

PLANNING AND ZONING COMMISSION
Workshop Meeting Minutes
Mayfield Village
Nov 18, 2021

The Planning and Zoning Commission met in workshop session on Thurs, Nov 18, 2021 at 6:00 p.m. at the Mayfield Village Civic Center, Main Conference Room. Chairman Pro Tem McGrath presided.

Roll Call

Present: Dr. Sue McGrath Chairman Pro Tem
Mr. Allen Meyers Council Rep
Mr. Paul Fikaris
Mr. Jim Kless
Mr. Henry DeBaggis

Also Present: Ms. Kathryn Weber Law Department
Mr. Daniel Russell Building Commissioner
Ms. Deborah Garbo Commission Secretary

Absent: Mr. Vetus Syracuse Chairman
Mayor Bodnar
Mr. John Marquart Economic Development Manager
Mr. Tom Cappello Village Engineer
Ms. Jennifer Jurcisek Council Alternate

PROPOSALS

1. **Revised Section 1149.02 Conditional Uses** (Law Dept)
 - P & Z w/s 10/21/21
 - P & Z Vote 11/1/21 (Tabled)

2. **Montebello Subdivision** (Engineering)
 - Final Dedication and Acceptance
 - Certification of Completion of Required Improvements

OPEN PORTION

Chairman Pro Tem McGrath states, this is a workshop meeting of the Mayfield Village Planning & Zoning Commission, Thurs, Nov 18, 2021. We have two items on the agenda tonight. Our first item is revised Section 1149.02 Conditional Uses. We discussed this at our last workshop and decided we needed more discussion. We asked Katie to make a few changes.

1149.02 Conditional Uses

Ms. Weber stated, I apologize I was a little bit delayed in getting these changes over to you in advance of this meeting. Based on our last conversation, everybody wanted to see what we currently have on the books, so I gave you a copy of what we currently have which is 1149.02. You can see why I didn't try to compare between the new revised and the current because it's completely different.

The revised 1149.02 Conditional Uses, what I did is I redlined this so you could see the changes I made.

The first change is section **(h); Standards for Conditional Use Permits**. I added;

- 10) **Community Benefit**. The proposed use will provide benefits to the community because the proposed use is not currently available in the Village or that the community is underserved by the type/use being proposed.
- (11) **Economic Impact**. The proposed use has the potential to create a positive economic impact by creating or expanding employment opportunities and increasing tax revenue within the Village.

I took this language from the current standards that are applied for Conditional Use Permits per the suggestions of having a couple additional factors to consider.

I made one little change on section (i) and took out "~~temporary and or special~~" that I missed from my first draft.

The second change I made was to section **(m); Limitations on Conditional Use Permit**. This was to add a 4 year expiration of the conditional use permits;

"Thereafter, a Conditional Use Permit shall be valid for a period of four (4) years and shall expire on December 31st of the fourth year following the year in which the permit was granted. It shall be the responsibility of the permit holder to make application for review and approval of an additional extension no later than November 1st in the year that expiration is scheduled to occur."

Currently on the books we have an expiration of two (2) years. If you look at current 1149.02 (c) (2), that provides the two year expiration that we currently have on the books and puts it on the permit holder in order to make application for a new conditional use permit. I took that language that we already have on the books and incorporated it into this and just changed it so it has a 4 year expiration instead of a 2 year expiration.

Mr. DeBaggis asked, what if the permit holder puts the application in after November 1st?

Mr. Meyers stated, I don't want to interrupt but that was a question I had too. I never knew the applicant had to reapply. In November, John would come out, do his inspection, bring it to the Board and it would be voted on. I mentioned to Katie before the meeting that I never saw that language in the application. What happens if the applicant doesn't reapply? Is that language necessary?

Mr. Kless asked, are you assuming the Village will initiate the application requirement to reapply every 4 years?

Mr. Meyers replied, the applicant would have to reapply every 4 years.

Mr. Kless stated, either the applicant has to reapply or the Village has to initiate the application process.

