi asked the applicant to step to the podium. Kraig Hunley, 6117 Carnation Rd., Dayton, stated that the applicant could not attend the meeting. Mr. Hunley took the Affirmation for testimony. He then noted that he uses the storage building for personal use. He stated that the applicant had given a 30-day notice at his previous business location, and it took 60 days to complete the application process for the Conditional Use. The applicant was simply trying to make money to support his family. Mr. Hunley stated that he told the applicant not to use the building until he had the Certificate of Occupancy, but apparently the applicant would sneak in to do work occasionally. Mr. Hunley stated that he had not seen drug activity on the property and he hoped the application would be approved because the applicant could make the business work.

Mrs. Lucas asked for confirmation from the owner that the applicant would be using the storage building. Mr. Hunley replied that all that was included in the agreement was the front three bays and the office area of the building. He does not have access to the rear two bays. He confirmed there are three exit doors.

Mr. Fields asked if the applicant planned to do work other than vinyl in the future. Mr. Hunley stated that the applicant actually wanted to do anything related to automotive work.

Mrs. Lucas asked if Mr. Hunley knew why the applicant could not attend. He replied that as far as he knew, for the last few days his father had been ill and lives in Chicago. The applicant did not return his call.

Mr. Fields asked if the applicant had a plan to get help with keeping up with some of the code violations that were outlined. Mr. Hunley said the applicant has one employee who helps him along with his wife and a child.

Mr. Hunley commented that the parking lot does not have room for six parking spaces. He plans to seal the asphalt on the lot this year when blacktop becomes available. Mr. Hunley said that he needs cash flow to continue upkeep on the property.

Carol Hunley, owner of the property, 6117 Carnation Rd., Dayton, took the Affirmation for testimony. She was given permission by the Commission to direct a question to Mr. Enterman. Mrs. Hunley asked him if something illegal was happening regarding drugs. Mr. Enterman replied that it was an ongoing investigation and that he could not comment. When Mr. Enterman confirmed that the investigation involved the applicant, Mrs. Hunley stated that the applicant would not be there if there is even a suspicion of that activity. She said it makes her angry because he has not paid rent and he has no right to be working there.

Mr. Rinaldi asked for comments in favor of the application. There were none. Mr. Rinaldi asked for comments in opposition to the application. There were none.

Mr. Rinaldi asked for further comments by the Commission. Mrs. Lucas stated that because the applicant did not appear at the public hearing and could not agree to the conditions, it raises serious concerns as to his dependability to adhere to the conditions. She understands the need for the owners to have an occupant in the space but felt that it needed to be the correct occupant. The safeguards for public health, safety and welfare seem to be in question with the applicant's disregard of the city's direction and the understanding of what it takes to operate a business and being a success, and she is not sure he will run it the right way.

Mr. Fields stated that he also had a concern because the applicant did not appear. He felt that perhaps the applicant was taking on more than he was able to handle in his failure to comply with several code violation issuances. Mr. Fields would have liked to question the applicant personally regarding future operations of expanding into mechanic operations and his ability to comply with such EPA requirements as the handling of oil and antifreeze. Mr. Hunley stated that there are containers in the building for handling the oil and antifreeze. He also said that he would make sure any requirements would be met or the lease would be terminated.

Mr. Gibson asked why the applicant still had access to the building if no rent had yet been collected. Mr. Hunley said he gave him access so he could clean the building, paint the walls, clean the floors and do the work to prepare the space. The bay floors were completed. He fell short because he began running out of money. Mr. Gibson asked if he was concerned that the work was not completed and suggested that it would better to seek someone who could pay the rent and meet those requirements. Mr. Hunley said he tried to find other tenants but was unsuccessful. There were three or four people interested in automobile sales, but that also is a conditional use. Mr. Hunley said that he had checked the applicant's previous location in Miamisburg; the applicant has a contract with Spectrum and DHL to prepare their vehicles and he felt that he would be an appropriate tenant and saw some of his potential in the work that was done. Mr. Gibson asked where the work was being done for Spectrum and DHL. Mr. Hunley said that he had seen a couple vans in the building but when the violation was issued Mr. Hunley said that he told the applicant that he could not work in the building. He said the work then stopped.

