

PLANNING COMMISSION MINUTES  
FEBRUARY 10, 2021



TYPE: Regular Meeting  
PLACE: VIA Zoom Conferencing  
TIME: 6:00 P.M.

MEMBERS PRESENT: John Langhorne      Todd Moore      Jeremy Loukinas  
Paul Nenni      Roger Daniel

STAFF PRESENT: Ashley Combs, Planning Director  
Joe Mulligan, Councilman

OTHERS PRESENT: Edward Horton  
Harry & Phil (Renaissance Subdivision Residents)

**CALL TO ORDER**

Vice Chairman Todd Moore called the meeting to order at 6:00 pm and the roll was called by Ms. Combs. Mr. Moore led the Planning Commission in the Pledge of Alliance.

**APPROVAL OF PREVIOUS MEETING MINUTES**

Mr. Moore introduced the approval of the January 13, 2021 meeting minutes and asked if there were any needed changes. A motion was made by Mr. Daniel and seconded by Mr. Moore to approve the January 13, 2021 meeting minutes as submitted. The motion for the approval of the January 13, 2021 meeting minutes as submitted passed unanimously through roll call.

**PUBLIC HEARING:**

**CONDITIONAL USE CASE #1-21 - 2651 S. BREIEL BOULEVARD - OUTDOOR STORAGE**

Ms. Moore introduced the case as a conditional use request by property owner Edward Horton, with Winchester Clark LLC., for Conditional Use approval to allow for outdoor storage and sales at the property located at 2651 S. Breiel Boulevard, Middletown, OH 45044. Per the City of Middletown Zoning Map and Middletown Development Code, the property is located in the B-3 General Business District where outdoor storage and sales is considered a conditional use that requires review and approval by the Planning Commission.

Ashley Combs, Planning Director, presented the case using a PowerPoint presentation.

Ms. Combs displayed a photo of the property and the zoning map.

Ms. Combs explained that in mid-January planning staff received a complaint for outdoor storage of mulch at the subject property. Staff confirmed that there was a zoning violation present of illegal outdoor storage and sales in the front yard of the property. Staff was able to contact the property owner, Edward Norton, and explained that per the Middletown Development Code the storage of mulch is considered "outdoor storage and sales". Staff explained that "outdoor storage and sales" is a conditional use in the B-3 Zoning District where

the property is located and required review and approval by the Planning Commission. Staff explained the conditional use review process and that applying for a conditional use does not guarantee approval. Staff agreed to let the property owner keep the mulch in place until a decision was made by the Planning Commission.

Ms. Combs noted that per the application submitted, the conditional use request is so that a portion of the parking lot, 1 to 1.5 acres, can be used by Ohio Mulch to store mulch on pallets. The parking lot is not currently being used and there is no demand for parking in that area.

Ms. Combs explained that per the applicant, the mulch will be stored in a neat manner so that designated parking areas and drive lanes will not be blocked and will be accessible. The area around the existing fire hydrant will be left clear for accessibility. The applicant estimates that the volume of mulch will increase between now and early spring. Once the spring/summer seasons approach the volume of mulch will rise and fall. There will be no retail sales at the storage site, so traffic volumes will not be affected. The primary customers for the mulch will be entities such as Lowe's and Home Depot. If approved, it would be anticipated that the site would be used year-round as a storage location for Ohio Mulch and a lease would be extended for two to three years.

Ms. Combs read a statement that was submitted by the property owner: I have had several conversations with Jason Muncy, representative with Ohio Mulch, and they are still very interested in moving ahead with the project at 2651 South Breiel Blvd. A couple of points I would like to make is that, first Ohio Mulch has expressed an interest in building a presence in the City of Middletown, including establishing a retail outlet which would bring additional jobs and revenue to the City, and second, to build a positive relationship with the community, they are very willing to work with the neighbors to store the pallets of mulch in a way that minimizes the impact to the visuals of their storefronts. I think I can speak for Ohio Mulch as well as myself that we want to work in a positive way to benefit the entire community.

Ms. Combs displayed photos of the front of the building and rear of the property.

Ms. Combs stated that the subject property is zoned B-3 General Business District. Per the Middletown Development Code Table 1204.08: Permitted Principal Uses, the proposed use of outdoor storage and sales is identified as a conditional use and requires review by the City Planning Commission prior to a zoning compliance permit being issued for the use.

