

BEAVERCREEK CITY COUNCIL
REGULAR MEETING April 23, 2018 6:00 p.m.

PROCLAMATIONS

- ◆ Arbor Day
- ◆ Older Americans' Month

CALL TO ORDER

Mayor Stone called the meeting to order followed by roll call

PRESENT: Council Member Curran, Council Member Litteral, Council Member Rushing, Council Member Upton, Council Member Vann, Vice Mayor Garcia, Mayor Stone

ABSENT: None

ALSO IN ATTENDANCE: Randy Burkett, City Planner; Dennis Evers, Chief of Police; Kim Farrell; Recreation Superintendent; Bill Kucera, Financial Administrative Services Director; Pete Landrum, City Manager; Jeff McGrath, Planning and Development Director; Dianne Miscisin, Clerk of Council; Mike Thonnerieux, Public Administrative Services Director

PLEDGE

Vice Mayor Garcia led the pledge and a moment of prayer.

APPROVAL OF AGENDA

Council Member Litteral MOVED to approve the agenda, seconded by Council Member Curran. Motion PASSED by majority voice vote. (Mayor Stone abstained

APPROVAL OF MINUTES

Council Member Upton MOVED to approve the March 26, 2018 Regular Meeting Minutes, seconded by Council Member Curran. Motion PASSED by majority voice vote.

PUBLIC HEARING – PUD 18-1 Lehmann Rezoning

Clerk Miscisin read an application filed by Mills-Barnett Pavilion, 3500 Pentagon Boulevard, Suite 500, Beavercreek, OH 45431. The application requests approval to rezone approximately 3.5 acres from R-1A, One-Family Residential District to MX-PUD Mixed Planned Unit Development. The property is located at 1505 N. Fairfield Road further described as Book 4, Page 5, Parcel 126 on the Greene County Property Tax Atlas.

Applicant Presentation

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John Kopelchack, 3500 Pentagon Blvd, Suite 500, Beavercreek, Ohio
Mr. Kopelchack explained they were asking for approval to rezone the property for a MX-PUD. He said the goal of the project was a mixed use commercial development. They anticipated the uses to be offices, medical offices, retail and maybe some residential. He said this was in line with the Land Use Plan and would like to be underway this year yet.

Staff Report

Mr. Burkett reviewed the staff report dated April 19, 2018 stating the applicant was requesting approval to rezone approximately 3.5 acres, from R-1A One-Family Residential to a Mixed Use Planned Unit Development. He reviewed the location, surrounding zoning, the Land Use Plan, setbacks and selected conditions. Planning Commission and staff recommended approval of this request.

Public Input

Henry Wulbeck, 3424 Dayton-Xenia Rd., Beavercreek, Ohio
Mr. Wulbeck shared a property line with the applicant. He said he gave Mr. Burkett a list of questions at the Planning Commission hearing which were more technically oriented regarding buffering and landscape requirements. He said Mr. Burkett had addressed those. He said in the packet there was a survey turned in regarding the Lehman property. He said the surveyor discovered some encroachments including a neighbor's barn into the Lehman property. He said the photo taken from the plane was not directly above the property and therefore showed the barn encroaching which was not correct. He said there were some wire fence encroachments which were cattle fences dating back into the 1800's. He said he had a problem with bars and taverns being a conditional use and asked Council to review that.

The public hearing was closed.

Council Input

Council Member Curran questioned the conditional use of the bars. Mr. McGrath explained Planning Commission changed bars and taverns to conditional use. He there was a concern about having a standalone bar in that area. He said they did not see this ever happening. He said if anything it would be contained within a multi-purpose building. He said it was not a conditional use in the Ordinance but Council could revisit this as it was recommendation of the Planning Commission to have as a conditional use. Staff did not believe there would ever be a standalone bar.