Mr. Rinaldi said that he had seen a picture online of the applicant working on a DHL van but it was on DHL property. Mr. Hunley replied that he thought the applicant had recently done some work on Valley Street in Dayton in a parking lot. He said he would assure that the applicant would comply with all regulations.

Mr. Fields said that owning a business is a continuous expense. Hearing that he could miss some rent payments and maybe not be able to comply with the codes, he is concerned that he would not be able to keep up with more expense and more burdens. Mr. Hunley said that many of the items inside the building are his responsibility as the owner. He said he could rent the additional bay to him if business would increase. However, Mr. Hunley said he would not fix the applicant's problems.

Mrs. Lucas said that promises do not translate into the fact that the Commission must make a decision when the applicant is not present to address the issues and that she feels that she cannot approve the application based on the evidence and facts presented.

Mr. Rinaldi closed the public hearing. There was a motion by Mrs. Lucas to approve the resolution with conditions outlined; there was a second by Mr. Fields. Roll call vote revealed the following: Mr. Fields – no; Mr. Gibson – no; Mrs. Hagerman abstained because she was not present for the first 30 minutes of the meeting; Mrs. Lucas – no by her prior statements; Mr. Rinaldi – no because the applicant had demonstrated a persistent lack of regard for the law and suggested even on social media he was prepared to evade code enforcement and persisted in operating his business illegally. The motion was denied.

Mr. Rinaldi explained that a written copy of the decision will be provided to the applicant and other interested parties. An appeal may be filed as provided by Section 154.05.04 of the Zoning Code and State statutes.

Mr. Enterman left the meeting.

DECISION ITEMS

Election of Officers

Mr. Gaines stated that in the past the election of officers had gone by succession but since there are new members, staff recommends that a slate of the three experienced members be nominated to the positions of Chair, Vice Chair, and Secretary.

Mr. Rinaldi stated that he would be willing to continue as Chair. Mr. Gibson thought that it was a good idea and nominated Mrs. Lucas as Vice Chair. Mrs. Lucas nominated Mr. Gibson as Secretary.

There was a motion by Mrs. Hagerman and second by Mr. Fields to approve the proposed slate of officers for the 2018 calendar year. The motion was approved unanimously by roll call vote.

DISCUSSION ITEMS

Development Concept for 1515 S. Elm St.

Mr. Gaines stated that the owner of the property at 1515 S. Elm St., Mr. Gordy Mann, was present after having discussions with Mr. Gaines and Mike Lucking, Economic Development Director, regarding development of the property. The current zoning is B-1, Convenience Commercial District. Mr. Gaines suggested Mr. Mann come before the Planning Commission to get the Commission's informal feedback before spending time and money on a formal application.

Mr. Mann provided history of his involvement in West Carrollton. They have invested in West Carrollton since 1981 when he owned a convenience store on Imperial Rd. He has owned the Elm St. property since the mid-80's. Mr. Mann stated that he has had interested parties approach him about building a convenience store with a gas station at 1515 S. Elm St., which he believes would help with traffic. The gas station is not a permitted use in the B-1 district and therefore it would have to be changed to PUD. He said that the Ameristop across the street has a gas station in that PUD district.

Mr. Mann said he has mowed the grass for 25 years and has observed that when people are walking on Alex Rd. they have no concern for traffic, which is a safety issue. He also had observed that vehicles traveling north on Alex Rd. from SR 725 create a safety hazard turning into Ameristop.

Mr. Mann stated that in the late 1980's a convenience store with a drive thru was proposed and approved on the property. At that time it was agreed that northbound traffic on S. Alex Rd. could enter the property but could not exit onto S. Alex Rd., thus requiring an exit onto S. Elm St. Mr. Mann stated that after his father passed away in 2001, they decided not to proceed with the project. The convenience store on Imperial Rd. was closed in 2003. Mr. Mann stated that 1515 S. Elm St. is the only corner that is not developed and if they could develop it, it would help with the family income and benefit the city with property taxes as well. He would be willing to do whatever the City wants. He believed that a gas station would be their only specific request for the development.

Mrs. Lucas asked for clarification that the parcel in question was only the one on the corner and that was confirmed.

Mr. Gaines stated he believed that a Rite Aid had previously been proposed for that property. Mr. Mann confirmed that was true, but the project did not come to completion and the land lease expired. Rite Aid had only leased one of the two and one-half acres on the parcel.

