

**The COMMUNITY DEVELOPMENT COMMITTEE held a Meeting on MONDAY, MAY 23<sup>RD</sup>, 2022 beginning at 6:00 P.M.**

**FINANCE PRESENT:** Chair Stewart, Tollett, Cerra, Davis, Schneider

**CD PRESENT:** Chair Callahan, Mitchell, Oswald, Schneider, Lipian~(Zoom)

**OTHERS PRESENT:** Asst Law Dir Breunig, Safety Svc Dir Brubaker, Mayor Whitfield, Finance Dir Pileski, Asst Dir Williams, Asst Dir Calvert, Police Chief Pelko, Engineer McKillips, Parks Dir Reardon, Building Official Farkas, Council Member Simmons

**1. Approval of the Regular CD Meeting Minutes ~ April 25<sup>th</sup>, 2022.**

**Motion made by Mrs. Mitchell, second by Mr. Oswald to approve the meeting minutes.**

**2. The matter of a Conditional Use Request for Elyria Catholic Score Board at 725 Gulf Rd.**

**Referred By: Brady Signs for Elyria Catholic High School**

***[This matter was approved by Planning Commission on May 3<sup>rd</sup>, 2022].***

Ryan Brady of Brady Signs, 1721 Hancock St., Sandusky, Ohio.

Mr. Brady showed a diagram of the new scoreboard. They will remove the existing scoreboard and replace it with the new virtual scoreboard, which is a message center, digital sign which has the ability to not only put up the score but also advertising and different dynamic messaging. And will add some static donor signs which are below and above the scoreboard.

Mr. Oswald ask if this will only be in use during athletic events?

Mr. Brady said that was one of the conditions of the PC to only to be used during athletic actives.

Chair Stewart asked if this can go through as emergency?

Law Dir Breunig said it's already going thru as suspension and it's already been published to go for a Public Hearing at the June 6<sup>th</sup> Council Meeting.

**Mrs. Mitchell moved and Mr. Oswald seconded to recommend an ordinance authorizing the 'said' Conditional Use Permit and will be passed as an emergency.**

**MOTION MADE**

**COMMITTEE REPORT WRITTEN**

**3. The matter of a Rezoning Request for 131 Williams Street.**

**Referred By: Joseph Yousef**

***[This matter was approved by Planning Commission on May 3<sup>rd</sup>, 2022].***

Joseph Yousef said he is the prospective buyer of 131 Williams Street.

Mr. Yousef said this rezoning matter was approved at Planning Commission. The previous company had been in business for 130 years before it lost it's non-conforming status over a year ago. The current company went out of business about 12 months ago, which is when it lost it's non-conforming status. Mr. Yousef is in the process of buying the business and he's trying to get everything in line before moving forward.

Mrs. Mitchell asked where this business is and what the business is?

Mr. Yousef said it's at Buckeye and Williams Streets and it's a former recycling yard. It was used to recycle scrape metal his business will remain similar.

Mr. Yousef will reopen it under the same name and similar business and only will make slight changes to add his own touch.

Mr. Breunig said based on Building Official Farkas Staff Report, that based on the proposed use, even though it's the same use that's been going on there for a long time. The previous use did lapse. This is only part of the process, to rezone to H-1. And the second part of the process would still have to be done, which is the Conditional Use Permit after the rezoning is granted, which will be another step to this process and it would have to be brought to both Planning Commission and Council.

Mr. Lipian said that he received concern from residents that the notifications didn't make their way to everyone's addresses on Williams Street for the Planning Commission and the Committee Meeting. Some residents feel they weren't given proper notification.

Chair Callahan said that all persons within the range of the property in question had received information in regards to this evening's Community Development Meeting.

Law Dir Breunig said he can explain what the requirements are for notification. The requirements for Council, there will be a Public Hearing on this and there will be notification in the newspaper and notices are to be sent to each adjoining property owner who's property abuts the property for whom the request is being made. That does not mean everyone in the 'general' area will be notified. However, as a matter of tradition, this Community Dev Committee, through the Council Clerk's office has notified the adjoining property owners by regular of mail, of this meeting that is taking place now. That doesn't mean that someone 2 or 3 doors down and will be directly affected by this will be notified. There have been calls, anytime there is interest in a matter and have made a request to be notified, that request is granted, but is not required by ordinance or Council rules.

Mr. Yousef said the original PC meeting which was scheduled for April was moved to May because of this reason, there was some sort of issue with the mail. He knows from his experience, they cancelled the prior meeting because of this problem.

Mr. Cerra asked if the notices go to the property owner of the physical address?

Mr. Breunig said the notices could go to a number of addresses, they are sent to the tax mailing address that's on file with the Lorain County Audition, and they will also go to the physical address. They're sent to give the best possible notice owner.