Chairman Pro Tem McGrath stated, I'm not sure this language makes it clear because what's going to happen if you don't reapply? I don't know that anybody reapplies.

Mr. Meyers stated, that's why I brought it up. To your question, what happens if you don't reapply? I've had a conditional use permit for 60 years and I've never reapplied.

Mr. Kless stated, the question is, whose responsibility is it to renew that application.

Mr. DeBaggis asked, will the Village send a letter out i.e. you have 60 days to reapply?

Ms. Weber replied, we could do that. I think part of the reason we wanted to take a look at this and propose revisions and maybe do something different that we had on the books, was that we weren't necessarily following what we had. What we had on the books was that the permit holder should reapply but that's not really exactly what we were doing in practice. If it's going to expire, there would have to be a new application in order to get a new permit.

Ms. Weber stated, to help this discussion, I had one of our Law Clerks do a survey of other communities and how they deal with conditional uses. He was able to pull 13 different communities for me that are in this general area;

So. Euclid / Highland Hts / Lyndhurst / Hunting Valley / Pepper Pike / Wickliffe / Willoughby Hills / Kirtland / Moreland Hills / Bedford Hts. / Chardon / Kirtland Hills/ Fairlawn. Out of those 13, only one community had them expire and have the active permit holder reapply, and that was Highland Hts. Their Conditional Use Permits are effective for a period of 2 years and are renewed for good cause shown by written request to the Commission.

Ms. Weber stated, Highland Hts has it as;

“A Conditional Use Permit issued pursuant to this Zoning Code shall be effective for a period of two years from its date of issuance and may be extended and/or renewed for good cause shown by written request to the Commission which consent shall not be withheld if the permittee has substantially complied with all terms and conditions established by the Commission in granting the permit.”

Chairman Pro Tem McGrath stated, that's what's on their books, but we don't know what they're doing.

Mr. Fikaris asked, any indication how many conditional use permits they have in Highland Hts?

Ms. Weber replied, no. I guess I could request that.

Ms. Weber stated, Wickliffe doesn't have a term limitation but they do have an annual check up for compliance. They have it that the Building Commissioner shall inspect the premises after one year and annually thereafter for compliance to said specific terms, conditions, and safeguards. So that puts the onus on the Building Commissioner to do the yearly inspection which I think practically speaking is kind of what we're doing with the inspections every two years.

Chairman Pro Tem McGrath stated, I would say here, some of it's the combination of the Fire Dept as well as the Building Commissioner.

Mr. Kless asked Dan for his thoughts.

Mr. Russell replied, I don't know how it was initiated. Do we contact the 31 conditional uses before the expiration dates?

Ms. Garbo replied, John would receive the list of permit holders from me in November and he would visit the sites for compliance. In January, John would bring that report & recommendation to Planning Commission for permit renewals. In the past 20 years, I don't believe we have but maybe once received an application from a permit holder and/or building owner to renew/reapply for their conditional use.

Mr. Russell asked, is there another fee associated with it to reapply every 4 years?

Ms. Weber replied, that's a good point if whether or not we would impose another application fee for a conditional use permit or if we would waive the fee for a re-application. If we took out that it expires after every 4 years, the way we have it written, if it's brought to anyone's attention that a condition has been violated, the Building Commissioner has the power without even having to come back to you guys to just take away the conditional use permit. You also have the option of if we don't want to do a blanket expiration on a use, depending on what the use that comes in is, you as a Commission can decide, this use we're a little uneasy about, we think they should have to come in every however many years to reapply for the permit to make sure they're in compliance and put that onus on them, because you want them to come back in and do another presentation and give an update on what's going on.

Ms. Weber stated, I'll tell you, I think that probably more often than not with conditional use permits there isn't an expiration on it, it continues so long as the use continues. Obviously if the use ceases, the conditional use permit expires.

Mr. Russell stated, that's the way I'm used to, not having an expiration on it.