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Council Member Upton thanked the applicant for investing in the community. He said there were eight items set for conditional use in B2 zoning districts with brewery falling into that. He questioned if there needed to be a ninth condition for the bars and taverns. McGrath said they could amend and add it as a conditional use. He explained breweries by definition were micro-brew pubs. He said they wanted to be creative on this project as it was a unique piece in combination with what's further to the south. He said they did not want to limit their options with the specific site plan and were trying to make it a community oriented destination. He said it would serve the people of Beavercreek.

Mr. McHugh said breweries was not a conditional use in the Ordinance, they were an exception.

Council Member Litteral questioned if the vacant lot on the corner was going to have an issue with access. Mr. McGrath said they would work with the two property owners to inter-connect between the properties.

Ordinance 18-06 (First Reading)

Council Member Curran MOVED to approve Ordinance 18-06 and move to the second and third readings, seconded by Council Member Vann. Motion PASSED by majority voice vote.

PUBLIC HEARING – PUD 18-2 Holiday Inn Express

Clerk Miscisin read an application filed by Mitchell W. Cosler, 545 Hilltop Road, Xenia, OH 45385. The application requests approval to rezone approximately 2.402 acres for C-PUD, Commercial Planned Unit Development to C-PUD, Commercial Planned Unit Development. The property is located on the west side of Esquire Drive approximately 250 feet north of the intersection of Lakeview Drive and Esquire Drive further described as Book 4, Page 5, Parcel 14 on the Greene County Property Tax Atlas.

Applicant Presentation

Mitch Cosler, Cosler Engineering, 545 Hilltop Rd., Beavercreek, Ohio

Mr. Cosler explained they were proposing to build a Holiday Inn Express. He said staff recommended to rezone the C-PUD because of the height restriction in the current C-PUD and also bring it up to the current C-PUD restrictions.

Staff Presentation

Mr. Burkett reviewed staff report dated April 19, 2018 stating the applicant was requesting approval to rezone 2.4 acres, from an older C-PUD with a B3 underlying zoning designation to a new Commercial Planned Unit Development to allow for the construction of a hotel. He reviewed the location, surrounding zoning, the Land

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Use Plan, setbacks and selected conditions. Planning Commission and staff recommended approval of this request.

Public Input

There being no public input, therefore the public hearing was closed.

Council Input

Council Member Rushing questioned the hotel occupancy. Mr. Burkett explained it depended on the number of parking spaces it could fit.

Council Member Vann asked what the difference in height was with Mallard Landing. Mr. Burkett said Mallard Landing was three stories and was probably about 40 feet.

Council Member Upton said recent hotels at the mall were four/five stories. He said he was concerned with taller buildings and the fire department. Mr. Burkett said they forward site plans to the fire department for review. He said they have not had any concerns with the newer hotels by the mall. Council Member Upton asked staff to confirm with the fire department that they were okay with this height.

Mayor Stone said the applicant was going through this process mainly for the height and this hotel could have gone in there without a new zoning process. Mr. Burkett said that was correct.

Ordinance 18-07 (First Reading)

Council Member Vann MOVED to approve Ordinance 18-07 and move to the second and third readings, seconded by Council Member Rushing. Motion PASSED by majority voice vote.

ORDINANCES, RESOLUTION AND PUDS

Ordinance 18-05 Appropriate the Right-of-Way (Estate of Andrew E. Merritts for Off-Street Parking Facility (Second Reading)

Clerk Miscisin read an Ordinance to appropriate for public use, all right title and interest in a certain parcel of property located at 3870 Southview Street, Beaver Creek, Ohio for the purpose of acquiring fee simple interest for an off-street parking facility in the City of Beaver Creek, Ohio.

There being no public input, the public hearing was closed.

This Ordinance will move automatically to the Third Reading.

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Ordinance 18-08 Repealing Current Section 94-07 and Adopting New Section 94.07 (First Reading)

Clerk Miscisin read an Ordinance repealing current section 94.07 "Unsolicited Printed Materials" of the City of Beavercreek Code of Ordinances, and adopting new section 94.07 "Unsolicited Printed Materials" of the City of Beavercreek, Code of Ordinances.

Mr. McHugh said this was brought up at the work session and these changes were straight forward.

