

PLANNING COMMISSION MINUTES
APRIL 14, 2021



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

MEMBERS: John Langhorne Todd Moore David McCauley-Myers
PRESENT: Paul Nenni Roger Daniel Gary Gross

STAFF PRESENT: Ashley Combs, Development Services Director
Devra Wells, Zoning Administrator
Joe Mulligan, Councilman

CALL TO ORDER

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

APPROVAL OF PREVIOUS MEETING MINUTES

Mr. Gross introduced the approval of the March 10, 2021 meeting minutes and asked if there were any needed changes. A motion was made by Mr. Moore and seconded by Mr. McCauley-Myers to approve the March 10, 2021 meeting minutes as submitted. The motion for the approval passed unanimously through roll call. Mr. Gross noted that Item #4 on Planning Commission agenda had been withdrawn for 5490 S. Dixie Highway.

PUBLIC HEARING:

DEVELOPMENT PLAN AMENDMENT #2-21 – 3805 ROOSEVELT BOULEVARD

Ms. Gross introduced the request for conditional use approval for automotive sales and leasing at the property located at 1601 Tytus Avenue, Middletown, OH 45042. The property is located in the B-3 General Business District where automotive sales and leasing is a conditional use that requires at least four acres of land and review by the Planning Commission. The property is a total of 0.245 acres.

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

Ms. Combs displayed property photos showing the subject property.

Ms. Combs displayed the zoning map and explained the surrounding zoning designations.

Ms. Combs explained that the subject properties are zoned B-3 General Business District. Per the Middletown Development Code Table 1204.08: Permitted Principal Uses, the proposed use of Automotive Sales and Leasing is a conditional use in the B-3 Zoning District. She noted that conditional uses are subject to review and approval by the Planning Commission.

Ms. Combs explained that per the City's online permit/code enforcement database, the current use of the property is a tires sales and tire repair shop. The property is currently in violation of selling cars on the without approval/permits and for placing illegal temporary blade signage on the property.

Ms. Combs noted that the Middletown Development Code had several text amendments that became effective in November 2020. The use specific standards for Automotive Sales and Leasing establishments was updated to reflect appropriate and common operating standards for these automotive sales uses.

Ms. Combs displayed photos of the property's current violation letters for illegal car sales and blade signage. She noted that the illegal blade signage had been removed as of the meeting date.

Ms. Combs read Chapter 1204: Zoning Districts and Use Regulations, 1204.09: Use-Specific Standards: (19) Automotive Sales and Leasing:

1. Automotive Sales and Leasing must be located on lots no smaller than four acres in size, with a minimum lot frontage of 200 feet. If the lot is smaller than these requirements, the use shall require approval of a conditional use application.
2. All outdoor display, storage, and sales facilities must be screened pursuant to Section 1216.06.
3. The use shall be located on an arterial street as designated on the Official Thoroughfare Plan (Please see attached City Street Master Plan map).
4. No outdoor loudspeakers shall be permitted between the hours of 8:00 p.m. and 8:00 a.m. when adjacent to a residential district.
5. The use shall meet all State of Ohio requirements. The dealer's license must be on display.
6. Automotive Sales and Leasing must be located on a lot with a permanent principal structure.

Ms. Combs read the Automotive Sales and Leasing Definition:

Any building or land used for the display, sale or rental of new or used motor vehicles in operable condition. This use type is intended to be for the sale and lease of typical passenger vehicles including, but not limited to, cars, passenger trucks, and motorcycles.

Ms. Combs read the parking space requirement:

Automotive Sales and Leasing: One parking space per 100 square feet of indoor floor area.

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. She noted that there have been no comments have been received at the time of the hearing.

Ms. Combs stated that the request had been sent to other departments for review and that

there were no comments received regarding the proposal.

Ms. Combs stated that per the 2005 Middletown Master Plan, the properties are located in the Hook Field Development Opportunity Area. The properties are specifically identified as “neighborhood preserve and enhance”.

Ms. Combs read the Planning Commission Conditional Use 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.

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 read the Additional Criteria and Conditions:

1. The Planning Commission shall be authorized to waive or modify requirements that apply to the conditional use to achieve compatible development with adjacent land areas as well as in the interest of the community 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.

Mr. Gross asked if there were any questions for staff prior to opening the public hearing.

Mr. Gross asked if the ownership of the property had been the same for the last 10 years. Ms. Combs stated she was unsure but knew that the ownership had been the same since at least 2016 when the tire sales use was issued permits.

Mr. McCauley-Myers asked if the tire sales use met the conditional use approval. Ms. Combs stated that the permit was issued because in 2016 the use of tire sales was principally permitted at the property.

Mr. McCauley-Myers asked if the tire sales goes out of business would there be potential for the use to be prohibited at the property. Ms. Combs stated the use is currently grandfathered but if the business did not operate for 12 consecutive months the use would revert back to those only permitted in the zoning district.

Mr. Gross asked if there were any other questions for staff. Seeing none, Mr. Gross invited anyone who wished to speak in favor of the application to come forward. Seeing none, Mr. Gross invited anyone to come forward who was in opposition of the request. Seeing none, Mr. Moore closed the public hearing and asked for staff recommendation.

Ms. Combs stated that based on the staff report provided and compliance with the Middletown Development Code Conditional Use Review Criteria, staff recommends DENIAL for the conditional use request for automotive sales and leasing at the property located at 1601 Tytus Avenue, Middletown, OH 45042, Parcel IDs: Q6511018000001, Q6511018000002, Q6511018000003, Q6511018000012, and Q6511018000011 due to not meeting the use specific standards for automotive sales and leasing outlined in Chapter 1204: Zoning Districts and Use Regulations, 1204.09: Use-Specific Standards.

Mr. McCauley-Myers asked that if the Planning Commission granted the conditional use would that remove the current use of tire sales. Ms. Combs stated that if the conditional use were approved it would be added as an additional permitted use with the current tire sales.

Mr. Gross asked if there was a motion by the Planning Commission.

Mr. Langhorne made a motion to accept staff's recommendation to deny the conditional use request. Mr. McCauley-Myers seconded the motion for denial. The motion for denial carried unanimously through Planning Commission roll call.

NEW/OLD BUSINESS

Ms. Combs noted the upcoming Planning Commission items for the May 12th meeting:

1. Towne Mall Master Plan
2. Cristo Homes Apartment Development
3. Right-of-Way Vacation (City-owned)
4. Renaissance Development Plan Amendment

Ms. Combs encouraged the Planning Commission to watch the upcoming City Council meeting to see the Towne Mall Master Plan presentation.

Ms. Combs noted that the following Planning Commission approved projects are moving forward:

1. Reinartz Housing Project

Ms. Combs explained that the Comprehensive Plan continues to move forward and staff is targeting to have the final draft chapters to share by mid-May.

Ms. Combs announced that Development Services Department hired a Permit Clerk Specialist and she looked forward to working with Jennifer Lyons. She stated that the position will help streamline business and permit processing for projects.

The Commission asked since Ms. Combs stated a new role would she still oversee the Planning Commission. Ms. Combs stated that she would be still working with the Planning Commission.

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 6:35 PM.



Gary Gross, Chairman



Ashley Combs, Development Services Director

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