

CITY PLANNING COMMISSION MINUTES
January 9, 2019



TYPE: Regular Meeting
PLACE: City Building, City Council Chambers
TIME: 6:00 P.M.

MEMBERS PRESENT: Mike Friedman Gary Gross David McCauley-Myers
Todd Moore Paul Nenni Joanne Mejias

STAFF PRESENT: Mayor Larry Mulligan, Jr. (City Council Representative)
Ashley Combs, Planning Director

OTHERS PRESENT: Jonathan Evans

CALL TO ORDER

Chairwoman Joanne Mejias called the meeting to order at 6:00 pm and the roll was called by Ms. Combs. Mr. Friedman led the Planning Commission in the Pledge of Alliance.

APPROVAL OF PREVIOUS MEETING MINUTES

Ms. Mejias introduced the acceptance of the November 14, 2018 meeting minutes and asked if there were any needed corrections. A correction was noted of an attendee that was not listed and their testimony be included. A motion was made and seconded to approve the November 14, 2018 meeting minutes with the noted addition to the minutes. Mr. Nenni made a motion to accept the minutes with the corrections and Todd Moore seconded the motion. The Planning Commission unanimously approved the minutes through roll call. Mr. Gross abstained due to recusing himself at the November meeting.

ELECTION OF CHAIRMAN & VICE CHAIRMAN

Ms. Mejias opened the floor to nominations for Chairman and Vice Chairman of the Planning Commission. Ms. Joanne Mejias was nominated to continue as Chairman and Gary Gross was nominated to continue serving as Vice Chairman. A motion was made by Mr. Moore and seconded Mr. Nenni. The motion carried unanimously through roll call.

APPOINTMENT OF REPRESENTATIVES & ALTERNATES TO THE ARCHITECTURAL REVIEW BOARD

Ms. Mejias opened the floor to nominations for representatives for the Architecture Review Board. Mr. McCauley-Myers and Mr. Gary Gross were nominated to continue as the representatives for the board. A motion was made by Mr. Moore and seconded by Mr. Nenni. Mike Friedman and Paul Nenni were nominated as alternatives to the Architecture Review Board. A motion was made by Mr. Moore and seconded by Mr. Gross. The motion carried unanimously through roll call.

APPOINTMENT OF REPRESENTATIVE TO THE HISTORIC COMMISSION

Ms. Mejias opened the floor to nominations for a representative for the Historic Commission.

Ms. Mejias agreed to continue to serve on the Historic Commission. A motion was made by Mr. McCauley-Myers and seconded Mr. Nenni. The motion carried unanimously through roll call.

APPOINTMENT OF REPRESENTATIVE TO THE BOARD OF ZONING APPEALS

Ms. Mejias opened the floor to nominations for a representative to serve on the Board of Zoning Appeals. Mr. Todd Moore was nominated to continue to serve. A motion was made by Mr. Nenni and seconded by Mr. Gross. The motion carried unanimously through roll call.

PUBLIC HEARING: RIGHT-OF-WAY VACATION PETITION #1-19: CLARK STREET

Ms. Mejias introduced the right-of-way vacation case and asked for staff report. Ashley Combs (Planning Director) presented the case using a PowerPoint presentation.

Mr. Moore swore in Ms. Combs to present the case.

Ms. Combs explained that the request was by petitioner, Jake Rudemiller, P.E., on behalf of Brett Oakley, for two portions of right-of-ways to be vacated near the intersection of Clark Street and Reinartz Boulevard. The first right-of-way vacation is an unnamed alley that is a total of 0.059 acres and the second right-of-way vacation is a portion of Reinartz Boulevard that is a total of 0.042 acres. If approved, the portions of the vacated street and alley will be consolidated with the surrounding properties for the recently approved townhome development to be constructed in spring 2019. The right-of-way vacations require review and approval by City Council.

Ms. Combs gave the background of the project and said that earlier last year a map amendment and right-of-way vacation was approved by the Planning Commission and City Council to allow for an apartment and townhomes project. If approved, the owner Brett Oakley will consolidate the vacations with his property and start construction of the housing project in the spring.

Ms. Combs showed a map for the right-of-way vacation and a property photo.

Ms. Combs noted that per the Ohio Revised Code Chapter 723, the process requires review by the Planning Commission to make a recommendation to City Council. The City Council reviews the right-of-way vacation and makes the final decision. If approved, the right-of-way vacations are to be recorded with the County and the alley property is split evenly between the abutting alley property owners and ceases to be public right-of-way.