Vice Mayor Garcia questioned section B2 and asked why they were getting rid of the 30 day requirement. Mr. McHugh said it was because the prior premise was based on the city taking action and now this was for the citizen who was not required to have a time frame. Vice Mayor Garcia said she read it as once the citizen reached out, the publisher would have to stop leaving the materials in a reasonable amount of time. She said it used to say they should stop leaving materials after 30 days once the citizen gave them notice. Mr. McHugh said that she was reading it correctly. Vice Mayor Garcia said she found it beneficial to have that in there. Mr. McHugh said they could add it back. Vice Mayor Garcia explained the term 'reasonable time' is left to too much interpretation. She said it needs to be clearer. Mr. McHugh said he would revise the Ordinance accordingly.

Public Input

Frank Feчек, 4308 Kemp Rd, Beavercreek, Ohio

Mr. Feчек read a hypothetical story. He suggested an opt in clause for the material assuming that no one would like the materials to be left in the citizens' driveways.

Public Input was closed.

Council Member Vann confirmed it was the state that allowed the merchants to do this and home rule did not allow us to stop it. Mr. McHugh said they will say it's their first amendment right because they add a very short news article. He said some cities have created a do not throw list but there are evidence issues of how it got put there.

Council Member Litteral said it takes money and time and people are on limited income. Mr. McHugh said if Council would like counsel to litigate he would but he wanted Council to be aware of the cost. Council Member Litteral said they were trying to make it better but most of the citizens would not be able to do this. She said some would need assistance to file and legal fees were not cheap.

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Council Member Rushing said he didn't think any member of council or staff would support or enjoy having various vendors pass around said materials. He said it's an unfortunate reality the city faces and Mr. McHugh wanted to be upfront of the potential cost if they were to keep the law as is. He said this change is the standard practice of the surrounding communities.

Council Member Litteral MOVED to approve Ordinance 18-08 as amended by adding 60 days and move to the second and third readings, seconded by Council Member Vann. Motion PASSED by majority voice vote.

Council Member Vann suggested a form letter for residents to help them communicate with the vendors.

LIQUOR PERMITS

BR Beaver Creek LLC DBA Black Rock Bar & Grill (New)

Chief Evers said the Ohio Division of Liquor Control sent police notification referencing a new D5I liquor permit for BR Beaver Creek LLC, DBA Black Rock & Grill, 2745 Fairfield Commons Beaver Creek, Ohio 45431. The records checks required by the Ohio Department of Commerce – Division of Liquor control were conducted on the business officers/shareholders for this application request. Staff recommended this application request move forward with no comment.

Council Member Litteral MOVED to accept without comment, seconded by Council Member Vann. Motion PASSED by majority voice vote.

CITY MANAGER'S REPORT

Mr. Landrum reviewed the resurfacing plan for this year. The City would be celebrating Arbor Day on April 27th at 6:00 p.m. at the Dominick Lofino Park. Prescription drug drop off was on April 28th from 10:00 a.m. – 2:00 p.m. The Beaver Creek Police Department and City Hall would be having an open house on May 19th from 11:00 a.m. – 2:00 p.m.

MAYOR'S REPORT

Mayor Stone said the Memphis Belle would be unveiled May 17th at the National Museum of the United States Air Force.

COUNCIL TIME

Council Member Vann said on April 30th there would be a symposium about medical marijuana at the Lofino Center.

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Council Member Rushing said he attended the All-District Beavercreek Band Concert last week. He said the historical society was hosting the Birth of the City of Beavercreek on Tuesday night.

Vice Mayor Garcia reviewed her experience of the Dayton Development Coalition Fly-In.

CITIZEN COMMENTS

There being no citizen comments, citizen comments was closed.

ADJOURNMENT

Council Member Litteral MOVED to adjourn the meeting at 7:19 p.m., seconded by Council Member Curran. Motion PASSED by majority voice vote.



Bob Stone, Mayor

ATTEST:



Dianne Miscisin
Clerk of Council
Cmin042318