

**The Community Development Committee held a meeting on Monday, August 12<sup>th</sup>, 2024 beginning at 6:00 P.M.**

**Committee Members Present:**

CD: Co-Chair Mitchell, Schneider, Oswald  
Finance: Chair Tollett, Schneider, Cerra, Siwierka, Davis  
Utilities: Chair Mitchell, Oswald, Armstrong, Pres. Stewart  
Excused Absence: Callahan and Lipian

**Administration and Department Heads Present:**

Mayor Brubaker, Law Dir Deery, Safety Service Dir Pyanowski, Finance Dir Pileski, Asst Finance Dir Farrell, Engineer Schneider, Public Works Supt Conner, CD Manager Almobayyed, CD Dir Scott, Building Official Farkas, Asst Law Dir Breunig, Fire Chief Pronesti, Police Chief Pelko

**1. The matter of approval of the July 15<sup>th</sup>, 2024 CD Meeting Minutes.**

Motion made by Mr. Oswald, second by Mr. Schneider to approve the said minutes.

**MOTION CARRIES**

**2. The matter of a Conditional Use request for a Restaurant and Bar located at 460 Cleveland St.**

Referred By: Hubert Oliver Legacy

*\* Note: This matter was approved by The Board of Zoning Appeals on 8/1/2024.*

Law Dir Breunig said normally the proponent would speak on what they are applying for. Attorney Geoff Smith, who is the attorney representing Mr. Oliver, came up to the microphone to speak on his client's behalf. He said this is going to be a bar restaurant located at 460 Cleveland Street. Mr. Oliver is a long time Elyria resident and a former NFL football player and this is his dream. He said that residents are aware of what is going on with this. This has been a long arduous journey for Mr. Oliver.

Ms. Rosalyn Wade of 1424 Faxon Place, Elyria spoke to say that she and Hubert have been trying to get their business started for over a year. She said they have been denied by the neighborhood and all she and Mr. Oliver want to do is start their business. This was supposed to be a happy venture but it's turned bad. They have been held up with this for a year. All they want is a chance to open their business. She feels this has nothing to do with the restaurant, nothing to do with parking, this problem has to do with their color, about them being black. No one has even gotten to know them, they never came in to say hi. She doesn't know any other business that has had to go through the trials that they have. She thanked the committee for letting her say what she had to say and she would appreciate it if they would just give them a chance. Chair Mitchell thanked Ms. Wade.

Mr. Cerra (Ward Council for this area), responded by saying when this started he had meetings and conversations with some of the residents and not once had color come into the equation, a bar, yes because of what can be associated with a bar. Mostly, it's been about the lack of parking, that is with that building, customers will be parking on the street and in front of resident's houses, but street parking is public property.

He's heard comments that this is nothing different than a Smitty's or Hazels, but, the difference is they have parking lots. He does hope that this business does succeed, whether here or someplace else. He has respect for Hubert Oliver, he went to school with him and followed him through his NFL career.

Mrs. Davis asked if this is going to be a private club for people age 40 and older?

Dir Deery said, that is not a valid question, but, what's before committee this evening is the matter of the Conditional Use permit for this business. The reason this permit was required under the City's codes is because the zoning does not permit this type of use at this location. Comparing this to those other businesses, is those other business may have obtained conditional use permits or the purpose was within the zoning and they didn't need to. Asst Law Dir Breunig is here to discuss what the requirements are and what the committee needs to consider for a conditional use permit to be granted.

Chair Mitchell wanted to say that this matter did pass the Board of Zoning Appeals on Aug. first and Planning Commission had given their recommendation as well.

Dir Breunig said this is before the committee on a conditional use permit request. This is in a business neighborhood district and it cannot have the contemplated type restaurant and bars without applying for a conditional use permit. In order for it to be permitted, it would have to be zoned differently. Therefore, council has the opportunity to weigh in by issuing or denying a conditional use permit for the property. When you do that you are supposed to take into consideration certain factors that are listed in the codified ordinances. The code specifically contemplates that council and committee also gets to consider those same conditions and come to conclusions. Council is the legislative authority, Planning Commission and the Board of Zoning Appeals, is not. Board of Zoning Appeals granting a variance was a prerequisite for the committee to hear this tonight, but, it is not the final say, full Council will have the final say. He advises the committee to go along with 1135.03 of the codified ordinances, which specifies exactly what should be considered when deciding whether or not to issue a permit, other elements can also be considered and can require additional safeguards. The point of a conditional use permit is to give council a large amount of control over what happens with a property that's not situated in an ideal location for it. Council can permit it, subject to the conditions that they feel, at the legislation authority, are appropriate for that specific location. The commission and council will consider if the proposed use will be properly located in relation to land use and street plans of the city. That is what council member Cerra was referring to when he had discussions with the owners. That should be considered and discuss on the record whether the committee feels that this is properly located to the land use and street plans. The proposed use is necessary to serve the community needs, adequately served by essential public facilities and services, the location design and operation of the proposed use at this location would not unduly discourage or interfere with surrounding uses and properties and that it meets specific development conditions as specified in regulations for the district in which it is located. These things should be discussed on the record when they are considering these things. This applies to all conditional use permits.