Ms. Combs pointed out that notifications of the proposed right-of-way vacations were sent to the utility providers. No objections have been received. An important determination for a right-of-way vacation is that there is no longer a public need for the property as a public street or alley. Ms. Combs noted the review criteria for a right-of-way vacation and stated the Planning Commission will base their decision on: the vacation of the requested right of way should not be a detriment to the neighborhood or to emergency service access and utility providers. Planning Commission's recommendation will be forwarded to City Council for a public hearing. City Council makes the final decision by City ordinance to vacate public right-of-way.

Ms. Combs said that the Engineering Department had no issues with the proposed right-of-way vacations. No other comments have been received at this time regarding the proposed alley

vacation. Ms. Combs concluded her staff report.

Chairwoman Mejias asked the commission if there were any questions for staff. With there being no questions for staff, Ms. Mejias asked if there was anyone present to speak for the application. Seeing none, Ms. Mejias asked if there was anyone present to speak against the application. Seeing none, Ms. Mejias closed the public hearing and asked for staff's recommendation.

Staff Recommendation: Right-of-Way Vacation Case #1-19:

Ms. Combs stated that based on the staff report provided and compliance with the requirements outlined in the Middletown Development Code, planning staff recommends approval the right-of-way vacation of the unnamed alley that is a total of 0.059 acres and the second right-of-way vacation is a portion of Reinartz Boulevard that is a total of 0.042 acres. If approved, the portions of the vacated street and alley will be consolidated with the surrounding properties. The right-of-way vacations require review and approval by City Council.

Ms. Combs noted that Planning Commission's recommendation will be forwarded to City Council for their public hearing on Tuesday, March 5, 2019.

Ms. Mejias asked for a motion following staff's recommendation. A motion was made by Mr. Moore to approve the right-of-way vacation request. The motion for approval was seconded by Mr. Gross. The commission unanimously approved through roll call.

PUBLIC HEARING: RIGHT-OF-WAY VACATION PETITION #2-19: COHEN BROTHERS

Ms. Mejias introduced the right-of-way vacation case and asked for staff report.

Ms. Combs explained that the right-of-way vacation request was by petitioner, City of Middletown, on behalf of Cohen Brothers, for three portions: Lamneck Street (total of 1.218 acres), Calumet Avenue (total of 1.018 acres), and Grand Avenue (total of 0.634 acre) of public right-of-ways to be vacated. If approved, the portions of streets will be vacated and consolidated with the surrounding property owned by Cohen Brothers Properties LTD and Barrett Paving Materials INC. The street vacation requires review and approval by City Council.

Ms. Combs explained the background and stated that in 2016, the City executed an agreement with Norfolk Southern and Ohio Rail Development Commission to close the rail crossing at Grand Avenue near University Boulevard. In 2018, the City executed a project to remove the pavement and curb opening along University Blvd. to remove the remnants of the former roadway crossing. Cohen Brothers had requested the City vacate the right of way for the streets adjacent to their property that is no longer needed since the roadways do not lead to an external street (due to the removal of the crossing). These roadways are in poor shape and only used by Cohen Brothers vehicles.

Ms. Combs displayed a map with the proposed right-of-way locations and photos.

Ms. Combs stated that per the Ohio Revised Code Chapter 723, the process requires review by the Planning Commission to make a recommendation to City Council. The City Council reviews the alley vacation and makes the final decision. If approved, the alley vacation is to be recorded with the County and the alley property is split evenly between the abutting alley property owners and ceases to be public right-of-way.

Ms. Combs noted that notifications of the proposed street vacation was sent to the utility providers. No objections have been received. An important determination for the right-of-way vacation is that there is no longer a public need for the property as a public street or alley.

Ms. Comb pointed out that the review criteria was the same as the previous right-of-way vacation case. She noted that the Engineering Department had no issues with the proposed right-of-way vacations as presented. Ms. Combs concluded her staff report.

Chairwoman Mejias asked the commission if there were any questions for staff. With there being no questions for staff, Ms. Mejias asked if there was anyone present to speak for the application. Seeing none, Ms. Mejias asked if there was anyone present to speak against the application. Seeing none, Ms. Mejias closed the public hearing and asked for staff's recommendation.

