

**KENT PLANNING COMMISSION
REGULAR BUSINESS MEETING
August 7, 2007**

MEMBERS PRESENT: **Matt VanNote
Bill Anderson
Dave Wise
Sean Kaine**

EXCUSED: **John Gargan**

STAFF PRESENT: **Gary Locke, Plans Administrator
Eric Fink, Asst. Law Director
Jennifer Barone, Development Engineer
Sheila Uzl, Transcriptionist**

I. Call To Order

Chair Matt VanNote called the meeting to order at 7:00 p.m. Mr. VanNote told the applicants when there was not a full Commission, they did have the choice to postpone their case until there was a full Commission. Three positive votes are needed for a petition to pass.

II. Roll Call:

Mr. Anderson, Mr. Kaine, Mr. Wise and Mr. VanNote were present.

III. Reading of the Preamble

The Planning Commission operates in accordance with the provisions of the Kent City Charter, the Kent Zoning Code and Subdivision Regulations, all of which establish the powers and duties of the Commission. Members of the Planning commission are appointed by Kent City Council and serve without compensation. Certain cases such as Conditional Zoning Certificates, Special Zoning Permits, Overlay District Projects and Zoning Amendment require Public Hearings before the Planning Commission. During the Public Hearing, any person wishing to address their concerns to the Commission will be provided the opportunity. Once the Public Hearing is closed, it shall be the discretion of the Chair whether to allow any additional public comment. Cases such as Site Plan Reviews and Subdivision Projects do not require a Public Hearing. However, the Chair will allow public comment on each case as it is taken on the agenda. In each instance where the Commission receives public comments or conducts a Public Hearing, those persons wishing to address their concerns to the Commission will be required to do so under oath or positive affirmation. The oath or affirmation shall be administered to all who wish to speak at the beginning of the Planning Commission Meeting. Once a decision has been made the by the Planning

Commission on a case, the Case is closed for the Commission, as there is no provision to reopen a case. With the exception of cases falling under the Subdivision Code, any decision of the Planning Commission may be appealed to the City's Board of Zoning Appeals in accordance with the Chapter 1115 of the Zoning Code. Anyone interested in appealing a decision of the Planning Commission is advised to seek private legal counsel.

IV. Correspondence
None

V. Administration of Oath

Mr. Fink instructed those members of the audience wishing to be heard on any of the cases presented at this meeting to rise and raise their right hand. Mr. Fink administered the Oath, "Do you solemnly swear or affirm that the testimony that you are about to give this evening is the truth, the whole truth, and nothing but the truth, so help you God? Please say "I do." The participants responded, "I do."

VI. Meeting Minutes

MOTION: *Mr. Anderson moved that the Planning Commission approve the amended Regular Meeting Minutes of June 19, 2007*
Mr. Wise seconded the motion. The motion passed 4 – 0

MOTION: *Mr. Anderson moved that the Planning Commission approve the Regular Meeting Minutes of July 17, 2007.*
Mr. Wise seconded the motion. The motion passed 3 – 0.
(1 Abstention)

VII. Old Business
None

VIII. New Business

A. PC07-017 MUGS BREW PUB
211 Franklin
Site Plan Review

The applicant is seeking Site Plan Review and Approval in order to permit the construction of a new second story deck in the area above a portion of the area of the existing ground level deck. The subject property is zoned: C-D: Commercial Downtown District.

Mr. VanNote asked the applicant to present his request.

Vincent Fazio, 965 Edgewater Circle, – Kent, Ohio – stated he was the owner of Mugs Brew Pub. He said he wanted to expand his area in order to retain his group of customers. He said the addition would be half the size of the current ground level deck. It will be an area where people can have lunch or dinner in the downtown Kent area. He said there would be an additional 16 seats on the new deck. He said the new area would be accessed by an outdoor stairway as well as a doorway from the second floor of the existing building.

