

# **Minutes**

## **Clark County Planning Commission**

Regular Meeting ~ 2:00 pm.  
Wednesday, July 6, 2022

Springview Government Center  
3130 East Main Street  
Springfield, Ohio 45505

Louise Maurer, Chairperson of the Clark County Planning Commission, called the meeting to order at 2:00 pm. and asked for the Roll Call.

Present For Roll Call: Mr. Dave Stickney, Mr. Jay Kitchen, Ms. Kerri Brammer, Mr. Mark Scholl, Mr. Don Wallace, Ms. Louise Maurer, Commissioner Melanie Wilt, Commissioner Lowell McGlothlin, Mr. Sky Schelle and Mrs. Jo Anderson.

Absent For Roll Call: Commissioner Sasha Rittenhouse.

Also in Attendance: Mr. Ethan Harris, Mrs. Jennifer Tuttle and Mrs. Rachel Ricketts from Clark County Community and Economic Development.

### **Approval of the May 4, 2022 Minutes**

Motion by Commissioner Wilt, seconded by Mr. Scholl, to **Approve** the minutes with the correction on Page 1.

**VOTE: Yes:** Commissioner Wilt, Mr. Scholl, Mr. Stickney, Mr. Kitchen, Mr. Wallace, Ms. Maurer, Commissioner McGlothlin and Mrs. Anderson.

**No:** None.

**Abstain:** Mr. Schelle.

***Motion carried.***

Chairperson Maurer asked Staff to present the case.

### **Rezoning Case #Z-2022-07 ~ Property Owners/Applicants Adan Saucedo & Veronica Santos ~ Location: 6042 Nagley Rd, Madison Twp. ~ Request: to rezone from A-1 to PD-R to allow for a second single-family dwelling.**

Mrs. Jennifer Tuttle stated that the subject property is located at 6042 Nagley Rd. and consists of 5.80 acres. The property is currently zoned A-1 (Agricultural District). The Applicants would like to construct a second dwelling on the parcel. Section 808.10 states: *“Except for an accessory dwelling unit, only (1) single-family dwelling shall be permitted on a parcel of land in the A-1, AE, AR, R-1, R-2, R-2A, R-2B or R-CL Zoning District”*. Therefore, the Applicants have filed this rezoning request to rezone the property from A-1 to PD-R (Planned District-Residential) to allow for two dwellings on the same parcel.

Mrs. Tuttle explained the surrounding land use is predominately agricultural and single-family residential. The Applicants originally filed for an Agricultural Use Exemption for a barn for horses and cows. The property is over five acres so the Agricultural Use Exemption was approved and they started construction. Mrs. Tuttle then explained we started getting calls from the surrounding property owners that it was not being constructed like a barn. We contacted the Applicants and on May 4, 2022 Mrs. Tuttle and Mr. Jerome Asebrook, Chief Building Official, conducted a site visit. The Combined Health District also conducted a site visit. Mrs. Tuttle stated based on our observations code enforcement orders were issued stating the structure did not look like it was for animals. She noted there were no large openings for animals and the construction mirrored a single-family home.

Mrs. Tuttle explained utilities were being connected from the main dwelling that is more than 300 ft. from the structure. She noted the Applicants have a survey that shows the property lines of the subject property and what is shown on the county's GIS appears to be wrong. She stated, we are not concerned about encroachment but it is 10 ft. from the property line. She noted the structure is larger than what they requested. The actual size is 48 ft. long by 28 ft. wide (1,344 sq. ft.) based on measurements on site.

Mrs. Tuttle explained the PD-R Districts and what they were intended for condos and mixed uses that include streets and layouts. She also reviewed similar rezoning cases to allow two dwellings on the same parcel. She noted the only way to make the properties correct was to go to a PD-R District.

Mrs. Tuttle stated staff recommends the Applicants request to rezone the subject property from A-1 to PD-R be denied. Prior to November 2020, zoning regulations required an "in-law suite" to be part of the main dwelling. In response to recent trends to the in-law suite subject, in 2020 the zoning regulations were amended giving property owners the option to have an "in-law suite" within an accessory structure, separate from the main dwelling. Section 802.02.062 allows for the construction of one Accessory Dwelling Unit on the same parcel with a maximum size of 600 sq. ft. The size limitation is to maintain the character of the neighborhood and protect the existing land use – single-family residential.