Mr. Schneider said he's had conversations with residents in the area and he asked Mr. Yousef if he'll be doing a clean-up of the parking lot and other house keeping. Mr. Yousef said, yes, absolutely. Mr. Schneider asked what the hours will be? Mr. Yousef said right now the hours are 9AM to 4PM and once they move in may change to be 9AM to 5PM.

Mr. Lipian asked if everyone who abuts the facility has been notified?

Dir Breunig said there is no notification that is required for the committee meeting, but courtesy notices are sent out to surrounding owners, they aren't required.

Chair Callahan asked if anyone from the audience wanted to speak?

Tiffany Reedy, 113 Williams St. She said that some property owners that were notified as a courtesy are not in agreement of this rezoning. She had 2 sheets of papers with residents addresses and signatures, which were passed out to committee members and The Mayor. Mrs. Reedy said that she spoke to City Council on May 16<sup>th</sup> and she voiced the concern of the Williams St. neighborhood in regards to the dangers that Blue Star Metal & Recycling poses to the neighborhood and the children.

It was brought to Mrs. Reedy's attention that a Planning Commission meeting was held on May 3<sup>rd</sup>, 2022 to rezone. Only a few residents on Williams Street received these letters and the rest who will be affected were left totally in the dark about what was occurring. Mrs. Reedy said, as far as she's aware, per state law, if a property owner is effected by the decision in question. Then they should, by law, be notified of such decisions looking to be made. She said if she had received such a letter, she would have addressed the Planning Commission. She watched the meeting on Youtube after it took place and it lasted 2 hours and 20 minutes and only 10 minutes of that meeting was on the matter of this rezoning consideration. It was 10 minutes after 103 years of blated disregard of homes and families on Williams Street, is appalling. Had she known this rezoning was being considered, she would've addressed the matter on behalf of her neighbors. For 3 years the neighborhood has tasted freedom from Blue Star's filth and absolute disregard for the families. Now they are being asked to be ignored again and to accept and even filthier and more toxic business to operate with only the applicant's word that they won't continue to poison the neighborhood. They do not want this in their neighborhood, their answer is no. if the committee moves forward with a vote to move forward on this matter, then she will exercise her right as a citizen to file a mandate action because proper notice was not given. Her public records request proves improper notification of affected property owners, thus far.

Chief Building Official said he gave a brief summary of the history of this case and everyone should've rec'd that report. The site was abandoned for 2 years and lost it's non-conforming status. The reason for this procedure is the current use at the time did not fit, it's smack dab in the middle of a residential district. That is why this process is many layers of filters to make sure it meets with the approval of everyone. The particular parcels in question are zoned Residential-Two Household and a couple are zoned Light-Industrial. The request is to zone it to Heavy-Industrial. Please keep in mind, that zoning request, anything that is permitted in Heavy-Industrial can also go there if this current establishment leaves. Though a Conditional Use is required to operate a junk yard. He wrote down all the uses and requirements on his report.

Mr. Oswald said this establishment has been there forever and now they want to change it.

Building Official Farkas said the zoning code is set up for incidences like these and this is why we have this process, to take something that doesn't fit and go through the motions of the panel to have the decision making powers to decide if they should allow it to keep going as it had been or should we do something else with this particular site. The zoning code is established and we're supposed to separate these types of uses far from residential districts. He doesn't want to discourage this particular business, he just wants to say, back in the day, employees walked to their jobs. One hundred years ago, they built businesses around these neighborhoods, people walked or took the transit. Now that things are different, these are flipped and we want these kind of industrial facilities far from residential districts. So there would be insulation from hazard chemical smell, etc.

Mr. Lipian wanted to confirm with Law Dir Breunig to make sure about the notice, that prior to PC, that the notice is not necessary, but it's a courtesy notice and that courtesy notice went out to all the properties that would be abutting the property under the new zoning?

Law Dir Breunig said that there is notice required for Planning Commission, but he doesn't represent that body and he is not familiar with those notice requirements. He is saying is there is no notice requirement for this meeting that we're in tonight. But, as a matter of tradition, we have always sent out courtesy letters to the abutting property owners, and we have done so for this meeting. He cannot speak for what Planning Commission did or did not do.

Mayor Whitfield said, yes, those notices were sent out to those property owners.

Mr. Lipian's request in regards to Ms. Reedy and her signatures, do we have confirmation that those residents received notices or should've received notices?

Mayor Whitfield said he will look at the signatures and confirm. He said there were 5 addresses that were required to be notified. He will check on those. To the Law Dir's point this is what is required. The other signatures of residents, would be nice to notify, but that's not clearly defined and why not notify the people around the corner, as well. They complied with what they are supposed to do as far as notifications.

Mr. Lipian asked who provided the legal opinion in providing notice to people who had a right to be notified because a question was raised, about Ohio law, and it used the word 'affecting'. The Ohio Law overlaps a little with local ordinances, who provided that information?