Ms. Combs explained that per the Middletown Development Code, "Outdoor Storage & Sales" is defined as: Outdoor Storage and Bulk Sales: The keeping, storage, or sales of any goods, material, merchandise, or vehicles in the same place for more than 24 hours in an area that is not fully enclosed by a structure. This may include areas established for the sale of large and/or bulk items. Outdoor Storage and Sales: a facility or lot used for the outdoor sales and storage of materials that are to be used for construction or for manufacturing processes and where such uses are the principal use of the lot.

Ms. Combs read that per Chapter 1204: Zoning Districts and Use Regulations, 1204.09: Use-Specific Standards: Outdoor Storage and Sales: A. Areas devoted to outdoor storage shall be

paved with asphalt or concrete and free of dust. B. In all cases, any areas designated for outdoor storage shall be set back a minimum of 50 feet from any adjacent residential lot. C. All aspects of outdoor operations shall be enclosed with a solid wall or fence, including solid gates. The wall or fence shall have a height tall enough to conceal all materials therein from the view of any observer standing at the grade level at an abutting residential district line or a public street. However, in no case shall the height of the fence or wall be less than six feet. D. All materials shall be stored in such a fashion as to be accessible to fire-fighting equipment at all times. E. Outdoor storage of materials shall not include a junkyard or similar storage.

Ms. Combs displayed Table 1204-3 Principally Permitted Uses and Table 1216-4: Required Buffers requirements from the Middletown Development Code.

Ms. Combs stated that per the 2005 Middletown Master Plan, the property is located in the Greentree-Oxford State Road Development Opportunity Area. The property is specifically identified as an industrial property. Per the Master Plan, it is the vision that Greentree-Oxford State Road will retain and attract new industrial development spurred by increased interstate access via the planned interchange at I-75 and Greentree Road.

Ms. Combs explained that per the Middletown Development Code Chapter 1226: Review Authority and Procedures, Table 1226-1: Notice Requirements, published notice was given 10 days before the Planning Commission public hearing VIA the Middletown Journal and written notice was provided to the applicant as well as all property owners contiguous and directly across the street or public right-of-way of the subject property.

Ms. Combs noted that the following comment was received VIA voicemail: Steven Hartman (Dedicated Motivated Gym, next door property owner): I am against the mulch storage in the front of the building. I purchased the property for the visibility of my business along Breiel Boulevard. How it is currently stored - the 10 feet of mulch inhibits the view of my business property. This will only make it more difficult for patrons to find our business. There is the exact amount of property behind their building and the mulch could be stored there without distracting from their business frontage or my business visibility.

Ms. Combs stated that there were no other Department comments received for the proposal.

Ms. Combs explained the review process for conditional uses. Ms. Combs read that the decisions on a conditional use application shall be based on consideration of the following review criteria. All conditional uses shall be subject to review under the criteria of this section, as applicable, and may be subject to additional use-specific standards.

Ms. Combs read the following review criteria:

- (1) The proposed conditional use is established as an allowed conditional use in the applicable zoning district;
- (2) The proposed use is consistent with the spirit, purpose and intent of the master plan and the general purpose of this code;
- (3) The proposed use complies with any use-specific standards as may be established for the use;

- (4) Any building or structure constructed, reconstructed, or altered as part of a conditional use in a residential zoning district shall, to the maximum extent feasible, maintain the exterior appearance of residential buildings of the type otherwise permitted and shall have suitable landscaping, screening, and fencing wherever deemed necessary by the Planning Commission;
- (5) The proposed use will comply with all applicable development standards, except as specifically altered by the Planning Commission in the approved conditional use;
- (6) The proposed use will be harmonious with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area;
- (7) The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
- (8) The circulation on and access to the property shall be so designed as not to create an interference with traffic on surrounding public thoroughfares;
- (9) The design of the buildings, structures, and site will not result in the destruction, loss or damage of a natural, scenic, or historic feature of major importance;
- (10) The proposed use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district; and
- (11) Wherever no specific areas, frontage, height, or setback requirements are specified in provision for a specific conditional use, then such use shall be subject to the site development standards for the applicable zoning district.

Ms. Combs noted the additional criteria and conditions:

- (1) The Planning Commission shall be authorized to waive or modify requirements that apply to the conditional use as may be necessary to achieve compatible development with adjacent land areas as well as in the interest of the community in general where the Planning Commission finds that such waiver or modification will further the protection of the general welfare, protect individual property rights, and ensure that the conditional use will meet the intent and purposes of this code.
- (2) The Planning Commission may also impose additional conditions, guarantees, and safeguards as it deems necessary to protect the general welfare and individual property rights, and to ensure that the conditional use will meet the intent and purposes of this code

Ms. Combs concluded her staff report and stated that the property owner, Edward Horton, was present for any questions regarding the proposal.

