

WICKLIFFE PLANNING COMMISSION
January 7, 2010

Meeting opened at 7:30 p.m.

PRESENT: Bochenek, Grasser, Iafelice, Yohe, McGraw, Building Commissioner Raymond F. Sack, Jr., City Engineer Formica, Lt. Leovic, and Assistant Prosecutor A. J. Stempuzis. Also attending this meeting were Mayor William Margalis, and the following members of Council: Dave Krych, Chairman, Jim Bala of Ward I, Ron Ely of Ward III, Ed Levon of Ward IV.

3. Organizational Meeting. (a) Election of Chairman. Ms. Yohe nominated Pat McGraw; seconded by Ms. Bochenek.

Roll Call, Ayes: Bochenek, Grasser, Iafelice, Yohe, McGraw.

Nays: None. Motion carried. Patrick McGraw elected as Chairman

(b) Election of Vice Chairman. Ms. Bochenek nominated Charles Grasser; seconded by Ms. Yohe.

Roll Call, Ayes: Bochenek, Grasser, Iafelice, Yohe, McGraw

Nays: None. Charles Grasser elected as Vice Chairman

Chairman McGraw welcomed Mark Iafelice, Council Representative, as the newest member to serve on the Planning Commission. Further, Mayor Margalis officially appointed Charles Grasser as the Mayor's Representative to serve on the Planning Commission.

4. William Johnson for the Greens of Mapledale, request for permission to rent units located at 30750 Grant Street, (Greens of Mapledale) in a Senior Adult Living District.

Mr. Sack's letter to Planning Commission Members dated January 7, 2010 is attached hereto regarding a Residence Affidavit for the Greens of Mapledale that was sent to all residents, after investigating a complaint at the property that not all residents living in certain units are not at least 55 years old, or older. Only three (3) Affidavits had been returned to date. He had received a call from the owners (Udovic's) of 1600 Par Drive, stating that they bought their unit for \$187,000.00 and they are not 55 years old, or older. They stated Mr. Johnson told them a certain percentage did not have to be 55 years or older. Mr. Sack received an E-mail from Rose Udovic dated January 7, 2010 (copy attached), verifying this last sentence. She further indicated in her E-mail that she has special needs and the one floor open design was suited to meet her needs. Mr. Sack's letter suggests to the Planning Commission to REVOKE the Conditional Use Permit granted to the Greens of Mapledale, and to cease and desist any or all future operations at the development. Mr. Sack further indicated that when the home was purchased Mrs. Rose Udovic was 53 years old and Mr. Drago Udovic was 51 years old.

Also attached is a copy of "The Greens of Mapledale Condominiums Condominium Unit Purchase Agreement, which stated under **Item #20, Senior Residence Facility**, stating as follows: "Buyers agree that the Condominium is a "Senior Residence Facility" as that term is

defined in Section 1307.30 of the Codified Ordinance of Wickliffe, Ohio. Buyers hereby represent and warrant that (i) the Unit is being purchased for occupancy by individuals, **all of which are at least 55 years of age**, and (ii) Buyers have reviewed and meet all other requirements set forth in Chapter 1307 of the Codified Ordinances of Wickliffe, Ohio pertaining to Senior Residences Facilities.”

A.J. Stempuzis administered the oath to William Johnson, 11740 Jamie Drive, Concord, Ohio. Mr. Johnson that three (3) unites had been empty for a long time and he need the cash flow. He further said that as far as he knew when units were purchased no one was under the age of 55. Ms. Bochenek was told by Mr. Johnson that only two (2) units are completed, with rental of a Unit at \$1,100 to \$1,200 per month.

Ms. Yohe inquired as to the rental term of a unit and what is the effect between the Lessee’s contractual rights/constitutional rights. Mr. Stempuzis commented that if the Conditional Use Permit is withdrawn property cannot be sold or transferred. Chairman McGraw expressed his concerns that this matter needs to be thoroughly reviewed with regard to the legal aspects, define legal issues with A. J. Stempuzis and William C. Gargiulo.

Mr. Johnson sent a letter to Mr. Sack dated December 22, 2009. He further indicated that renters signed an Agreement and that his purpose for renting was to salvage the property and save it from foreclosure (due to the economic downturn); only taking qualified renters, with occupants signing a Lease.

Mr. Grasser commented on the “Declaration of Condominium Ownership for the Greens of Mapledale, City of Wickliffe, Ohio”; (copy attached) specifically, **Article III, Purposes and Restrictions, Section 2. Restrictions**; which states, “The condominium Property shall be subject to the following restrictions: (specifically) - **(a) Unit Uses**. No part of the Property shall be used for any purpose other than housing and the related common purposes for which the property was designed. Each Unit shall be used as a residence by the Unit Owner and his family, or by lessees or guests of the Unit Owner and his family, except for such limited professional or commercial use as the Declarant or the Board of Directors, upon application of an Owner or Purchaser, from time to time may authorize as not being inconsistent with the residential character of the Condominium Property and not being in violation of the zoning ordinances of the City of Wickliffe. No Unit Owner shall engage in or allow any acting considered extra hazardous for insurance purposes or which is a nuance or causes undue annoyance or inconvenience to occupants of the Development. Notwithstanding the foregoing, it shall be permissible for the Declarant to maintain, during the period of its sale of Units, one or more Units as sales models and offices and/or for storage and maintenance purposes.”