She stated there have been prior rezoning cases similar to this one, except that the "2<sup>nd</sup> dwelling" was already built. The respective property owners filed their rezoning request to follow up on a zoning code complaint that was made. Hence, we were trying to get the property into the proper zoning district. Here, the Applicants want to convert a structure of 1,000-plus sq. ft. to a dwelling. This structure was originally presented to Planning Staff, and did receive an Agricultural Use Exemption, to be used solely for agricultural purpose. This area of Madison Township is identified in our future land use plan as Rural/Agriculture, and the existing land use is single-family residential and agriculture. The Applicants rezoning request is not consistent with the purpose and intent of the A-1 zoning district, nor of the Comprehensive Land Use Plan.

Commissioner Wilt asked for the actual size of the accessory structure. Mrs. Tuttle responded 1,344 sq. ft., larger than what they had requested for the agricultural barn.

Chairperson Maurer asked for clarification about the electric service ran from the house and if it is over 300 feet from the house. Mrs. Tuttle responded some of those things are not legal. They will need to go through the Health District for the well and septic and the building department for the electric. Chairperson Maurer stated they misrepresented it as an agricultural building then applied for the PD-R. It sounds like they need to level and rebuild. Mrs. Tuttle responded we stopped them from constructing any further. It is still at framework today.

Commissioner Wilt asked if we were to deny this as recommended by Staff, they will need to abandoned the project as is or tear it down and start the process over. Mrs. Tuttle responded it would have to be made to the intended use of an accessory structure non-habitable or the requested use of Agricultural Exempt for ag materials, just not habitable.

Mr. Schelle asked if they put another septic on the site. Mrs. Tuttle responded there is speculation but it is not confirmed. They did not pull any permits. He then asked since they live in Columbus do they rent out the existing dwelling. Mrs. Tuttle responded the existing dwelling is vacant.

Mrs. Anderson asked when the Applicants acquired the property. Mrs. Tuttle responded June of 2021. Mrs. Tuttle stated we have been getting calls but had to wait until given permission by the owner to get onto the property. The structure is far off the road and not visible from the road.

Mrs. Brammer asked can they split the lot. Mrs. Tuttle responded they would need a variance for less than the required 150 ft. of frontage. Although that is an option, the Applicant did not want to take that path.

Mr. Scholl asked what the intended use is. Mrs. Tuttle responded according to what the Applicants told us, it is for family gatherings and they need extra space for sleeping.

Commissioner McGlothin asked what the picture of the septic is. Mrs. Tuttle responded those are pictures from the neighbors. She then stated when we sent out notices they only reach property owners within 200 feet from the subject property. In rural areas that does not go far. The neighbors are very active in the area and submitted pictures.

Commissioner McGlothin stated it is a shame they misrepresented themselves. Mrs. Tuttle stated we asked what their intent was and they stated that they wanted to use it for a second dwelling. That is why they are requesting the zoning change.

Mr. Scholl asked if the structure has a basement or is it on a slab. Mrs. Tuttle responded it is on a slab.

Commissioner McGlothin asked why they do not want to split the property. Mrs. Tuttle responded they did not want to split the property due to agricultural exemption, but again they are not here to explain. Commissioner McGlothin then asked if that is still an option. Mrs. Tuttle responded yes it is still an option, but they would need to go in front of the Board of Zoning Appeals for a variance on the less than 150 ft. of frontage.

Chairperson Maurer explained the concerns for the misrepresentation by the Applicants.

Mr. Harris stated I see this as a rental property. They would have a building to put renters in that is unregulated, with no building permits, and definitely a hazard. We already know they are cutting corners.

Mrs. Tuttle stated they were supposed to be here to answer questions. Mr. Scholl asked have they been building this themselves. Mrs. Tuttle responded the few times I have been out there it looks like they are building themselves.

With no further questions, Chairperson Maurer asked for a motion.

### Action on Rezoning Case #Z-2022-07 ~ Property Owners/Applicants Adan Saucedo & Veronica Santos ~ Location: 6042 Nagley Rd, Madison Twp. ~ Request: to rezone from A-1 to PD-R to allow for a second single-family dwelling.

Motion by Commissioner Wilt, seconded by Commissioner McGlothin, to **Approve** the request as presented.

**VOTE: Yes:** None.

**No:** Commissioner Wilt, Commissioner McGlothin, Mr. Stickney, Mr. Kitchen, Mrs. Brammer, Mr. Scholl, Mr. Wallace, Mrs. Anderson and Mr. Schelle.

