

BEAVERCREEK CITY COUNCIL  
REGULAR MEETING June 22, 2020 6:00 p.m.

PROCLAMATIONS

- ◆ Parks and Recreation Month, July
- ◆ Dayton Intern Appreciation Week, July 6-10

**CALL TO ORDER**

Mayor Stone called the meeting to order followed by roll call

PRESENT: Council Member Curran, Council Member Duerr Council Member Garcia, Council Member Schwartz, Vice Mayor Adams, Mayor Stone

ABSENT: Council Member Bales

ALSO IN ATTENDANCE: Randy Burkett, Interim Planning and Development Director; Dennis Evers, Chief of Police; Bill Kucera, Financial Administrative Services Director; Pete Landrum, City Manager; Steve McHugh, Legal Counsel; Dianne Miscisin, Clerk of Council; Jeff Moorman, City Engineer; Sandra Pereira, City Planner; Mike Thonnerieux, Public Administrative Services Director

**PLEDGE**

Vice Mayor Adams led the pledge and a moment of silence.

**APPROVAL OF AGENDA**

Council Member Curran MOVED to approve the agenda, seconded by Council Member Garcia. Motion PASSED by majority voice vote.

**APPROVAL OF MINUTES**

Council Member Curran MOVED to approve the May 26, 2020 Regular Meeting Minutes, seconded by Council Member Duerr. Motion PASSED by majority voice vote.

**PUBLIC HEARING PUD 88-21 MOD 5/20 Major**, Raising Cane's Chicken Finger's Clerk Miscisin read an application filed by Kayla Holbrook, 1062 Ridge Street, Columbus, OH 43215. The application requests a major modification to the specific site plan to allow for the construction of a 3,152 square foot restaurant located at 2755 Fairfield Commons Boulevard. The property is further described as Book 4, Page 3, Parcel 64 on the Greene County Property Tax Atlas.

Applicant Presentation

Kayla Holbrook, 1062 Ridge Street, Columbus, OH 43215

Ms. Holbrook was excited to put their second location in Beaver creek.

Staff Presentation

June 22, 2020

Ms. Pereira summarized the staff report dated June 18, 2020 stating the applicant is requesting a major modification to PUD 88-21 in order to construct an approximately 3,100 square foot restaurant to be located within the Mall at Fairfield Commons Development. She reviewed location, zoning, proposed site plan, access points, parking, outdoor patio, access points, sidewalk, stacking, cross walk, signage and conditions. Staff and Planning Commission recommended approval of this application with 14 conditions.

#### Public Input

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

#### Council Input

Council Member Duerr asked if there had been any input from Panera. Ms. Pereira said they were notified but did not hear from them. Council Member Duerr was concerned with the traffic and the crosswalk. He suggested adding a flashing pedestrian sign.

Council Member Garcia thanked Raising Canes for adding a second location and expressed concern with the crosswalk.

Council Member Schwartz asked Ms. Holbrook if there was any data on how many cars were going through the drive-thru at any given time. Ms. Holbrook said they average 30-60 cars per hour but greatly depends on the time of day and location. She said they strive for one car per minute but they are probably doing one car per two minutes. Council Member Schwartz asked if there was any concern with amount of area to get people through the drive-thru given the fact that Panera is also using the same entrance. Ms. Holbrook said no because of adding the additional lane like Chick-fil-la is now using. Council Member Schwartz asked staff to address the same question. Ms. Pereira said this was their concern as well but felt having the double drive-thru during peak hours made sense. She said Panera does not have a drive-thru and didn't feel it be an issue.

Council Member Curran thanked them for coming into the community. The site on Indian Ripple has been fantastic.

Vice Mayor Adams was concerned with the crosswalk and agreed to having some sort of flashing light. He was also concerned with traffic flow at busy times and turning left into the restaurant. Ms. Pereira said they would continue to work with the applicants but do not anticipate any problems. She said they are very good to work with.

June 22, 2020

Mayor Stone said we do have locations where the drive thru backs up into the parking lot and even into the street. He hoped this design would prevent that from happening.

