

**PLANNING & DESIGN COMMISSION  
CITY OF NORTH OLSTED  
MINUTES FOR OCTOBER 28, 2009**

**ROLL CALL**

Mr. Lasko called the meeting to order at 7:34 p.m. in Council Chambers and led the Pledge of Allegiance.

Present: John Lasko Jr., Melissa Meredith, Angela Williamson, Ralph Bohlmann, Greg Malone

Absent: Don Rerko, Jim Cotner

Staff: Planning Director Kim Wenger, Assistant Law Director Bryan O'Malley, City Engineer Pietro DiFranco, Building Commissioner Dale Mitchell, Secretary Tricia Granfors

**REVIEW AND CORRECTION OF MINUTES**

**Mr. Lasko moved, seconded by Ms. Williamson, to approve the Planning and Design Commission minutes of October 14, 2009, which was unanimously approved 5-0.**

**OLD BUSINESS**

**CMS09-09 Sovereign Grace Church; 29047 Lorain Road:**

Proposal consists of a request for a conditional use permit. Note: PDC tabled 8/26/09

Ms. Wenger said the proposal consists of a request for a conditional use permit for a church in a retail district. Chapter 1118 outlines the general criteria and standards for review. Other than signage, the applicant is proposing no changes to the exterior of the building; therefore, the issue before the Commission is the conditional use permit standards and conditions. There is no development plan review involved. The proposal was tabled at the applicant's last appearance due to outstanding property maintenance issues with the owner. The Law Department had recommended resolving the issue of the deteriorated parking lot prior to approval of a conditional use permit. The proposal has been docketed at the recommendation of the Law Department.

Building Commissioner Mitchell reported on his department's attempts to work with property owner Mr. Viviani to correct and document repairs of the asphalt parking lot. An asphalt contractor has proposed repairs and seal coating. An engineering firm, EDP Consultants, will prepare the documents. A pavement technician has also been on site to identify loose and intact areas, measure areas requiring repair, keep track of material quantities, and take photos for documentation. On October 23 a revised plan was submitted showing the area in front of the building and along the driveways to remove 0-2" of scratch coat and apply a new 3/4" surface coat. The repairs to the approximately 48,500 square foot parking lot shall include a minimum of 1-1/4" of new asphalt with sealing and striping where needed. Drawings showing areas in need of repair have not yet been submitted however the parking lot will be tested to determine which layers will remain adhered so a top coat will not be installed over an inadequate base. This testing will be performed by EDP Consultants. City Engineer DiFranco has said he is confident in EDP's ability to competently perform the tests. Other property maintenance violations remain including light fixtures and possible repairs to the rear of the building.

City Engineer DiFranco said while EDP Consultants will have a representative on site during construction, he recommends measures be in place to verify repairs are made per City requirements, not simply based on the judgment of EDP. He would like to see language included on the drawings stating the parameters of what is acceptable.

Assistant Law Director O'Malley updated the Commission on the status of the property maintenance case in Rocky River Municipal Court. As of October 20, 2009 the case was resolved through plea negotiations. The court convicted the owners on some property maintenance issues while others were dismissed. The owners will attempt to resolve all violations before sentencing in December. Mr. O'Malley recommends the applicant not be subjected to conditions related to the landlord's property maintenance violations. The court will cause the defendants come into compliance with the Building and Engineering Departments' requirements. The asphalt must be installed before the end of this construction season. He recommends the Commission review the request under the usual conditional use standards. Is a church use compatible with a commercial district? Does it create adverse impacts uncharacteristic of that zoning district? A church assembly in a General Retail District is appropriate. The kinds of traffic and uses are more compatible with retail than residential.

Mr. Bohlmann agrees the Commission should place no restrictions on the tenant but feels they can place restrictions on the owner. Mr. O'Malley disagreed, saying the restrictions on the owner are related to building and engineering codes, which are being enforced through the court, not in the context of this review. Mr. Bohlmann feels the existing lighting is not adequate or safe for the church's evening meetings. He would like to know what type of lighting will be installed. Mr. O'Malley said the fixtures under the overhang are part of the property maintenance effort. The existing fixtures will be rehabilitated or replaced. The parking lot lights are considered existing, non-conforming. He agrees the lighting is a reasonable safety concern but recommends the Commission not impose that as a requirement against the tenant for conditional approval. A conditional use request provides less authority to the Commission than if it were a redevelopment proposal. Mr. Lasko agreed the matter before the Commission is of a more narrow scope. The issues of conditional use and pending maintenance violations on the property must be separated.