***Motion carried.*** A recommendation that the rezoning request be denied will be forward to the Rural Zoning Commission.

### Changes to Wind & Solar Facility Development Review Process SB 52 Response from Township Trustees

Mrs. Tuttle explained the wind and solar regulations that is currently in the Clark County Zoning Code. It is commonly referred to as “behind the meter”. She stated it is the solar panels for individual dwelling and businesses. She stated front of the meter systems are utility scale.

Mrs. Tuttle explained the frequently brought up concerns with major wind and solar facilities:

- Impact on agricultural production and viability of agricultural businesses
- Effect on local and regional natural resources (including prime soils, surface waters, groundwater, and habitat)
- Change in community character, including views along roads or for the projects’ neighbors
- Lose Current Agricultural Use Value(CAUV) status
- Increase in property taxes

She noted switching from agricultural to commercial land use could result in tax penalties (3 years).

Mrs. Tuttle reviewed the feedback heard from Township Trustees. She noted most are still under review. Harmony, Moorefield and Springfield townships have all passed a resolution asking to be a restricted area, meaning no large scale wind or solar projects in their townships.

Mrs. Tuttle reviewed the sample resolution from Highland County. She noted we used it as a guide.

Mr. Harris explained one of Staff’s recommendations is that we keep brownfields/landfills and barrel fills open to be redeveloped no matter what township it is in because of the benefit. Solar fields can generate revenue to manage those properties. There are a lot of landfills scattered throughout the county that could still potentially benefit from having solar implemented on those. There are EPA grants out there for companies to apply for to use solar on landfills.

Mrs. Tuttle reviewed Section E in the Draft Resolution: solar facilities not subject to the Ohio Power Siting Board Jurisdiction. It will be the policy of the County Commissioners to oppose development of solar powered electric generation facilities not subject to the jurisdiction of the Ohio Power Siting Board (i.e., those projects having less than fifty megawatts of nameplate capacity) except that this policy shall not apply to projects generating electricity for usage on-site (commonly referred to as

"behind the meter" generation). There is no authority in Zoning to restrict wind or solar facilities under 50 megawatts.

Commissioner Wilt asked is the under 50 megawatts related to more commercial than residential. Mrs. Tuttle responded I believe it is the small projects like subdivision; they do not meet the 50 megawatts criteria, but they do not fall in anywhere else. She asked if the Commission would you want communities to have those without oversight, because zoning does not have authority.

Mr. Wallace asked it is just the ones behind the meter. Mrs. Tuttle responded it is just the projects under 50 megawatts, considered behind the meter.

Commissioner McGlothlin asked have we identified more than a couple of landfills that this could be used for. Mr. Harris responded there are about five that would be beneficial, definitely two. I think a better proposal is identifying specific parcels if we want to make that exclusion for them. "*Brownfield*" is a broad term.

Mrs. Tuttle stated this is just setting up the process, not moving forward with the townships that want to be restricted.

Commissioner McGlothlin asked for feedback from the Townships. Mr. Harris reviewed his feedback from the different Townships.

Commissioner McGlothlin asked what the difference is with wind compared to solar. Mr. Harris explained across the board no one wants wind. We are a pretty residential county. A wind turbine is extremely loud. I think Staff's recommendation would be to restrict wind companies.

Chairperson Maurer stated on solar it said it was encouraged to be reviewed by the Soil and Water Conservation District. Instead of making it a recommendation you can make it a requirement? If it is prime farmland it should be restricted. Mrs. Tuttle responded the Soil and Water Conservation District is just an advisory. They cannot make it a requirement. The Board of Commissioners can require a recommendation from S&W and base their decision on Soil and Water's recommendation.

Commissioner Wilt explained she had a suggestion. Section B on Page 3; Intervention on Power Siting Board: it listed the way the County Commissioners could intervene. On the list could we add that if it abuts to preserved farmland that could be a reason to intervene. Border on two sides? Some kind of language like that.

Mr. Schelle asked are the townships the only ones that can make the request for restricted areas? Mrs. Tuttle responded villages and cities can do their own process. We have not heard from them at all.