Staff Recommendation: Right-of-Way Vacation Case #2-19:

Ms. Combs stated that based on the staff report provided and compliance with the requirements outlined in the Middletown Development Code, planning staff recommends approval the three portions: Lamneck Street (total of 1.218 acres), Calumet Avenue (total of 1.018 acres), and Grand Avenue (total of 0.634 acre) of public right-of-ways to be vacated. The portions of streets will be vacated and consolidated with the surrounding property owned by Cohen Brothers Properties LTD and Barrett Paving Materials INC. The street vacation requires review and approval by City Council.

Ms. Combs noted that Planning Commission's recommendation will be forwarded to City Council for their public hearing on Tuesday, March 5, 2019.

Ms. Mejias asked for a motion following staff's recommendation. A motion was made by Mr. Gross to approve the right-of-way vacation request. The motion for approval was seconded by Mr. Moore. The commission unanimously approved through roll call.

PUBLIC HEARING: PRELIMINARY DEVELOPMENT PLAN #1-19: CHIPOTLE

Ms. Mejias introduced the Preliminary Development Plan case and asked for staff report. Ashley Combs (Planning Director) presented the case using a PowerPoint presentation.

Ms. Combs explained that the Preliminary Development Plan was a request approval by Jonathan R. Evans with Evans Engineering, on behalf of the developer/owner Byblos Development Ohio, LLC, to construct a proposed Chipotle restaurant at the intersection of Towne Boulevard and Pendleton Circle. The project will be an out lot of the Towne Mall Development. The proposed restaurant will be 2,400 sq. ft. and be located at the northeast corner of the Gabe's retail store parking lot.

Ms. Combs explained the project background and explained that he original development plan for the Towne Mall project was approved in the mid-1970's by the Warren County Regional Planning Commission before the property was annexed from Franklin Township to the City of Middletown. She noted that the most recent plan approval was in August of 2015. Newest tenants include: Aspen Dental, GNC, Great Clips, and Buffalo Wild Wings. The project was constructed in early 2016.

Ms. Combs displayed a zoning map and explained that the properties are surrounded by B-2 Community Business District to the North (Staples Office Supplies), B-2 Community Business District to the East (Petco Supplies), B-2 Community Business District to the West (Gabe's/Burlington), and B-2 Community Business District to the South (Buffalo Wild Wings).

Ms. Combs explained that the proposed Chipotle restaurant will feature a pick-up window on the South elevation of the building (adjacent to Pendleton Circle). Drive-Through restaurants are principally permitted in the B-2 Business Commercial Zoning District. Per the design standards of the Middletown Development Code, drive through windows and aisles are required to be located to the rear of the building to the maximum extent feasible. The Chipotle pick-up window is not a typical drive-through window, food cannot be ordered. Food can only be ordered by a mobile device or online and then the food can only be picked up from the window. Ms. Combs displayed a site plan to the commission.

Ms. Combs noted that per the Middletown Development Code, the amount of parking required for eating and drinking establishments is one parking space per 100 square feet of floor area. Chipotle will be 2,400 square feet which will require a total of 24 parking spaces. Per the site plan, Chipotle will exceed parking requirements and offer 35 parking spaces, two of them being ADA accessible. The reduction in parking spaces for Gabe's will not drop below the required parking for the retail store.

Ms. Combs addressed that per the Middletown Development Code, all parking lots for over 30 vehicles must provide at least five percent of their total area in interior landscaping areas. Per conversation with the applicant, there will be existing trees around the site as well as the addition of a type of hedging to fulfill the landscaping requirement. Per the Code the restaurant dumpster is required to be enclosed and not visible. The site plan submitted identifies that the dumpster will be enclosed from view by solid fencing. Please see the attached site plan.

Ms. Combs explained that per the Middletown Development Code, all building façades that face a public street are required to be constructed of the following materials: stone, brick, wood, stucco, cultured stone, cement board, ceramic tile, ceramic block, or exterior insulation finish system (E.I.F.S.). Architectural metal is permitted, provided that it occupies no more than 10 percent of the façade area and that all fasteners are concealed. Also metal siding such as copper, bronze, or other decorative metal are permitted. Per the application, the exterior of the building will be comprised of predominately EIFS, metal panels, and decorative metal.

Ms. Combs noted that the Middletown Development Code also identifies that all facades that have frontage along a public street that is more than 50 feet in length shall incorporate one of the methods of façade variation identified at a minimum of every 30 feet along the full length of the façade. A change in building materials or colors also qualify as a façade variation and Chipotle features this kind of variation. Please see attached building elevations.