Ms. Yohe commented that the Building Commission is asking for withdrawal of the Conditional Use Permit; renting of the units was never permitted on the original Condition Use Permit; units were built to sell and the assumption was that units were being sold. Mr. Stempuzis said the Commission has the authority, specifically because of the conditions made in the original Conditional Use.

Mayor Margalis commented that he knows of no other situation with regard to Condominiums in the city where they cannot be rented. He suggested that, since Mr. and Mrs. Udovic own and are living in their home, owner can make/request a variance to the code in this particular instance pertaining to an “unnecessary hardship”.

Chairman McGraw said the intent of the original Conditional Use was for owner occupancy, 55 years, or older, and suggested that an attachment be made to the Conditional Use restating this clearly, and that verification of age must be produced.

Chairman McGraw as for a Motion to open audience participation; so moved by Mr. Grasser; seconded by Ms. Bochenek:

Roll Call, Ayes: Bochenek, Grasser, Iafelice, Yohe, McGraw
Nays: None. Motion carried and approved.

Mr. Drago Udovic, 1600 Par Drive, Wickliffe, Ohio, stated that he and his wife searched for a long time for the right home due to Mrs. Udovic’s special needs due to Multiple Sclerosis, until they purchased the home where they do not reside.

Mr. Grasser moved to close audience participation; seconded by Ms. Bochenek.

Roll Call, Ayes: Bochenek, Grasser, Iafelice, Yohe, McGraw
Nays: None. Motion carried – audience participation closed at 8:55 p.m.

Chairman McGraw called for a Motion regarding Item No. 4.

Mr. Grasser moved that the request by William Johnson for the Greens of Mapledale, for permission to **LEASE** units located at 30750 Grant Street, (Greens of Mapledale) in a Senior Adult Living District, be approved, with the following conditions:

- 1) This Conditional Use is approved for the Lease of two (2) Units only.
- 2) All Leases must be consistent with I-R Zoning, which means 55 years, or older;
- 3) Lease term ending December 31, 2010;
- 4) An Occupancy Permit will not be issued by the Building Commissioner until the Building Department has approved and received verification of age of occupant(s).

Motion seconded by Ms. Bochenek.

Roll Call, Ayes: Bochenek, Iafelice, Yohe, McGraw
Nays: Grasser

5. Ted Vannelli & Roger Bliss for Wickliffe Reserve LLC, request for guidance and information for new development located at 29553 Euclid Avenue (former Ponderosa) in Town Center District.

Mr. Vannelli gave an overview of the project, saying it will be the only development of its kind in the Ohio area. He referred to it as a mixed use development, consisting of commercial, residential, lots of green space with a park, playground, street and alley design. The commercial buildings, which will be selective companies, will be the first, anticipated to be a 2-year project; residential and other aspects of the development will be a 4-year project. Row Houses could sell anywhere from \$80,000.00 to \$155,000.00; Residences at approximately \$185,000.00 and up. He said that project will be a cross between a Chagrin Falls and a downtown Willoughby. The design will be traditional and he responded to a question from Ron Ely that an Architect in Boulder, Colorado has developed a similar design project of this kind. Chairman McGraw asked about marketing of the project and Mr. Vannelli responded that there will be an office on site; they have Letters of Intent. This project is supported by the Port Authority and others. Mr. Formica said that the I&A Hall has a 20' easement at the property, but the developer owns the street going to the I&A. Mr. Formica stressed the importance of coming before the Planning Commission with specific building designs and uses, storm water flows, sewer issues, traffic studies, layout of streets and variances, parking calculations, estimate of costs, infrastructure and streetscape. Lt. Leovic said he would need to see a conceptual layout of the project with regard to Fire Department access, placement of hydrants, etc.

11) Approval of September 3, 2009 meeting minutes. Ms. Yohe moved for approval; seconded by Mr. Grasser.

Roll Call, Ayes: Bochenek, Grasser, Yohe, McGraw
Abstain: Iafelice. Minutes approved as read.

Approval of December 3, 2009 meeting minutes. Ms. Bochenek moved for approval; seconded by Mr. Grasser.

Roll Call, Ayes: Bochenek, Grasser, McGraw
Abstain: Iafelice and Yohe. Minutes approved as read.

12) Adjournment. So moved by Mr. Grasser; seconded by Councilman Iafelice.

Roll Call, Ayes: Bochenek, Grasser, Iafelice, Yohe, McGraw
Nays: None. Meeting adjourned at 10:30 p.m.

Patrick D. McGraw, Chairman

Carol A. Zofchak, Secretary