Ms. Meredith said when this proposal first came before the Commission in August the traffic generation was considered part of the conditional use review. Mr. O'Malley agreed; as part of 1118.03(d), if the conditional use creates traffic hazards or otherwise adversely impacts adjacent uses the Commission could decline the request. Mr. Lasko said as the Commission proceeds through the checklist each subsection can be voted on separately. Ms. Meredith asked if there is a no vote on any of the subsections, could the permit be issued. Mr. O'Malley said it could not. Ms. Meredith feels the parking lot is a safety concern. Inclement weather and poor lighting will compound the issue and the landlord has a history of not following through on repairs. She wonders if the Commission can tie the tenant's occupancy to the completion of the parking lot repairs. Mr. O'Malley said in the past those types of enforcement techniques usually fail. The expectation of the City is that the parking lot will be repaired before the court's sentencing in December. Ms. Meredith asked if the engineering requirements could be added so that their concerns are addressed. Mr. O'Malley said no; the Planning and Design Commission should not administrate building and engineering standards.

Mr. Bohlmann said if the parking lot is a safety issue then the lighting can be considered a related hazard. He would like to see what type of lights will be installed as well as information on the

drainage, under-drainage, and curbing. The Engineering report states a minimum of 70% of the lot is in poor condition and must be replaced. The Commission has not received a reasonable set of plans to review. Mr. Lasko said even if the parking lot was repaired in accordance with the drawing, it would still not address Mr. Bohlmann's underlying concerns about whether or not other areas on that site would be corrected. It would leave many issues unresolved and it would still be beyond the purview of the Commission to address as part of the request for conditional use. The Commission could be making this decision with no plans to review.

Ms. Wenger agreed the maintenance issues should be left to the Building and Engineering Departments. The Commission should be discussing the impact of use on the area; if this use could be perceived to cause a negative impact and then seek to mitigate the impact. Mr. Lasko agrees with Ms. Wenger. By virtue of the fact this space would be used as a place of worship, does this use, as opposed to an auto parts store or a pizza parlor, result in traffic or circulation patterns that would cause a hazardous condition for pedestrians or other vehicles on this site or adjacent sites? Ms. Meredith said this site has existing hazardous conditions for the church as opposed to another location. By allowing the church, vehicular and pedestrian traffic is increased. Mr. Malone said the same would be true of a hardware store or any retail establishment, which illustrates why the Commission should not be considering the parking lot as part of the review for this permit. The property maintenance violations will be fixed through legal means.

Mr. O'Malley explained religious use is protected by federal law and should not be subject to any greater or unique requirements than any other use. The Commission put the owner on notice that it is not comfortable with proceeding until matters are corrected. They are being corrected.

Sovereign Grace Church Senior Pastor Darren Lander said he appreciates the Commission's concern for the church and their partnership. Ms. Meredith asked Mr. Lander if language is included in their lease agreement concerning the parking lot and occupancy. Mr. Lander indicated clauses pertaining to both are being added to the agreement.

Mr. Lasko asked Mr. O'Malley if the Commission evaluated 1118.03(a)-(f) concerning the use, would it be within the Commission's authority to add the resolution of parking lot and lighting issues to the satisfaction of the Building Department as an additional condition for occupancy and use? Mr. O'Malley said 1118.03 refers to how the use may adversely affect adjacent sites. He agrees with Ms. Wenger regarding subsection (d) concerning on-site and off-site traffic; it is related to the proposed use. This request is not a development plan review and should not link occupancy or conditional occupancy to the satisfaction of any condition. Mr. O'Malley concedes there are existing hazardous conditions for pedestrians; however, this use is appropriate and meets these standards so long as there are no hazardous conditions. Assuming these hazardous conditions do not exist then it would meet the conditions of this conditional use permit. Mr. O'Malley assured the Commission that the courts are taking property maintenance cases seriously and are imposing steep fines in cases where work is not completed.