Chairman Pro Tem McGrath stated, I think at the last workshop Vetus was concerned about it expiring. I think he liked the idea of this Commission staying connected with what we had approved. There's a piece of me that says I like knowing what's going on. Even when we get that

list every 2 years, it was like this place doesn't exist anymore, it kind of gave you sense as a member of this Commission what was still going on in the Village. I'm hesitant to suggest that we get rid of the 4 year limit and just make it ongoing. Dan, you could be pulling permits justifiably and we would have no way to know, then the next time around we haven't learned anything.

Mr. Meyers stated, I think it should be checked every 2, 3, or 4 years. I'd feel comfortable with that. With no limit, nobody would really know what's going on.

Mr. Kless stated, I think at the last meeting we sort of agreed that we liked the 4 year expiration.

Chairman Pro Tem McGrath replied, then let's keep that.

Mr. Kless stated, I think the question is the process of renewing the application every 4 years.

Chairman Pro Tem McGrath stated, it seems to me we need to put in writing what we're really doing or we're going to have to change what we're really doing to match what's in writing which seems like a lot harder thing to do. It seems to me there'd be a lot of work on our end to make the applicant know it's coming, notices would need to be sent out, people not getting them back on time and do we charge a fee if it's late?

Mr. Russell stated, we could come up with a standard letter advising them that there's going to be an inspection done by the Building Dept and possibly the Fire Dept can probably do at the same time for their fire inspection. It would say, during this period of time, two week period, whatever it is, we're going to be coming through to make sure it complies to the original application.

Chairman Pro Tem McGrath said, give yourself plenty of time, you don't want them cleaning up for Wednesday.

Mr. Kless stated, let Dan and the Fire Dept manage that as they do now.

Mr. Russell stated, I'd rather manage that then try and get an application back in from 30 different businesses and I could guarantee you 90% of them are not going to do it. We're going to fight about it and then what's the recourse, we take their condition away?

Mr. Fikaris asked, does each business in Mayfield Village get a touch, an inspection by you or the Fire Dept and what frequency?

Mr. Russell replied, the Fire Dept is supposed to do an inspection on all commercial properties every year.

Mr. Fikaris asked, are there any businesses in the Village that don't get a touch, that we don't know what's going on?

Mr. Russell replied, the Fire Dept is really diligent.

Mr. Meyers agreed. The Fire Dept is on top of that, they come out to check the fire systems, they check the properties in general to make sure it's safe and they're doing what they're supposed to be doing. They caught a company on Beta that was building boats in a warehouse, you couldn't even breathe in the building. They caught it by accident because it's right next to Sherwin Williams, this was a few years ago. I went over there, you could almost fall over, the fumes were so bad. Nobody knew they were in there doing that.

Mr. Fikaris stated, but Fire Dept's not necessarily checking for egregious CUP violations. There are a couple components here. One is the application process, do we leave it as is or do we make folks reapply? Second is the time limit, do we adjust that, eliminate it, extend it? The third thing might be and I don't want to make more work for anybody, but what about an annual inspection of the businesses by the Building Dept? How many companies do we have? Do you think that should be a requirement? If we go to 4 years, will it be an inspection just every 4 years? I'm talking about the Building Inspector to inspect for any egregious problems. Problems came to us, and in my recollection, there was only one CUP problem that came to us in the last 10 years. How do we get alerted, is that a necessary component?

Ms. Weber stated, right now we don't really fully follow what we have on the books. The way it's been done is John would go out every year and do his rounds on the ones that were coming up and then provide you with a report that says everybody's in compliance and then you'd vote to pass them as a whole. On that report it had if anybody went out of business and was no longer operating, then obviously those permits were not extended.

Mr. Fikaris said, I think that's a good thing to maintain.

Chairman Pro Tem McGrath stated, I think that needs to be in writing.

Ms. Weber replied, we could revise this. Instead of putting it on the permit holder, that it's put on the Building Dept to go take a survey, and report back to the Board. Do you want it that you would vote on renewing it or do you just want a report on what the uses are and obviously if somebody's not compliant, he's going to take away their CUP. Would you want to vote to approve and extend all of them, or do you just want a report on what's going on?

Chairman Pro Tem McGrath replied, I think we would vote every 4th year.