#### Motion

Council Member Curran MOVED, for the purpose of taking administrative action, approval of a PUD Major Modification for Raising Cane's, PUD 88-21 MOD 5/20, on the basis that City Council finds the facts submitted with the application and accompanying materials, and modifications, amendments and supplementary conditions satisfy the standards and criteria for a PUD Major Modification as per §158.070 of the Zoning Code. Supplementary conditions required of this approval shall be as follows. Council Member Curran further moved that this motion with all conditions be fully recorded in the minutes of this Council meeting.

1. The approved site plans for this development shall be the plans stamped "Received May 26, 2020", except as modified herein.
2. The approved architectural elevations for this development shall be the plans stamped "May 26, 2020", except as modified herein.
3. A PUD agreement must be signed by the owner and a bond or letter of credit for the required site landscaping must be submitted prior to the release of a zoning permit for any portion of the project for the purpose, but not for the sole purpose, of insuring the installation of landscaping. Said bond or letter of credit must meet the requirements of the City's landscaping and screening regulations.
4. A detailed landscape plan shall be reviewed and approved by the Planning Department prior to the execution of the required PUD Agreement and the release of any zoning permit for this project.
5. Perpetual maintenance of landscaping shall be provided and any dead or diseased materials shall be removed and replaced with similar types, species and sizes as originally planted, within three months, weather permitting
6. Prior to the issuance of a zoning permit, final cut sheet details and photometric plans for lighting of the site shall be reviewed and approved by the Planning Department.
  - a. Poles shall match the height of the adjacent development to the east and must have full cut off fixtures.
  - b. No light poles may be located within the parking lot.

June 22, 2020

7. All trash collection containers shall be screened from view and enclosed within a permanent dumpster enclosure or stored completely within the building.
  - a. Any dumpster enclosure shall be constructed of materials architecturally compatible with the building and have a closable, lockable gate.
  - b. The final design of the dumpster enclosure shall be reviewed and approved by the Planning and Zoning Department prior to the issuance of any zoning permits.
8. The building exteriors shall not be painted or altered in any way that varies from the approved elevations unless otherwise approved by the Planning Department or, if required, by the City Council and/or Planning Commission.
9. Any proposed gutters and downspouts shall be internally mounted.
10. All building mechanical equipment is to be screened from all directions with architectural features (roof forms or parapet walls). Metal screening will not be accepted. Pad mounted equipment must be screened with landscaping and/or masonry walls and shall not be visible to the public.
11. Employee parking shall be designated in the off-site parking area across the ring road.
12. Debris and trash shall be routinely collected by the owner from the parking lot and grounds of all areas of the project including the storm drainage facilities. The City reserves the right to require more frequent collection as necessary.
13. All concerns of the City Engineer, Fire Department, Sanitary Engineer, Planning Department and the Beavercreek Police Department shall be addressed prior to the issuance of any zoning permits for the project.
14. Signage shall be permitted on the north, south, and west elevations and shall be limited to 50 square feet, per elevation.
  - a. The mural shall be additionally permitted on the north elevation, shall be limited to 140 square feet, and must be removed if Raising Cane's vacates the building.
  - b. The ground sign shall be limited to 30 square feet per sign face and 6.2 feet in height. An additional preview board and menu board shall also be permitted.
  - c. No temporary signs of any kind are permitted in this PUD.

June 22, 2020

Council Member Duerr seconded the motion. Motion PASSED by majority voice vote.

**PUBLIC HEARING PC 20-5, ASRA DETAILED SITE PLAN, WesBanco**

Clerk Miscisin read an application Chris Humphrey, 4495 Millwater Drive, Powell, OH 43065. The applicant requests an Administrative Site Plan Review and Approval (ASRA) for 1.298 acres of land to construct a 1-story retail banking office building. The property is located at 1243 North Fairfield Road further described as Book 5, Page 5, Parcel 99 on the Greene County Property Tax Atlas.

**Applicant Presentation**

Chris Humphrey, 4495 Millwater Drive, Powell, OH 43065, Mr. Humphrey said WesBanco was interested in improving their location in Beavercreek and wished to development the lot immediately north of Frisch's. He believed they have accommodated staff's requests. He said there was a land owner the lives behind the property with concerns regarding dumpsters being dumped at two in the morning at Frisch's. He read a communication from William Beckett, Senior Vice President Director of Facilities and Procurement for WesBanco saying "Frisch's uses Rumpke Waste and have pickup on Monday afternoon. We will follow suit. Please inform the municipality."