Mrs. Lucas asked Mr. Mann if he was proposing now to develop the entire acreage. Mr. Mann replied eventually they would develop the entire property but the initial phase would be just the convenience store and gas station. He said he would have to see what else would be allowed for the parcel.

Mr. Gibson commented that he believed excavation had begun for the Rite Aid project. Mr. Gaines said that was his understanding as well. Mr. Gibson stated there was a question whether bedrock had been discovered during the excavation and that is why the project stalled. Mr. Gibson questioned whether a gas station would be able to be constructed at this location if bedrock was a problem. Mr. Mann said that it was the first time he had heard that information. He also mentioned that Ameristop across the street has tanks in the ground. Mr. Gaines said that staff was discussing this issue, and if the bedrock is what stopped the Rite Aid project then gas tanks would not be able to be located there.

Mr. Gibson then asked Mr. Mann if he had an alternative plan for the property. He said he recalled that there were issues with bedrock and it would be an important first step to ascertain if bedrock was the issue. Mr. Mann replied that the area where excavation occurred has been restored and the vegetation has grown back. He also stated that a sewer system has been installed and it had to be deep enough for that property. Mr. Mann said he would find out how deep the gas tanks must be in the ground.

Mr. Fields asked if a gas station was Mr. Mann's only consideration currently and Mr. Mann replied that it was. He had received interest only for a gas station.

Mrs. Lucas asked if there would be an impact on the residents in the area and how it would fit into the Comprehensive Plan. Mr. Gaines stated that he and Mr. Lucking had preliminarily indicated to Mr. Mann that they did not think staff could support the gas station part of the proposal for that reason. He said that was the reason he suggested that Mr. Mann appear at the Commission meeting, in order to get feedback from the Commission members. He said that the PUD regulations for the property across the street (South Alex Planned Unit Development) actually do not allow a gas station. The gas station may have been installed under a previous zoning designation for the area, which would make it non-conforming use which is allowed to operate until the use is discontinued for six months or more. Mr. Gaines said that there are a significant amount of residential properties in the area, both single family and multi-family, and that proximity would be a concern.

Mrs. Hagerman asked what the zoning was on the two parcels behind Mr. Mann's property. Mr. Gaines said that all of the parcels are B-1.

Mr. Gaines noted that he explained to Mr. Mann that staff makes recommendations to the Planning Commission, which then recommends to City Council for a final decision on a rezoning. Even though staff may not recommend the proposal, Mr. Gaines said that he would work with Mr. Mann to present his best option for approval. Mr. Gaines discussed the various zoning options for the property.

Mr. Fields stated that he could see a convenience store being successful in that space even though there is one across the street and Mr. Gaines agreed.

Mr. Mann noted that Mr. Lucking had said they could work on the gas station operation with conditions such as hours of operation and lighting.

Mr. Gibson said he agreed that a convenience store may be a good idea but suggested that the first step was to see if the bedrock exists to determine if a gas station is even a possibility. He asked if Mr. Mann would be open to a convenience store in that location and Mr. Mann replied that he did not believe the parties would be interested without the gas station. He said he must get some positive feedback from the Commission for a gas station before he could move forward checking the bedrock. However, without approval he would not spend the money.

Mrs. Lucas stated she needed more time and more information before a recommendation can be made. Mr. Mann asked to simply know if the Commission would be inclined to approve it. Mrs. Hagerman said she would be somewhat inclined to support a gas station at that location with some conditions.

Mr. Gibson said he agreed, stating that he did not feel that there would be a high impact on the residential areas if it was a suitable plan and landscaped properly.

Mr. Gaines clarified to Mr. Mann that any indication received at this meeting was not a guaranteed approval.

Mr. Fields stated that he had to see a plan first before making a recommendation.

Mrs. Lucas said that part of the discussion would be to rezone to PUD rather B-2, and that she is not necessarily opposed and is open to considering the proposal.

Mr. Rinaldi stated that the PUD rezoning would be a benefit to the city for controlling the use of the property.

Mrs. Lucas asked if all three parcels would be rezoned. Mr. Gaines stated that Mr. Mann would be requesting rezoning for his property only, unless contact is made with the other two owners and they agree. Or, the rezoning could be city-initiated but there is no way to know if all three owners would be agreeable to the change.