Ms. Williamson said the church is a good occupant but she has the same safety concerns as other Commissioners, specifically the parking lot. Mr. Lasko understands the Commission's concerns however votes should be based on the limited scope of review as it pertains to the proposed conditional use versus other site issues. Those conditions are the responsibility of the Building Department and the legal system to enforce.

**Mr. Lasko moved, seconded by Ms. Meredith, to recommend City Council grant a conditional use permit to CMS09-09 for Sovereign Grace Church at 29047 Lorain Road based upon:**

- 1. Findings in the affirmative as it pertains to conditions and standards set forth 1118.03(a)-(f) that no adverse consequences will be created by permitting this type of use.**
- 2. Section 1118.04 conditions not being germane to this request.**

**Roll call: Mr. Lasko, yes; Ms. Meredith, yes with comment: based on the interpretation of the Planning Director and Assistant Law Director regarding the Commission's parameters in reviewing the applicant's requested use she votes in the affirmative and is comfortable the maintenance issues that could adversely the safety and welfare of the congregation will be resolved. Roll call continued: Mr. Bohlmann, no; Ms. Williamson, yes; Mr. Malone, yes. The motion was approved 4-1.**

**CMS09-10 Ganley Subaru; 25730 Lorain Road**

Proposal consists of constructing a new auto dealership. Note: PDC tabled 9/23/09 and BZA granted and denied variances 10/01/09.

Representatives: Steve Durbin, Janotta & Herner, Inc.; Joseph Fornal, Ganley Subaru

Ms. Wenger reported this project consists of constructing a new car dealership and site improvements. The existing structure on the site will be demolished in order to accommodate the new building. At the applicant's previous appearance, the Commission asked for more details regarding the proposed rock protection area. The landscape plan was modified to show the buffer area will contain a combination of evergreen trees and river rock. The Commission also reinforced the requirement of preserving the large tree next to the Lorain Road curb cut. The Board of Zoning Appeals considered variances for front building setback, display parking, and signage. Plans were revised to accurately reflect those variances granted and denied. The lot consolidation has been submitted for approval.

Building Commissioner Mitchell said he received a revised photometric plan, which has been approved. City Engineer DiFranco reported the applicant has begun addressing the engineering comments. He has met with the contractor and civil engineer concerning storm water management and is confident code requirements will be met. Mr. DiFranco said there had been discussion on routing the sidewalk though private property however the applicant has decided to keep the sidewalk in the right-of-way, maintaining two feet between the road curb and the sidewalk as the City requested.

Mr. Durbin said the majority of outstanding issues have been addressed. The sidewalk will be two feet from Lorain Road in the right-of-way to avoid the necessity of an easement. Concerning the landscape plan, details on maintaining a 2:1 slope ratio on the back side has been added along with rock protection and additional screening. Mr. Fornal said he is looking forward to moving this project forward and working with the City to build another nice facility on Lorain Road.

Mr. Malone recommends using Callery Pear trees, excluding Bradford, or Little Leaf Linden in place of the proposed Honey Locust trees around the perimeter of Lorain Road and Ranchview. In his opinion, Honey Locust is over-done in this area and using it as a street tree would not be an appropriate use. Callery Pears and Little Leaf Lindens are faster growing and more majestic. Concerning the large deciduous tree to be preserved near the Lorain Road curb cut, Mr. Malone recommends a landscape bed be installed beneath it, as it would be difficult to grow turf grass

beneath the tree. Perennials and dwarf grasses similar to other planned landscape beds are recommended. The corner of Lorain Road and Ranchview would be an appropriate place for a landscape bed and would dress up appearance of the location. He also requests the evergreen shrub specifications be changed from the planned 24-48 inch height to a minimum height of 36 inches. Mr. Durbin will accommodate Mr. Malone's requests.

Regarding retention, Mr. DiFranco confirmed to Mr. Bohlmann the underground retention has been approved by the EPA. An underground retention pipe that served the office building will be re-used; permeable pavers will be installed around the west side of the parking lot to provide storm water quality in accordance with EPA regulations.