**Staff Presentation**

Ms. Pereira summarized the staff report dated June 18, 2020 which stated the applicant is requesting Administrative Site Plan Review Approval to allow for the construction of an approximately 2,600 square foot bank proposed to be located at 1243 North Fairfield Road.. She discussed the location of the property, what currently exists on the property, the site plan, the access points, the parking requirements, the proposed color rendering and materials, the landscaping plan, water detention, lighting and proposed signage. Staff and Planning Commission recommend approval of the application with 19 conditions.

**Public Input**

Clerk Miscisin said there was one email received from Angel Ashbrook, 1270 Enochs Drive, Beavercreek, Ohio who expressed her concern regarding dumpsters being dumped at two in the morning.

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

**Council Input**

June 22, 2020

Council Member Curran was concerned with speeding traffic and felt the curb should be cut in so traffic can slow down. Ms. Pereira said they would look into it to see if it may be addressed.

Council Member Schwartz questioned the reasoning of the right in only and not just using the traffic light. Ms. Pereira explained it was originally supposed to be a right in, right out only. She said the applicant worked with the engineering department to just make it a right in only because the city engineer felt it was much too close to the intersection to be a right out. She assumed the applicant would like as many access points as possible but the preferred point was at the light. Council Member Schwartz asked Mr. Humphrey to address this. Mr. Humphrey said the history of developing this lot for WesBanco is when they were looking at purchasing it the City did say yes, they would be allowed to have direct access onto the road. He said it's very desirable because of convenience means a lot to a lot of people. He said inconvenience can be the loss of customers and the loss of business. Council Member Schwartz said the building is beautiful.

Council Member Duerr suggested a flashing light to maintain a slower speed from the area.

Vice Mayor Adams confirmed the ATM was in the back of the building and questioned the lighting.

#### Motion

Council Member Duerr MOVED, for the purpose of taking administrative action, approval of an ASRA Detailed Site Plan for WesBanco, on the basis that City Council finds the facts submitted with the application and accompanying materials, and modifications, amendments and supplementary conditions satisfy the standards and criteria for an ASRA Detailed Site Plan as per §158.083 of the Zoning Code. Supplementary conditions required of this approval shall be as follows. Council Member Duerr further moved that this motion with all conditions be fully recorded in the minutes of this Council meeting.

1. The approved plans for this development shall be the plans stamped "Received May 27, 2020", except as modified herein.
2. The approved building elevations shall be those plans stamped "Received May 27, 2020" except where modified herein.
3. A detailed landscape plan shall be reviewed and approved by the Planning Department prior to the execution of the required Development Agreement and the release of a zoning permit.

June 22, 2020

4. Prior to the issuance of a zoning permit, all structures including houses, accessory buildings, paved areas and the like shall be completely demolished and removed from the site. A demolition permit shall be required from the City and County prior to any demo work being performed.
5. All existing curb cuts and driveway aprons in front of North Fairfield Road shall be removed and replaced with new curb and gutter. This shall be shown on the final construction drawing, to be reviewed and approved by the Engineering Department prior to the release of a final subdivision.
6. Perpetual maintenance of landscaping shall be provided and any dead or diseased materials shall be removed and replaced with similar types, species and sizes as originally planted, within three months, weather permitting.
7. A Development Agreement must be signed by the owner and a bond or letter of credit for the required site landscaping must be submitted prior to issuance of a zoning permit for any portion of the project for the purpose, but not for the sole purpose, of insuring the installation of landscaping. Said bond or letter of credit must meet the requirements of the City's landscaping and screening regulations.
8. All trash collection containers shall be screened from view and enclosed within a permanent dumpster enclosure or completely kept within the building. Any dumpster enclosures shall be constructed of materials to match the building, and fitted with a closeable, lockable gate.
9. Debris and trash shall be routinely collected by the owner from the parking lot and grounds of all areas of the project including the storm drainage facilities. The City reserves the right to require more frequent collection as necessary.
10. Gutters, downspouts and roof access ladders shall not be visible on any elevation of the building. They shall be internally mounted. Thru-wall scuppers are permitted.
11. The façade shall not be painted or altered without the expressed approval of the Planning Department and/or Planning Commission.
12. All Signage shall comply with the Zoning Code for B-2 district with the exception of allowing one additional sign on the south elevation. The final

June 22, 2020

location and size shall be reviewed and approved by the Planning Department prior to the issuance of any sign permits.