Mrs. Siwierka said she knows Mr. Oliver and has respect for him. She's been around for a long time and she can categorically say that decisions are made on the facts not on anything else and she supports what Mr. Cerra said. We're looking at the rule and whether we allow for a change in that rule. But the job of council is to see what is the best use and following the guidelines for the ordinances. This does not have anything to do with determining the ownership or who will patronize the business.

Dir Breunig said questions that revolve around the hours of operation might be relevant, the expected traffic, because you're looking at the use of a specific property in relation to that neighborhood, maybe not who is going to be there, but what quantity of people are going to be there at what hours. Those are relevant questions.

Mr. Oswald asked if other departments can chime in. He said his main issue is about the parking, he never said anything about it being a bar or social club. It's going to be an issue, similar to Unplugged Brewery. This whole thing is about the law and guidelines. The problem stands, that there is a parking issue and could cause issues down the road.

Building Official Farkas said as this was tabled multiple times by PC and then resulting on a conditional approval pending Board of Zoning Appeals hearing and three requests were granted at that August 1<sup>st</sup> meeting. Official Farkas provided a variance letter to the Board listing the requirements; a restaurant required one parking spot for every 150 square feet of floor space and the proposed building is at 4,216 sq. feet requiring 28 spaces. The applicant indicated they have come up with additional spaces, which were to be located in the city right of way. That was referred and approved by the board. The second is, an aisle width of 15 ft is indicated between parking spaces 19 thru 21, 22 ft shall be maintained and the last one is they indicated stall 16 to be for compact cars only, but the zoning code does not address compact cars, it has a set stall depth of 19 ft. and they needed a variance and got it.

Mrs. Siwierka asked if a space is marked 'compact car only', and who is responsible for policing that?

Official Farkas said that would be the establishment's responsibility.

Mr. Oswald asked what the attendance would be allowed in this building?

Official Farkas said the proposal by the applicant is indicated to have 99 occupants and they need a minimum of 28 spaces based on the square footage.

The applicant needs 28 parking spaces and has 21 provided right now and they've come up with additional spaces.

Mr. Schneider asked for some information on conditional use permits.

Building Official Farkas said the conditional use permit is granted for the structure and or the owner. They expire after one year.

Dir Breunig added that conditional use permits are provided for the specific property and also to the individual applicant or LLC or individual or business.

Mr. Schneider asked for clarification on the parking spaces.

Building Official Farkas said there are 21 confirmed spaces, 2 that were generated adjacent to the building making 23 and 5 proposed in the city right of way, totaling 28. The applicant indicated that the 5 spaces in the public right of way are available to them. Public right of way means, in the road, on the sidewalk, in the city property.

Mr. Oswald said he was trying to make a correlation between Unplugged Brewery and the issue here. The city wants new business to succeed and sometimes we overlook a thing, and give way to some things. We still have that flexibility that we can make some of these changes, but some of these issues are different.

Mr. Cerra wanted to clarify, that along the side of the building, on Bellfield, vehicles do partially park on the sidewalk and in the public right of way and onto the curb.

Chair Mitchell asked if that is legal?

Engineer Schneider said there is a no parking sign along that side of the building for the first 100 feet off of Cleveland Street. There is a hill along that as well and a lack of a line of sight around that corner there. They prefer not to have parking there. There is tree lawn//curb lawn parking committee which consists of the engineer, police chief and the safety service director and that we need to be required to be approved to allow that tree lawn parking areas.

Dir Deery asked how many of those 5 parking spaces exist today?

Engineer Schneider said that answer is zero.

Chair Mitchell asked for anyone who would like to speak to come up to the microphone.

1. Doug Strickland of 115 Bellfield Ave. he is the neighbor who shares the largest boundary. He's attended every meeting on this topic.

He said there is a parking issue. He has to park in the neighbor's other business across the street. There is no business that has been granted permission from other businesses to park in their lots. if there are 99 people and you need 28 parking spaces he doesn't know where the parking will go. So not only will there be parking, then there will be the foot traffic on Bellfield late at night. If it's going to be a social club, there are a number of requirements that have to be met for that and they don't meet any of those parameters, which is why they applied for a D5, which is an entertainment liquor permit which allows them to serve until 2:30 A.M., 7-days a week. if the applicant's business model fails for the 40 and over, they already have a D5 liquor permit established to the location and there is nothing in the that says, since their business failed and now that would allow another business to come in and operate a different liquor establishment on the same property. Our street, Bellfield is a thoroughfare for the schools on Poplar St., buses, parents. The negatives outweigh the positives for the St. Jude neighborhood that it's always been. When it was the Payless Shoe Store, they had a maximum occupancy of 20. This is asking for a maximum of 99.