PUBLIC COMMENT

None

PLANNING COMMISSION DISCUSSION/ACTION

Mr. Locke stated that it was not a complicated project. It involves the construction of a second floor deck over part of the existing ground level deck. He said there would be an additional 16 seats but there would not be an increase in the total occupancy but would provide an area for people to go outside or to smoke a cigarette. There was no issue with access. The only issue that was raised was the height of the railing around the second floor deck area. He said the height shown on the plan actually does meet code but the Safety forces said it would be safer if it were higher. He said Mr. Fazio has indicated that he was willing to go to 5 feet high. This height would be sufficient to prevent people from falling over the railing. Mr. Locke said panic hardware would be put on the gate in the corner, next to the pizza shop. The applicant is aware that some improvements will have to be made around that gate. He said the staff recommended approval subject to the conditions listed in the staff report.

Mr. VanNote stated that his only concern was that five feet for the railing seemed awfully high. He asked what the railing would look like.

Mr. Fazio stated that even though it would be high, people could still see through it. The top will not be flat so nothing could be sat on it.

Mr. VanNote stated that the City has needed outside areas so he has no problem with the project. He asked the applicant if he wanted to move forward.

Mr. Fazio replied he would.

There were no other comments. Mr. VanNote asked for a motion.

MOTION: Mr. Wise moved that in Case PC07-017, Mugs Brew Pub, that the Planning Commission approve the Site Plan in order to construct a new second story deck in the area above a portion of the area of the existing ground level. Subject to:

- 1) Provision of a minimum 5-foot high railing around the perimeter of the deck.
- 2) Installation of panic hardware on the existing gate on the fencing of the ground level patio area.
- 3) Compliance with all other building code and applicable regulations.

Mr. Anderson seconded the motion. The motion passed 4 – 0.

B. PC7-018 WHITE OAK HILLS SUBDIVISION
North end of Adrian Avenue, north of Fairchild Avenue

- a) The applicant is seeking an extension of the Preliminary Plan Approval for Phase III and Phase IV of the subdivision originally granted May 2, 2006
- b) Final Plat Approval for Phase III of the Subdivision. Phase III and Phases IV have been combined into a single phase.
- c) Approval of the Park Fees for Phase III as negotiated by the Parks & Recreation Director and the developer

The subject property is zoned R:2 Medium Density Residential.

Mr. VanNote asked the applicant to present his project.

Nick Battaglia, 465 Rockwood Circle – Peninsula, Ohio – stated Mr. Locke informed him last week that he had to apply for an extension of the Preliminary Plan. He did not realize that it had expired. He said he was asking for approval of the final plat because they are proceeding with the work except for the punch list items. He said he was also asking for the approval of the park fees, which were based on \$20,000 an acre. He said he paid far less than \$20,000 but because of current appraisals on other properties, that was the price agreed upon. He asked if this was the proper time to discuss punch list items.

Mr. VanNote replied no it was not.

Mr. Battaglia stated that one of the punch list items was that he would be responsible to pay for the sewer on Whitewood and up until two weeks ago, he was unaware of this. He said there is no connecting street and his Whitewood easement leads right to the wetlands. There will never be a street there. He said he thought this information was in the minutes of the May 6, 2006 Planning Commission minutes.

Mr. VanNote said he was not saying that he was wrong but all that he remembered about this was that it was configured so that a street could potentially be built in the future.

Mr. Battaglia stated he does have an easement for that.

Mr. Locke stated it was a simple thing to look at and the staff could look at the minutes to see what they say. He said if it was not something Mr. Battaglia did not want to do, it might require some type of variance and he would have to request that at the Planning Commission and then onto City Council. Mr. Locke said it might be something that does not require a variance but it would have to be looked at to determine if it does.

Mr. VanNote suggested that Mr. Battaglia discuss the punch list with the staff. It was not something the Planning Commission would discuss.

Mr. Battaglia stated that it was not a street and no one in his subdivision could use it as an easement to lots that are impossible to build on. He said it would cost him a lot of money to build a sewer. He would have to clear the area and it would change the look of the property.

Mr. VanNote stated that this was an issue that has to be handled through Ms. Barone.