Mr. Schelle asked so the request to the County Commissioners can only come from a township. Mrs. Tuttle explained cities and villages have their own formal process. They can do more. Mr. Schelle then asked and that is why the restricted areas are only unincorporated areas. Mrs. Tuttle responded townships can pass their own resolutions and asked the Commissioners to restrict areas. Mr. Harris stated the language is pulled right from ORC. Mr. Schelle reviewed the definition of "*unit of local government*" and the fact that it includes villages and cities. He was finding that part to be confusing. Mrs. Tuttle explained the process is for unincorporated areas, townships within the County, because villages and cities typically have their own processes. The unit of local government is a reference in ORC as well as the authority of the unincorporated area as Board of Commissioners.

Mr. Schelle asked the word “*large*” is defined in Senate Bill 52, but it is not defined in the draft. Mrs. Tuttle responded the definition is straight from ORC. It is 50 megawatts.

Mr. Schelle asked about Page 4, Section C, the second line references geographic size of a facility for solar and wind if the proposed would cause just solar. Mrs. Tuttle responded it should say solar and wind.

Mr. Schelle asked where does the eight percent come from? Mrs. Tuttle explained it came from the Highland County example. It was added that for discussion. Mr. Harris stated we would like feedback in terms of a percentage requirement.

Commissioner McGlothlin stated the city could put something below the 50 megawatts. Mrs. Tuttle responded yes. Mr. Harris stated I do not know if the city has enough continuous land to do any large solar development. They only own enough land by the airport, which is in Green Township and this would still govern that property. Mr. Harris clarified the eight percent of the total township is what is up for discussion.

Commissioner Wilt asked for a township that is not going to restrict it because this is something they want, why would there be an arbitrary percentage on it. Mr. Harris responded I say we take it out. Mrs. Anderson stated I believe Highland County went with eight percent because they received so many proposals and that is where they were before realizing they needed to take control of it. Mrs. Tuttle noted that was correct.

Mr. Wallace asked on the top of Page 5 if it crosses multiple counties who has jurisdiction over it. Mrs. Tuttle responded there would need to be a discussion.

Mrs. Brammer asked what townships the landfills are in. Mr. Harris responded German, Bethel and Springfield townships. Mrs. Brammer then asked and out of those who said no. Mr. Harris responded Springfield Township. Mrs. Tuttle added I have spoken with the Springfield Township Trustees who are open to that.

Mrs. Tuttle explained I will make those corrections and get a new draft resolution to the Board.

Mr. Schelle stated the eight percent sounds so arbitrary. My suggestion would be to take it out. Mrs. Tuttle asked if he thinks there should be a limit. Mr. Schelle responded I feel like in the future for some unforeseen reason there could be a limit. But right for now we have the authority to draw on a map and say no. I would not put in an unexplained limit.

Mr. Kitchen asked if we changed that eight percent do you think more townships would be in favor. Mr. Harris responded I do not think so. We laid it out to them as to what parcels you do not want or the entire township. None of them wanted to restrict certain parcels over others.

Mr. Kitchen asked if the goal was to have as many on board as we can, right? Commissioner Wilt responded not necessarily. We need a good process to take this through. We do not want to pre-decide. We want to listen to the townships and see what they want. They could be heavy agriculture and do not want to restrict property use, private property use, for any reason and the Trustees may feel the same way. But, some of the more populated townships may want to get ahead of it. Mrs. Tuttle added once this procedure is in place and next year there is an overload, the same process could go through.

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## **Clark County Planning Commission**

Mr. Wallace asked what information has been provided to the townships. Mr. Harris explained the feedback from all of the townships. We have been in communication with emails and phone calls for months. This is the first step. I hope they discuss it at their next meeting.

Mr. Schelle asked on Page 4 Section 2, prevent damage, when that language was written in there what are we trying to prevent, erosion? Mrs. Tuttle responded it is to prevent drainage issues and the use of prime farmland. She stated we can re-word that better.

Commissioner Wilt asked what our deadline is to have a resolution in place. Mr. Harris responded August 1<sup>st</sup> to the Township Trustees. He stated a realistic timeline we have this approved by August and start the notifications with official restrictions on the books by the end August, early September.

Mrs. Tuttle stated we have more updates to do. I will make changes.

### **Staff Comments**

Next scheduled meetings: August 3 and September 7, 2022.

### **Adjournment**

Motion by Commissioner Wilt, seconded by Commissioner McGlothin, to **Adjourn**.

**VOTE: Motion carried unanimously.**

The meeting was adjourned at 2:53 pm.

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Ms. Louise Maurer, Chairperson