Mr. Fikaris asked, why 4 years as opposed to 2, so we don't have to sit in a meeting every 2 years?

Chairman Pro Tem McGrath replied no. I think it's more for somebody who is wanting to come in and invest money into something that's going to require a CUP and if we could pull that permit in 2 years, it's why should I put all this money into it?

Ms. Weber stated, I think the thought of extending the 2 years was to have a longer time. We could also add language like Highland Hts has that you're not going to deny it unless they're out of compliance with it to give more comfort to businesses if they're looking at it. When it comes up for renewal, that you're not going to just decide to change the conditions or apply new conditions.

Chairman Pro Tem McGrath stated, I think part of the reason for extending to 4 years is to make us as a Village more business friendly. That we're welcoming different uses, giving them a try, and we'll give you 4 years to get it all going. I think that kind of language does a similar thing, that it makes us more welcoming. We want people to be creative and bring different things to the Village.

Mr. Fikaris stated, when this topic came up it was the idea of in the future, we want to make it so people don't have to go to a CUP. I'm not talking about a small business like microblading, but somebody with a significant investment. The reason we're discussing CUP's is hopefully we're going to strengthen with the "Overlay District" to say that there are other options for folks. Then that makes CUP's for us about just maintaining the existing ones and maybe the one or two that'll come along. I would envision small ones, not anyone making a huge investment. Is our purpose here to say, let's make it easier for existing CUP's here or to make it more attractive for people if they need a CUP, to come here because it'll last 4 years. I think what the Village loses doesn't gain by somebody saying, oh, you guys have 4 years. So, the 4 years, we think it's more attractive and maybe easier for us and easier for any applicant that may come in?

Mr. DeBaggis stated, I like 4 years and I thought we all thought 4 years was a good idea at the last workshop meeting.

Mr. Kless stated, I support the 4 years.

Ms. Weber stated, that actually segues into the other document I gave you as well.

1153.02 Classification of Uses

Ms. Weber stated, this is an important factor in this conversation. This you can see I did it how we normally do when we make revisions to ordinances so you could see underline is the new language and then the strikeout is what I'm taking out.

The reason this needed to be revised is because it references Special Uses. I changed the language to not call them Special Uses but to call all of these uses Conditional Use Permits.

What's important in this conversation too is when we're thinking about CUP's, what uses do you need a CUP for. We list out what uses that are not permitted as of right, but that you would need a CUP for. Part of this broader conversation would be whether or not we want to make certain uses permitted as of right in certain districts. But right now this is what we have. I don't know if we want to do this in steps and first change how we do our conditional use process and approval

and then look at what uses we're permitting in what districts because that's obviously a bigger conversation to be had.

When we're talking about conditional uses, first off, you can't do any conditional uses in residential except for home occupations. Conditional uses are only a thing in any of our commercial districts.

(e) Class U-5 Uses, these are going to be conditional uses that are permitted in a Local Business District by Conditional Use Permit.

(f) Class U-6 Uses, these are conditional uses that are permitted in the additional commercial districts if you will.

Chairman Pro Tem McGrath stated, I think we should stick with procedure today and hold off on the list for another workshop. This seems like an awful lot to try to deal with.

Ms. Weber replied, absolutely.

Chairman Pro Tem McGrath stated, I'm having a hard time following this outline which is my problem. At the bottom of the second page it says (g) Class U-7 Uses: (Prohibited). Is that everything on this page that's prohibited?

Ms. Weber replied, all the U-7 Uses, those aren't permitted anywhere. That's a list of all of our prohibited uses.

Chairman Pro Tem McGrath replied, but we have a Veterinary hospital and that's listed under prohibited.

Ms. Weber asked, did they come in before the zoning code came in?

Mr. Meyers replied, no. They came in after.

Ms. Weber stated, hopefully they're on a USE variance I would assume. You could get a variance for anything in the code. You could only come in for a Conditional Use Permit on a use that's allowed to be permitted under a Conditional Use Permit. I don't know about the Veterinary hospital.