- Raceways shall be prohibited.
- No temporary signage shall be permitted.
- The ground sign shall be constructed with a masonry base and wrap, to match the materials used to construct the building.

13. Prior to the issuance of a zoning permit, final cut sheet details and photometric plans for lighting of the site shall be reviewed and approved by the Planning Department.
  - Maximum mounting height for any parking fixture shall be 16 feet, and no pole shall be located in the paved area of the parking field.
  - Lights in the parking lot shall be reduced to no greater than 25 percent illumination level within one hour of closing with the exception of the lighting around the 24-hour ATM.
14. All concerns of the City Engineer, Fire Department, Sanitary Engineer and the Planning Department shall be addressed and approved prior to the release of a zoning permit for the building.
15. A final subdivision must be approved by Planning Commission and recorded prior to the release of a zoning permit for the building. The final subdivision shall include a 25-foot wide public access and construction easement from the entry point to the northern property line.
16. All roof top or ground mounted mechanical units shall be completely screened from view from all directions with architectural features (roof forms or parapets) or landscaping.
17. No outdoor speakers shall be permitted with the exception of teller speakers within the drive-thru.
18. The construction hours for any exterior work shall be limited to 7am-7pm Monday through Saturday.
19. Orange fencing delineating the 25-foot tree preservation area and grading limit shall be installed prior to the removal of any vegetation or structures on the property.

Council Member Schwartz seconded the motion. Motion PASSED by majority voice vote.



June 22, 2020

### **ORDINANCES, RESOLUTIONS AND PUDS**

#### **Ordinance 20-09** Income Tax Code (Third Reading)

Clerk Miscisin read an Ordinance by Beaver Creek City Council enacting a new Chapter 39 "Income Tax" to the codified Ordinances of the City of Beaver Creek.

#### Public Input

Tony Corvo, 432 Ashton Court, Beaver Creek, Ohio

Mr. Corvo said he mentioned at the first reading how levies allow citizens to control spending and how an income tax is a power transfer from citizens to office holders with no real checks and balances. He said at the last reading a speaker mentioned trust and said she trusted you to make the right decisions concerning spending if you get the income tax passed. Mr. Corvo was sure that council was all nice people but his problem was he didn't trust them while sitting in the council seats. He said he doesn't trust the state legislature or the federal legislature. He said that was a good thing because it was built into the constitution for checks and balances. He questioned the people after this council. He said the person who said she trusted you supported the golf course and that turned into a fiasco. He said without checks and balances with an income tax for future council it could turn into many, many golf courses. He said the mistake with the golf course was not an honest financial, it was a basic misunderstanding of what the fundamental role of government is. He said the fundamental role of government is not to build golf courses. He said in an earlier video a member of council mentioned that if voters had problems with any project they could come to council and you would listen and react to their proposal. He said once upon a time in a land far, far away we know that is not a good checks and balances. We all know we have had some real lulus on council over the years. He has lived here since 1994 and has fought all the income taxes, fought the Greene and there were a lot of mistakes made. He said there were people who had outside agendas and that's why anyone sitting in an office that has control over him and his money. He said without voted checks and balances over the years the income tax will bring many golf courses. He also believed that in time this city would ask for an increase in income tax and may even ask for the levies to come back.

Mark Walsh, 435 Ramsgate Drive, Beaver Creek, Ohio

Dr. Walsh supports the income tax and felt it financial suicide for the city to give this money to surrounding communities when we have pressing needs in Beaver Creek. He said at the last meeting one person mentioned concern about enacting it if people were unemployed. He said from the citizens' perspective, he would rather have an income tax because if he were unemployed he doesn't pay it. He said if all his tax to the city is in property tax and he's unemployed he still has to pay the tax. He said you are elected officials of the people and said thank

June 22, 2020

you. He trusts you. He encouraged anybody who does not trust the council to run for council. He said a lot of times it's a thankless job. He felt as representatives of the people you have a moral and fiduciary responsibility to them to put this on the ballot. He said you are not enacting the income tax, you are giving the citizens a choice of doing that. He said since a majority of Beaver Creek citizens would see a drop in their taxes and improvement in services, it is council's responsibility to put it on the ballot in November.