Ms. Barone stated that this came about because there has to be an access to future developmental land, which is to the west. She said that all the utilities had to be extended to that and was not sure how it got worked out and it was decided that only the sanitary sewer would be extended and she felt that the water should be extended too. There is an ordinance that states that a developer has to provide an access if he does develop the land and the utilities are supposed to extend to the developer's property line on the approved construction plan. Mr. Battaglia's plan was approved quite some time ago so it should not have been a surprise to him.

Mr. Battaglia stated he did have to design it but to build it is another story.

Mr. VanNote again stated that this was not anything the Planning Commission was going to deal with this evening.

PUBLIC COMMENT

None

PLANNING COMMISSION DISCUSSION/ACTION

Mr. Locke stated the applicant was at the meeting for final plat approval. He said the Preliminary Plan was approved May 2, 2006 and wanted the applicant to seek an extension of the Preliminary Plan so that it would not become an issue later down the line. He said the staff recommends that extension be granted. He said the applicant has combined Phases III and IV into a single phase – Phase III. The plan is pretty close to what it was as far as layout and the number of lots. He said an agreement was reached for the park fees for Phase III between the developer and the Parks & Recreation Director. Mr. Locke stated that the staff's recommendation is that the Final Plat be approved subject to the payment of all applicable fees and the provision of the required financial guarantees and construction agreement in a form acceptable to the City's Law Department and Development Engineer as well as the Planning Commission's acceptance of the extension of the Preliminary Plan for Phases III and IV and the park fee.

Mr. Fink stated that the per unit fee is similar with what happened with EQK. He said he spoke with Mr. Idone and the park fee seems to be reasonable.

Mr. VanNote asked Mr. Fink if he wanted to comment on the issue that Mr. Battaglia had raised.

Mr. Fink responded he would rather wait to review the minutes of the May 2006 meeting before any comments.

Mr. Kaine stated that he thought he should abstain from this vote because recommendations have been submitted from the Environmental Commission.

Mr. Fink recommended that he abstain from the vote.

Mr. Kaine reiterated the recommendations from the Environmental Commission:
1) Look at the issue of flooding. He said Sub Lot 71 is almost entirely within the 100- year flood plain and does not think that there was a build-able area outside of that. 2) Setbacks from the wetlands.

The Environmental Commission suggested that a conservation easement should be enforced and what could be done so that homeowners do not reduce the wetlands area. 3) A safety concern about Whitewood Drive that is never going to be developed so that means this project dead ends over half mile and usually a 650' setback is used.

Mr. VanNote stated that there are exceptions to the 650' setback in Riverbend and Fieldstone.

Mr. Locke stated that if there was no potential extension of a street, the 650' setback would start from the previous intersection. He said the discussion on storm drainage was a little premature because the design had not been fully done yet. He said the building window on some of these lots were fairly small.

Mr. VanNote asked what the rule was for the length of time for an approval of a Preliminary Plan.

Mr. Locked replied he did not think it was specifically stated in the code.

Mr. VanNote asked Mr. Battaglia if he wanted to proceed.

Mr. Battaglia replied he would like to continue.

There were no other comments. Mr. VanNote asked for a motion.

MOTION: Mr. Anderson moved that in Case PC07-018, White Oak Hills Subdivision, that the Planning Commission grant approval for:

- 1) The Extension of the Preliminary Plan for Phases III and IV to August 31, 2007.**
- 2) The Final Plat for Phase III of the White Oak Hills Subdivision subject to the payment of all applicable fees and the provision of the required financial guarantees and construction agreement in a form acceptable to the City's Law Department and Development Engineer.**
- 3) The Park Fees valuation of \$20,000 per acre for the calculation of the Park Fee which results in a per unit fee of \$720.00.**

**Mr. Wise seconded the motion. The motion passed 3 – 0.
(1 abstention-Kaine)**

IX. ADJOURNMENT

Mr. Locke stated there was nothing on the schedule for the August 21, 2007 meeting and the first meeting in September.

Mr. VanNote stated he would not be here for the second meeting in September.

MOTION: *Mr. Anderson moved to adjourn. Mr. Kaine seconded the motion. The motion passed 4 – 0.*

The meeting adjourned at 7:45 p.m.