Mr. Fikaris stated, this seems like this was written in the 40's, a bowling alley, billiard room.

Chairman Pro Tem McGrath said, so these on the last page are all prohibited.

Ms. Weber replied, this is what's on the books now, yes. I copied and pasted this right from our ordinances.

SUMMARY

Ms. Weber asked, so we're good on the couple factors I added to consider; (10) & (11) from 1149.02?

Chairman Pro Tem McGrath replied, yes.

Ms. Weber stated, I'll do another draft and give you another option of language on the 4 year expiration / reinspection, to make sure that compliance is done. Something that doesn't necessarily put a burden on the applicant to reapply or have to pay a fee. Some additional language in there to provide some comfort to businesses that their permit isn't just going to be willingly taken away.

Chairman Pro Tem McGrath stated, and if you need to go back to John Marrelli and ask him how things were done, Dan just doesn't know yet. I think John would answer those questions. Is there a fee for a Conditional Use Permit?

Ms. Garbo replied, yes, a Planning & Zoning meeting fee of \$50 + 3% State fee.

Chairman Pro Tem McGrath asked, do they get charged that fee every two years?

Ms. Garbo replied, no. It's a one time fee.

Chairman Pro Tem McGrath stated, so we're not losing anything going from 2 years to 4 years, economically. I think we look at the 4 years and I don't think the burden should be on the applicants because it won't happen.

Ms. Weber stated, I will revise this.

Chairman Pro Tem McGrath said, thank you Katie. Any other questions or comments on this topic?

There were none.

**Montebello Subdivision
Final Dedication and Acceptance
Certification of Completion of Required Improvements**

Chairman Pro Tem McGrath stated, our next item is the Montebello Subdivision final dedication and acceptance, certification of completion of required improvements. Nobody is here from the subdivision, so if you'd like to take us through this Katie.

Ms. Weber stated, I wasn't sure that Chris really needed to be here for this one. Basically, where we're at now, if you remember you approved the plans and this has been a long time coming. At this point, the roads that he has put in, he'd like to dedicate to the Village, so it would be Village owned, then the Village would take on the maintenance. Part of the process of that is that the Engineer goes and looks at it and provides his Certificate of Completion of the Required Improvements and Planning & Zoning basically needs to accept his letter.

Mr. Meyers asked, once it's dedicated to the Village and we accept, do we have to put signs up, like speed signs and no parking signs? Is that a cost to the Village to add stuff like that or is that part of the Development's responsibility?

Ms. Weber replied, I haven't been over there, I don't know if he has current street signs up.

Mr. Meyers stated, somebody asked me about signs. I didn't know if that's part of the Development or if once you dedicate it, does the Village have to do the signs to make it compliant.

Chairman Pro Tem McGrath said, my guess is it's on the Village.

Mr. Kless stated, I think once the Village accepts it, it's up to the Village to maintain it like any street.

Mr. Russell stated, plowing, parking, it all comes with it.

Ms. Weber stated, what I wasn't sure, if he had already put up signs. But all those costs would be on the Village, that's part of dedicating it. Part of our Charter is that whenever you do this, it has to come before P & Z so you could see what's going on.

Chairman Pro Tem McGrath stated, I have to say, I have walked through there and I'm impressed that there's people living there already, homes are completed, families are in there.

Mr. Fikaris stated, they did a nice job on the path to connect it with the Greenway, the mound looks nice.

Mr. Kless stated, it's a good looking area.

Chairman Pro Tem McGrath stated, I love all the trees they put up.

Chairman Pro Tem McGrath asked, any other questions or comments? There were none.

NEXT STEP

1. Revised Section 1149.02 Conditional Uses scheduled for another workshop meeting
Thurs, Dec 16th at 6:00 pm.
2. Montebello Subdivision Final Dedication and Acceptance scheduled for vote meeting
Mon, Dec 6th at 6:00 pm

P & Z w/s Minutes

Nov 18, 2021

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There being no further business, the meeting adjourned at 6:40 p.m.

Respectfully Submitted,

Deborah Garbo

Executive Assistant, Building Department