Al Cummings, 2669 Greenside Drive, Beaver Creek, Ohio

Mr. Cummings said he has watched the income tax decisions over the last two times and now this time. He thought they were much better positioned today to provide citizens a lot of data and metrics that they haven't had in the past. He said it appears that many questions that have been asked in the past have been addressed pretty well this time. He said he likes the idea of non-residents of paying their bills. He also likes the predictability of sustainable income to enable a funding plan to be enacted for the community that sees out years ahead. He said it seems the system they have had could be compared to a family where when the bread winner's job runs out every two or three years when the contract changes. It's a very discomfoting event for that person not to be able sustain the household. He said such a system does not really lead itself to paying the mortgage or fixing the roof where as a predictable income would give us an opportunity to plan. He said that has been our shortfall because we don't know whether a levy will pass or what the size of the levy would be. He said we need a reliable system of funding that allows predictability and an income stream.

John Mitchel, 3955 Maple Grove Lane, Beaver Creek

Mr. Mitchel said one of the speakers said Mr. Corvo should run for office. He said Mr. Corvo did by stepping forward for an open seat just like he did. He said he was not surprised when neither of them were selected.

Brian Jarvis, 8255 Timberwood Drive, Beaver Creek

Mr. Jarvis said the committee had done a lot of research on when a city asks for the next increase. He said they reviewed all 15 cities in Montgomery and Greene counties that have an income tax. He said the found that it was an average of 10.8 years before they ask for another income tax. He said it's a low of three years and a high of 29 years. He said eventually if business growth does not continue and we depend on the city growing business so there are more employees and tax collection we know in our region what that is. Nobody has said there wouldn't be an income tax request again ever. He said they do know that without a significant increase in revenue the city won't be able to maintain quality services. He said you wouldn't be able to address \$200 million backlog of infrastructure and deferred maintenance that needs to be done. He said you have to make a decision that

June 22, 2020

sets us on the path to fulfill those needs. He said currently Beaver Creek property owners pay the fourth highest city effective millage of any city of Montgomery and Greene counties. When people are saying their property taxes are high, that is a truism. He said this is compounded by people not wanting to pay higher taxes for city services. He said property taxes are not an efficient and sustainable way to fund services of a city of Beaver Creek's size. He said the levies option plan proposed in January that simply increases property taxes year after year is not a solution. He said the solution is an untapped resource of non-residents who work here. He said they take \$10 million plus out of us every year and bring it back to their home communities to support their police department, street department and parks department while keeping their property taxes low. He said that has to stop.

Carol Graff, 1442 Devoe Drive, Beaver Creek

Ms. Graff said those of us who are retired could use some property tax relief, The residents who are working in other municipalities are already paying earnings tax, could use property tax relief. The active military who live here could use property tax relief. She said there is a \$200 million infrastructure backlog. She said it is apparent to those who have been a part of the City of Beaver Creek for forty years that property taxes alone do not sustain the city and cannot take care of all the needs that we have. She asked that council consider this alternative, adopt the Ordinance and think of the City of Beaver Creek as a whole for eternity.

There being no more input, public input was closed.

Council Member Curran MOVED to approve Ordinance 20-09, seconded by Vice Mayor Adams. Motion PASSED by majority voice vote.

**Ordinance 20-10** PUD 13-5 Amendment 5/20 Germany Lane Development (Second Reading)

Clerk Miscisin read an Ordinance amending Ordinance 13-20 (PUD 13-5, Sirjit Mattu) to include additional uses as described below.

Council Member Curran MOVED to approve Ordinance 20-10, seconded by Council Member Schwartz. Motion PASSED by majority voice vote.

**Ordinance 20-11** Z-20-1 Franks Rezoning, R-1A to A-1 (Second Reading)

Clerk Miscisin read an Ordinance amending the Zoning Map, by rezoning approximately 6.283 acres of land from R-1A One Family Residential to A-1 Agricultural. The property is further described as Book 5, Page 9, Parcel 33 on the Greene County Tax Atlas.