Mr. Mann said he would explore the bedrock situation on the property.

Report by the Director

City Council will review the West Central Avenue Strategic Plan for adoption on May 22.

Staff is preparing two applications for CDBG grant funding: streetscaping improvements in the Carrollton Center/Olde Downtown commercial area; and demolition of 38 N. Walnut St. The City will likely be applying to obtain the Walnut St. property through the county's Expedited Foreclosure program.

The Farmersville-West Carrollton Rd. study is in progress and is being conducted by the same company that prepared the West Central Avenue Strategic Plan.

20 N. Miami Ave. has been demolished with grant money obtained from the Land Bank.

The City acquired the lot at the northeast corner of Miami and Central Ave.

Mr. Gibson asked if the apartment building at the corner of Main and Miami was for sale. Mr. Gaines did not know if it was for sale.

Wendy's is planning an upgrade to their building and Planning Commission will review that case when the application is submitted.

Mr. Gaines has also been contacted by McDonald's regarding an upgrade to the restaurant.

In April, Building Inspection processed 102 permits.

The vacant Code Enforcement Officer position has been filled by Glenn Gentry, who is a retired police officer with the city of Kettering. Mr. Gentry will be a good addition to the code enforcement team.

Mrs. Hagerman asked for an update on the former Auto Spa property. Mr. Gaines said that Kettering Health Network must first get the project into their capital programming, and as such their schedule is unknown at this time.

Mrs. Lucas said that Gray's Self Storage on S. Elm St. was approved with the condition was that there would be no outside storage, but there is now quite a lot of outside storage. Mr. Gaines said that staff had been in contact with them a couple times in the past and he would notify staff to check the property.

Mr. Gibson asked if progress has been made in changing the fees for food trucks. Mr. Gaines replied that there has not been.

Mr. Gibson asked for an update on 630 E. Dixie Dr. Mr. Gaines said it is his understanding that the owner planned to construct a building on the site but plans have not been submitted.

Briefing by City Council Representatives

Ms. Nash thanked the commissioners for their commitment to the community.

Mr. Gibson asked if demolition of Carrollton Plaza is still planned for this year. Ms. Nash asked Mr. Gaines to address the question. Mr. Gaines stated that demolition is still planned for this year and that Mr. Lucking is working with remaining tenants to secure new locations.

Mr. Gibson asked for the status of the former Green River building on Marina Drive Mr. Gaines stated that the prospective tenant has not contacted the City for some time. Mr. Gaines said that the City is getting close to almost full control of the riverfront and this year will have a clean shovel-ready site at Carrollton Plaza that will present some great opportunities.

Mr. Gibson asked if there is interest in the Fraser site. Mr. Gaines stated that Mr. Lucking was having serious discussions someone interested in developing the property. Mr. Gaines complimented Mr. Lucking for the working he is doing in Economic Development.

Mrs. Hagerman asked about the watertower at the Fraser Site. Mr. Gaines said that the West Central Avenue Plan proposed keeping the watertower. City Council must adopt the plan first and then there would be discussions regarding the site.

Mrs. Zennie commented that the meeting was very interesting and complemented the Commission for keeping the vision of the city in mind.

Unscheduled Business

There was no unscheduled business.

Next Meeting

The next Planning Commission meeting is scheduled for June 7, 2018, at 6 p.m.

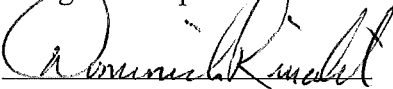
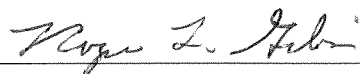
COMMENTS BY THE AUDIENCE

Ms. Nash suggested that perhaps Mr. Mann could consider an alternative fueling station such as electric and propane. It may be a benefit if the bedrock does exist.

Mr. Gibson asked Mr. Gaines for an update on Dora Lane. Mr. Gaines said that is contingent on the development of 630 E. Dixie Dr. because there is a small triangle of right-of-way that must be obtained from the property owner. Once the property is developed and that small piece is obtained there will be a full right-of-way and improvement can be programmed.

ADJOURNMENT

There being no other business, there was a motion by Gibson and second by Mr. Fields to adjourn the meeting at 8:04 p.m. The vote was unanimous to adjourn.

Chair  Secretary 
Date 6/7/18 Date 6/7/18