

CITY OF KIRTLAND  
MINUTES OF COMBINED MEETING  
JANUARY 22, 2020

PLANNING AND ZONING COMMISSION  
CITY COUNCIL  
BOARD OF ZONING APPEALS

The meeting was called to order at 8:16 p.m. by Planning and Zoning Commission Chairman Michael Denk. Present were the following Planning and Zoning Commission members: Richard Blum, Michael Denk and Joseph Vinciguerra. Absent: Richard DeMarco and Rick Loconti.

The following Council members were present: Scott Haymer, John Lesnick, Richard Lowery, Jeffrey Ruple, Matthew Schulz, Joseph Smolic and Kelly Wolfe.

Present from the Board of Zoning Appeals: Ronald Fenstermaker, Suzanne Grazia and Robert Murch. Absent: Harry Keagler and Lita Laven.

Also present were the following: Mayor Kevin Potter, Law Director Daniel Richards, City Engineer Philip Kiefer, Economic Development Manager Monica Drake and Zoning Inspector Wayne Baumgart.

The following issues were addressed:

### **HIGHLIGHTS OF 2019**

Mr. Denk distributed a report providing highlights from the Planning and Zoning Commission meetings in 2019, which he briefly reviewed. He mentioned upcoming new construction at Lakeland Community College, proposed new construction of an event venue behind the shopping center, a proposed subdivision on Billings Road, and a proposed housing development in the Historic Town Center. There was brief discussion concerning these matters.

### **ALTERNATIVE ENERGY**

There was discussion regarding the existing alternative energy ordinance, including provisions to allow for solar roof panels to be placed on the front roof when they would not be functional on the rear or side facing roof.

Council President Lowery noted that he will be requesting that the Planning and Zoning Standing Committee take another look at this ordinance.

### **SIGN ORDINANCE (ARTWORK AND MURALS)**

Mr. Denk advised that the Commission has been reviewing the sign ordinance. Mr. Denk stated that every sign in the City has been photographed, noting that the Commission is considering using some of these photos in the ordinance to show the types of signs, as opposed to the current sign illustrations in the ordinance. Providing examples, Mr. Denk noted that artwork and murals are a topic of concern.

Mr. Blum noted that there are several pole signs in the City which should have been removed years ago according to the ordinance. Mr. Blum noted that a few years ago, a consultant was brought in, and he advised that larger signs should be allowed. Mr. Blum noted that at the recent strategic planning meeting, residents indicated the importance of addressing signs and that there needs to be uniformity.

Mr. Richards addressed non-conforming signs, noting that it is difficult to designate them as a nuisance. He noted that the ability to modify signs must be dealt with in the framework of the First Amendment of the Constitution of the United States and the freedom of speech.

There was discussion concerning enforcement. Mr. Baumgart noted that most of the enforcement issues he has been dealing with relate to overhanging tree branches. With regard to enforcement of the ordinances, Mr. Baumgart stated he is looking to achieve compliance rather than issuing tickets, noting that he has not yet submitted any issues to court. He noted that many of the issues with signs are temporary signs. With regard to the examples of artwork and murals on buildings, Mr. Baumgart noted that these were done by students as an art project; he questioned whether these are signs. He noted that one of the examples is in the Historic Town Center and questioned whether it should be treated differently for that reason.

Mr. Denk suggested meeting with business owners to explain the Commission's goal with regard to signs and conformity. With regard to existing non-conforming signs, such as pole signs, there was discussion regarding the difficulty of requiring removal of a sign that has been in place for many years. Mr. Richards noted that the idea is that the signs will be brought into conformity over time as they are replaced. Discussion continued regarding enforcement and non-conformities. Mr. Murch stated that he would not consider the painting of the hornet on the gas station to be a sign, noting that it has nothing to do with that business. Ms. Drake read the definition of "sign" and agreed that based on the definition, the hornet painting should not be considered a sign because it is an insignia of the school.

Mr. Denk stated that the Commission will continue to review the sign ordinance, and he welcomed input from those present.

### **CHARTER REVIEW (REFERENDUM ZONING)**

Mayor Potter advised that a Resolution will be on Council's next agenda regarding the appointments to the Charter Review Committee; the Committee should begin meeting shortly thereafter. Mayor Potter noted that according to the Charter, the Committee must hold a public hearing before making their recommendation to City Council. Mr. Richards noted that recommendations can be provided to the

Committee regarding items that the City would like considered. Mr. Richards added that the Committee can hold neighborhood meetings if desired.

Mr. Richards discussed the zoning referendum currently required by Charter, and he provided a brief history of how the zoning referendum became a part of many local cities' Charters, noting that it began in the City of Eastlake. Mr. Richards noted that referendum zoning stands in the way of expediency, but residents may not be in favor of giving up their right to vote on zoning changes. He noted that if the Committee proposes to remove referendum zoning from the Charter, it will be important to address this with the public.

Ms. Drake noted that she put together a power point presentation in this regard last year. She stated that she did a data search regarding processes and procedures in Kirtland and other local cities. She stated that referendum zoning was adopted in Kirtland in 1973, and it was a common theme across the country. She stated that for the past 30 years, there has been a 100 percent passage rate of any changes to the zoning map. Ms. Drake stated it is a 9 to 19 month process for a zoning map change under the referendum zoning process; in the event it is not passed by 55 percent, then it cannot be reconsidered for another 365 days. She noted that the result is that it discourages developers and they pursue development elsewhere. Ms. Drake stated that Eastlake and Willoughby have removed the referendum mandate from their process, noting that both their Planning Commission and City Council are mandated to hold a public hearing. Ms. Drake stated that a zoning map change should not be adopted as an emergency, and there should be a requirement for three readings to afford the citizens the opportunity to be informed and to make comments. Ms. Drake noted that the process in Eastlake and Willoughby for a zoning map change takes 4 to 7 months compared to up to 19 months for a referendum.

Ms. Drake stated that when a zoning map change is passed in this manner, there is a mandate within the Ohio Revised Code that allows the citizenry 30 days to gather signatures for referendum and place it on the ballot, so the citizens' right to vote on a zoning map change is never removed and they always retain that right.

While the citizens have a constitutional right of petitioning and referendum, Mr. Richards stated that it is costly for citizens to pursue and it is difficult to organize that type of campaign; therefore citizens often want the requirement of referendum zoning.

There was discussion regarding placing Charter amendments on the ballot; it was noted that they can be placed on the ballot as a whole or as individual amendments.

### **ARCHITECTURAL REVIEW BOARD**

Mr. Richards stated that it is beneficial to have an architect review proposals to compare with the design standards in place. He stated concern about having lay people review architectural plans and making a decision based on what they like and don't like.

Mr. Denk noted the challenge would be to develop standards. Following brief discussion, Mr. Lesnick indicated he had previously sent a memo in this regard; he noted that he will re-send that to Planning and Zoning. Mr. Denk stated that the Commission will review the memo.

**CITY COUNCIL CONCERNS AND OTHER ITEMS OF CONCERN**

Councilman Schulz noted that there have been complaints about the usage of “jake brakes” in the City. There was brief discussion. Although this is not necessarily a zoning issue, Mr. Richards noted that Council may wish to have input from the Commission.

Mr. Richards briefly discussed small cell wireless, noting that this is still an area of concern.

There was no further discussion, and the meeting adjourned at 9:32 p.m. upon the consent of all those present.

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CHAIRMAN

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SECRETARY