June 22, 2020

Council Member Duerr MOVED to approve Ordinance 20-11, seconded by Council Member Garcia. Motion PASSED by majority voice vote.

**Ordinance 20-12** Establishing New Revenue Fund and Eliminate One Special Revenue Fund in Conformity with Generally Accepted Accounting Principles (First Reading and Public Hearing)

Clerk Miscisin read an Ordinance to establish one new special revenue fund and to eliminate one special revenue fund in conformity with generally accepted accounting principles.

Mr. Kucera said HB 481 authorizes and appropriates distribution of \$350 million of federal CARES Act funding for Ohio communities for COVID-19 eligible expenses. The funds will be sent to the County who will in turn divide the funds and distribute the funds according to the local government fund distribution process. He said for the city to get those funds they will need to update the accounting system with a special fund to accept the funds and also show the distribution and verify they were used for eligible expenditures. He said the new fund would be called the Local Coronavirus Relief Fund. He said there was companion legislation that is required to be adopted to allow the city to authorize and accept the distribution from the state to the county to the city. He said they also need to eliminate the Youth Activity Fund that was established in 2009. He said they created their own system therefore this fund is no long necessary.

There being no public input, Public Input was closed.

Council Member Garcia MOVED Ordinance 20-12 to the second reading, seconded by Council Member Schwartz. Motion PASSED by majority voice vote.

**Resolution 20-15** CARES (Coronavirus Aid, Relief, and Economic Security) Act  
Clerk Miscisin read a Resolution by Beaver creek City Council to request the City of Beaver creek's share of funds from the County Coronavirus Relief Distribution Fund and affirming that upon receipt of such funds, all expenditures therefrom will be in compliance with Section 5001 of the CARES Act and any other applicable laws and regulations.

Mr. Kucera said this was the companion piece which needs to be sent to the county and state.

Council Member Schwartz MOVED to approve Resolution 20-15, seconded by Council Member Garcia. Motion PASSED by majority voice vote.

**COUNCIL TIME**

June 22, 2020

Council Member Duerr thanked the Parks, Recreation and Culture Department who their hard work getting the parks reopened. He also thanked the police department for the CALEA compliance and the COPP program. He thanked staff for the hard work with regards to attaining more grants.

Council Member Garcia thanked the staff for all the detailed information provided in the packets and when speaking.

Council Member Schwartz thanked the citizens, staff and the BFFC for all their input. She thanked the sponsors for the Fourth of July. This community has been through a lot and we haven't had a time to come together to celebrate.

Council Member Curran thanked the Parks Department for their efforts in keeping people active. He encouraged the people to come out and enjoy the fun during the Fourth of July

Vice Mayor Adams thanked staff as well for the detailed information. He said the police department was thinking of doing another Citizens Police Academy later in the year. He asked to please shop the local businesses while following the guidelines in place.

#### **MAYOR'S REPORT**

Mayor Stone thanked Mayor Jarvis for all his work with the income tax. He attended the change of command at WPAFB. Col. Patrick Miller will be replacing Col. Sherman who is going to the pentagon. He thanked those that organized the demonstration on June 13<sup>th</sup>. He was looking forward to the 4<sup>th</sup> of July. He complimented the city manager for his hard work during the last few weeks.

#### **CITY MANAGER'S REPORT**

Mr. Landrum said the 4<sup>th</sup> of July parade has been cancelled but the 4<sup>th</sup> of July fireworks will happen at the Mall at Fairfield Commons. He said crews are out painting the roads and ask that you please do not drive over the lines and keep your distance from the trucks and crews. He reviewed new hours of Greene County Environmental Services.

#### **CITIZEN COMMENTS**

There being no comments, Citizen Comments was closed.

#### **ADJOURNMENT**


Council Member Curran MOVED to adjourn the meeting at 7:22 p.m., seconded by Council Member Garcia. Motion PASSED by majority voice vote.

June 22, 2020



Bob Stone, Mayor

ATTEST:



Dianne Miscisin  
Clerk of Council  
Cmin06222020