Ms. Combs explained that Chipotle was identified as a highly desired restaurant by City residents that participated in the 2017 "What If" Middletown visioning community outreach survey. The "What if Middletown" visioning process was an initial step to publicize the Master Plan and other community planning processes. It brought together various groups of the community member and residents to identify problems, identify potential new development types, and build a collaborative approach to improve the quality of life for Middletown residents.

Ms. Combs explained the process of approving the Preliminary Development Plan requires that the Planning Commission finds that the requested use is compatible with the other surrounding uses. The Towne Mall area is appropriately zoned B-2 Community Business District which principally permits all restaurant types. Planning staff believes that the addition of the restaurant will be a compliment to the continuing redevelopment of the Towne Mall, I-75 corridor, and East End area of the City.

Ms. Combs noted that there were no other comments received from other City departments.

Ms. Combs displayed and explained the Planning Commission's review criteria for a preliminary development plan.

1. Consistent with Middletown Development Code: That the development plan is consistent with the general intent and purpose of this Zoning Ordinance, and that it complies with all applicable requirements and conditions in accordance with the provisions of this Zoning Ordinance;
2. Unified Design: That the proposed plan consists of one or more groups of buildings of integrated and harmonious design and construction, together with adequate and properly arranged traffic and parking facilities; and
3. No Adverse Effects on Adjacent Properties: That the property adjacent to the area included in the plan is not likely to be adversely affected thereby, and that the general character of all proposed buildings is compatible with the surrounding neighborhood. While the Planning Commission may require submittal of building facade elevations for the purpose of determining the general character of a proposed project, no decisions shall be made on the basis of personal preferences pertaining to taste or architectural style.

Ms. Combs concluded her staff report.

Chairwoman Mejias asked the commission if there were any questions for staff. With there being no questions for staff, Ms. Mejias asked if there was anyone present to speak for the application.

Jonathan Evans, project engineer, came forward to speak for the project. He was sworn in by Mr. Moore.

Mr. Evans thanks Planning Commission for their time and agreed with staff's report of the project. He noted that he is the engineer for the project and Byblos is the owner who is located in Florida. He also pointed out that there will not be any additional access requested into the site and all that will be used is existing.

Mr. Evans explained that he would be happy to answer any questions.

Ms. Mejias asked about the building elevations and the coloring. Mr. Evans explained that the building will be a mix of greys and will have a rustic rusty appearance on some detailing of the building.

Mr. Gross asked when the restaurant would be projected to open. Mr. Evans said that corporate is on target to bet the restaurant built and opened by late spring 2019.

Mr. McCauley-Myers asked if there would be any issues with the restaurant being located so far from the highway since typically he noticed they aren't. Mr. Evans said that they will be sure to have adequate signage and be obtaining a sign on the blue signs along the highway.

The commission asked about the landscaping plan and noting they would like to see more detail for the Final Development Plan submittal. Mr. Evans said a separate landscaping plan would be included in the final submittal along with a lighting plan.

Seeing no more questions for the applicant, Ms. Mejias asked if there was anyone present to speak against the application. Seeing none, Ms. Mejias closed the public hearing and asked for staff's recommendation.

Staff Recommendation: Preliminary Development Plan Case #1-19:

Ms. Combs stated that based on the staff report provided and compliance with the requirements outlined in the Middletown Development Code, planning staff recommends approval of the preliminary development plan #1-19 for the Chipotle restaurant as submitted with the condition that the plan will meet the review requirements by the Engineering Design Manual as identified by the City Engineer.

Ms. Combs noted that Final Development Plan approval by Planning Commission will be required and the regular permitting process before construction of Chipotle can begin.

Ms. Mejias asked for a motion following staff's recommendation. A motion was made by Mr. Nenni to approve the Preliminary Development Plan with additional information regarding the landscaping plan. The motion for approval was seconded by Mr. Friedman. The commission unanimously approved through roll call.

ADJOURNMENT

With there being no further business for the Planning Commission to discuss, a motion was made unanimously by all Planning Commission members to adjourn at 6:30PM.

MINUTES APPROVED BY PLANNING COMMISSION.

Joanne Mejias, Chairwoman

Ashley N. Combs, Planning Director

*The full meeting recording is available at the Planning & Zoning Department.