Mr. Moore asked if there were questions for staff before opening the public hearing. Hearing none, Mr. Moore opened the public hearing.

Property owner, Edward Horton, was sworn in by Mr. Moore to speak on behalf of the project.

Mr. Horton provided background regarding the proposal stating that current tenant of his building, HILT Custom Carts, originally initiated the use of the parking lot by Ohio Mulch. He explained that he was contacted by the City and started the conditional use process to try to keep Ohio Mulch in the City. He explained the proposed location of the mulch. He explained that the proposed locations were in front of the N Stock warehouse. He said that Ohio Mulch had the maximum amount of materials were located on the property and that there would be

less as other stores started removing the mulch. He stated that more materials would be brought in and then shipped out to stores. He added that Ohio Mulch would like to establish a presence in the City of Middletown.

Mr. Moore asked what Mr. Horton's plan was for the mulch. Mr. Horton stated that the plan would be to move the mulch so that it did not block his business and the neighboring property owner's business. Mr. Horton stated that the best location would be the northwest parking lot.

Mr. Daniel asked if there would be a fence around the storage of the mulch. Mr. Horton said that he discussed the fence with staff and that it would not be desirable. Mr. Daniel noted that there were other storage places near this and that they had chain-link fencing.

Mr. Langhorne asked if the mulch could be stored in the rear of the building. Ms. Combs stated that she had discussions with Mr. Horton and storage of the mulch in the rear of the property could not happen due to the tenant HILT using the space.

Mr. Langhorne noted the 50 feet requirement of the storage from any neighboring residential properties. Ms. Combs noted that she did a rough measurement using the City's online zoning map and if stored in the rear the mulch would have met the setback requirement.

The Commission thanked Mr. Horton for his attendance.

Mr. Moore asked if there were any others wishing to speak.

Phil, resident of the Renaissance Subdivision, noted he was in attendance to ask why the Renaissance Subdivision Amendment was pulled from the agenda. Ms. Combs explained that the Renaissance Subdivision Amendment was pulled from the agenda and tabled by applicant Fischer Homes so that they could work on a more favorable proposal with City staff. Ms. Combs stated that all residents that had received a meeting notification would receive another when a new application was received. Ms. Combs stated that the Planning Commission meeting agendas are also available on the City's website. Ms. Combs explained how to access the meeting agenda on the City's website. Ms. Combs noted that the Planning Commission meeting agenda would also be posted in the Middletown Journal.

Harry, resident of the Renaissance Subdivision, noted he was present for the Renaissance Subdivision Amendment request. Ms. Combs asked if he had received a meeting notification VIA mail. Harry identified that he did receive a notice VIA mail. Ms. Combs noted he would also receive a mailing when a new application was received. Harry thanked Ms. Combs and she thanked him for his attendance.

Mr. Moore thanked Ms. Combs.

Mr. Moore asked if there was anyone in attendance that wanted to speak against the proposed conditional use. Seeing none, Mr. Moore closed the public hearing.

Mr. Moore asked Ms. Combs for the staff recommendation.



Ms. Combs stated that based on the staff report provided and Conditional Use Review Criteria outlined in the Middletown Development Code for a conditional use request, staff recommends denial of the Conditional Use Case #1-21 to allow for outdoor storage and sales at the property located at 2651 S. Breiel Boulevard, Middletown, OH 45044 due to the proposed outdoor storage locations negatively affecting the character and area of the visibility of the surrounding businesses.

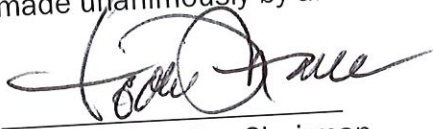
Mr. Moore asked if there was a motion by the Planning Commission. Mr. Langhorne made a motion to accept staff's recommendation and move to deny the conditional use request. Mr. Loukinas seconded the motion for denial. The motion for denial carried unanimously through Planning Commission roll call.

**NEW/OLD BUSINESS**

Zoning Administrator – Ms. Combs noted that Devra Wells, the new Zoning Administrator, was present and introduced her to the Planning Commission. Ms. Combs stated that Ms. Wells has hit the ground running and the City is excited to have her in her new role. The Planning Commission welcomed Ms. Wells and said they looked forward to working with her.

**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 6:29 PM.



Todd Moore, Vice Chairman



Ashley Combs, Planning Director

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