Mr. Cerra said that Mr. Strickland's property does adjoin the parking lot of this property and the only thing that divides that is a guardrail.

2. Holly Francis of 121 Bellfield wanted to clarify that she has been part of a small group of people in the neighborhood who were aware of this establishment coming into the neighborhood. In her conversations with everyone, the only issue that was brought up was the parking, never was race brought up.
3. Attorney Geoff Smith said that a conditional use is an allowed use within this district, it might not be of as right, which is why the committee gets to make the determination. But, restaurants and bars are a conditional use within this area that are allowed by your code. They have provided Planning Commission and the Zoning Board with the information along this route and they have agreed that this is this is the right thing to do. You have a street that has various businesses. Bellfield is owned by the City. Parking is based on the Christmas idea where a church needs a certain number of parking spots because they will have so many on Christmas Day, but there will be times when there will be overflow parking and that's why they went to the zoning board and they looked at the situation and they compared it to the City of Lakewood. There will be times when it may be hard to find a parking spot and there will be a business that's going to be open to the public. Law Dir Breunig mentioned 1135.03; the property located in an area and related to the land use, which is business. They look forward to a recommendation from this committee to approve this to move on to full council. Attorney Smith thanked everyone.

Mr. Oswald said one thing they are supposed to consider is will this impact the neighborhood. He asked to hear from Chief Pelko as to whether this would impact the neighborhood.

Chief Pelko said yes, he thinks it will impact the neighborhood. They have had a ton of parking complaints in the St. Jude area and this will have an effect on that.

Law Dir Breunig wanted to reiterate conditional use permits are conditional. The Committee can put additional safeguards beyond what the code specifies if you feel it could be appropriate in any given situation. That's not done often, but the code specifically says that. The committee has the ability to tailor this a little bit more and he just wanted to bring that provision of the code to the committee's attention.

Chair Mitchell read the committee report. She noted that the variance that was requested by PC was approved by the Board of Zoning Appeals on August 1<sup>st</sup>. That variance was for the number of parking spaces.

**Motion was made by Mr. Schneider, to get the matter on the floor, and second by Mr. Oswald to authorize an ordinance authorizing the 'said' conditional use permit.**

**4 – NAYS 0 – AYES (MOTION FAILED)**

**4. The matter of a Rezoning request for property located at 218 Prospect from Business-Neighborhood to Light-Industrial.**

Referred By: Black River Commercial Storage

*\* Note: This matter was approved by The Planning Commission on 8/6/2024 with no conditions.*

The applicant for this matter came up to the microphone, Greg Smink, owner of Smink Electric, residence is 152 Pinewood and owns Smink Electric located at 215 Winkles St. Mr. Smink owns a lot on the dead-end part of prospect and he has a legal variance to get around to the property. He wants to use that property to install storage units.

Mr. Schneider asked if this will be like a commercial contractor storage warehouse? Mr. Smink said yes, that is what they will be. The units will be heated.

Mrs. Siwierka clarified that Mr. Smink has an easement that was allowed when Ridge Tool put the driveway in? And she asked if this will be behind his business?

Mr. Smink said everything around that area is zoned heavy industrial.

Mrs. Siwierka said based on the picture she wanted to make sure it wasn't going to hinder the traffic in and out of Ridge Tool. And it looks like it won't. She also asked if Ridge Tool is aware of this?

Chair Mitchell said that Ridge Tool received a courtesy letter from the Clerk's office.

Chair Mitchell read the committee report.

Law Dir Breunig said this will go to Public Hearing and Ridge Tool will receive notice. **Motion was made by Mr. Schneider and second by Mr. Oswald to authorize an ordinance for the 'said' rezoning request.**

**MOTION CARRIES COMMITTEE REPORT WRITTEN**

*Finance Chair Tollett called Finance to order at 6:50 P.M. to begin the Joint CD/Finance Meeting.*

*CD Chair asked for a motion to adjourn the Community Development portion of this evening's meeting.*

**Motion was made by Mr. Oswald and second by Mrs. Mitchell to adjourn the Community Development portion of this evening's meeting at 7:23 P.M.**

**MOTION CARRIES**

**The evening's meetings continued with the FINANCE MEETING which began at 7:25 P.M.**

*Respectfully Submitted by,  
Colleen Rosado, Secretary/Administrative Assistant*