Mr. Bruce Bruehler said he recently learned of this project and questioned the exact location. Mr. Lasko explained the new construction would be built at the corner of Lorain Road and Ranchview; on the site of the vacant eye doctor building. The house behind the site on Ranchview will remain. The existing Subaru dealership will remain as a Hyundai dealership making three buildings total; Subaru, Volkswagen, and Hyundai. Mr. Bruehler is concerned about building spotlights shining into nearby residences. He said there has been conflict on lighting issues during past Ganley projects. Mr. Durbin said the building-mounted photometrics are being taken into account and lighting will be shielded for adjacent residents. Mr. Bohlmann asked about current lighting problems at the Volkswagen dealership. He suggested making the correction of the lighting issue conditional on approval. Ms. Wenger requested Mr. Fornal investigate the issue; Mr. Fornal agreed.

Steve Calmer said he is indirectly affected by Ganley construction through closed sidewalks. During past construction projects it took the City and Ganley six months to resolve issues with nearby residents. In discussion with property owners during the Volkswagen Dealership construction it was agreed the fences to be installed on top of the boundary mounds would be painted green. Instead the fences were white and stood out, drawing trespassers to use the area as a dumping ground. Mr. Lasko said the fence will be green vinyl out of the box. Mr. Fornal responded, saying the sidewalk will be maintained for pedestrians. Although he was not part of the earlier project it is his understanding the fence decisions had to do with the quality of the fence and was in no way intended to be misleading. Mr. O'Malley recommended the motion include language concerning the maintenance of the area between the fences installed by Ganley and the residential fences.

**Mr. Lasko moved, seconded by Mr. Malone, to approve the development proposal for CMS09-10 Ganley Subaru which involves constructing a new auto dealership at 25730 Lorain Road with the following conditions:**

- 1. Lot consolidation of parcels 232-34-010, 232-34-011, and 232-34-015.**
- 2. The inclusion of the landscape plan modifications recommended by Mr. Malone pertaining to the Honey Locust trees, the landscape bed under the preserved tree along Lorain Road, the landscape bed at the corner of Lorain and Ranchview, and the evergreen shrubs being 36-inch minimum height.**
- 3. The area between the fence to be installed and the existing residential fences is and shall remain the maintenance responsibility of this property owner without regard to any easements that may be offered to neighboring residents.**

**The motion was unanimously approved 5-0.**

## NEW BUSINESS

### **CMS09-10 Ganley Subaru; 25730 Lorain Road**

Proposal consists of consolidating the following parcels 232-34-010 (.57 acres), 232-34-011 (.70 acres) and 232-34-015 (7.56 acres) into one parcel.

Ms. Wenger reported the applicant submitted their application and sets of plans but the Mylar and related details have not submitted for engineering review. The Commission approval is generally based on the engineering review. Therefore, having not submitted the proper documentation, the applicant requests the matter be tabled until the engineer has reviewed the Mylar.

Mr. Lasko stated that at the request of the applicant, CMS09-10 has been withdrawn for consideration subject to review by the Engineering Department.

## COMMUNICATIONS

**Master Plan Update:** Ms. Wenger stated that 2010 is the five-year anniversary of the Master Plan and recommended before the end of the year the Planning and Design Commission consider organizing a review and mini-update of the plan.

**OPC Cleveland Planning & Zoning Workshop:** Although the City does not have the funding to cover the cost of the November conference, Ms. Wenger encourages the Commission members to register on-line and attend if possible. It is hoped funding will be available next year.

**Great Northern Multi-Modal Transportation Plan:** Ms. Wenger reported the final draft is being completed and requests Planning and Design Commission representation at the next public meeting, which will be scheduled before the end of the year.

**Wind Energy Public Hearing:** The purpose of the wind energy public hearings on October 27 was to review two pieces of legislation to add property to the district; no global decisions have been made on the wind issue. Public meetings on first two pieces of legislation occurred in August 2009. The BZD will now schedule meetings. Mr. Malone reported the construction of a wind turbine on I-480 at Ridge Road at a scrap yard.

**Mr. Lasko moved, seconded by Mr. Bohlmann, to excuse Mr. Rerko and Mr. Cotner, which was unanimously approved 5-0.**

## ADJOURNMENT

**Mr. Lasko moved, seconded by Mr. Malone to adjourn the meeting at 9:01 p.m., which was unanimously approved 5-0.**

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John J. Lasko, Jr., Chair

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Tricia Granfors, Secretary

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Approved