Law Dir Breunig said they were not asked for an opinion on this but The City's Charter allows us to differ from State Law. The State Law Ms. Reedy was quoting was regarding Planning Commission. Our Planning Commission has it's own requirements pursuant to Elyria Codified Ordinances. He cannot speak with in depth knowledge on those and he was not asked for a legal opinion from the Clerk's office on this. What we were provided by the applicant/property owner, there were only 5 property owners that were required to be notified based on the language of our Codified Ordinances, which is adjoining property owners.

For the Public Hearing which is on June 6<sup>th</sup>, 2022, notification is published in the newspaper and notification notices were mailed to the surrounding property owners for that public hearing. Again, there is no notice requirement for this meeting tonight. And again, he cannot and will not speak on behalf of Planning Commission.

Mr. Lipian said that since he cannot speak on behalf of the Planning Commission we don't have answers to those questions. He just want to be sure because due process and failure to provide proper notice could derail proper zoning and that due process follows the rezoning. He heard Ms. Reedy speak on a mandamus action and he asked if Dir Breunig could consult them about that?

Mayor Whitfield said he looked at the list of residents who signed the paper Ms. Reedy supplied us with and out of the 5 residents who were notified 3 of them have signed this paper.

Dir Breunig said notice and consent are two different things and as far as mandamus action. It's a complaint filed in common pleas court or other courts of appeals or higher courts that require certain panels to do certain things, that is what a mandamus action is, not knowing what the question is and to what extent.

Mr. Lipian wanted to make sure that Ms. Reedy and the other members of his ward who are concerned about this property and that their questions get answered. He understands and respects the difference between the Planning Commission and the difference between the notification for the Council Meetings. He wants to make sure we're getting the answers to these questions.

He doesn't want this any legitimacy to be called into question, about how we arrived at this meeting. It seems there are questions revolving around the Planning Commission. Do we know where they got the list of people they're supposed to contact from?

Mayor Whitfield said this is his last comment he wants to make on this, he wants to confirm that at least 10 days prior to the May 3<sup>rd</sup> Meeting, those notices were sent out to those property owners. And as Mr. Yousef said earlier, we had to push the meeting back just to make sure everyone had the notifications. So that part of the discussion is finished and he would like to move on past this and discuss the issue at hand, because the notices were sent out.

Mr. Lipian said he will work with the Mayor to get further clarification on this as we go into Council Meetings. As it stands, it sounds like there is a significant number of people from his ward who are not in favor of this and he will seek to reach out to more of them to understand more in depth their concerns and complaints in addition to what they've provided here. As a representative of the first ward, he will not vote AYE on this today, but he would like to explore this further if we bring this to Council.

Dir Breunig had a comment, that anyone who has an interest in this, if they are abutting or in the neighborhood, will have another opportunity, because this and all other zoning and conditional use applications are required to go for a Public Hearing in front of Full Council which is set for June 6<sup>th</sup>, 2022 at 7:00 P.M.

Mr. Oswald said the matter will go for public comment and the public can voice their comments and legal battles at that time. If it does pass and the residents want to take it further that will be their option. Right now we should move forward.

Mr. Lipian had a final comment, he said he is sensitive to what Mr. Oswald just said and that there is some wisdom in that and he wants to make sure that his vote today isn't construed as being against this facility and this company setting up shop here. The questions are about zoning and proper notice and many members of his ward are not in favor of this and he can't in good conscience vote for this.

Chair Callahan read the Committee Report and asked for a motion.

**Mr. Oswald moved and Mrs. Mitchell second to recommend an ordinance to authorize the 'said' rezoning request.**

**4 - AYES and 1 - NAY (Mr. Lipian)**

**MOTION CARRIED**

**COMMITTEE REPORT WRITTEN**

#### **4. The matter of a Conditional Use Request for a new Residential Development.**

**Referred By: Dale Haywood, Atwell for K Hovnanian of Ohio**

***[This matter was Denied by Planning Commission on May 3<sup>rd</sup>, 2022].***

Dan Steiger, Director of Land Acquisitions for K Hovnanian Homes of Ohio, 3296 Columbia Road, Richfield, Ohio. He is presenting their latest edition to the Elyria Community. This will be their 3<sup>rd</sup> neighborhood they are seeking to develop in Elyria. They already have their Four Seasons at Chestnut Ridge and Harvest Meadows Community is in process on Indian Hollow Road. The newest edition is Riverfield Reserve Community which is bordered on the west by Indian Hollow and the east by Grafton Road. This concept plan is approximately 105 acres and will be developed into 281 single family lots. This land had been in Carlisle Township and was annexed into Elyria about 15 years ago. It currently has R-LD zoning and they seeking Conditional Use of R-PUD, which is the same zoning that was enacted at Harvest Meadows.

The concept plan and all matters pertaining to submitting this for R-PUD approval was reviewed by staff and met with staff approval. They intend to develop this community with 2 types of housing with one as traditional two-family homes and the other one for what will be an active adult community which will have an HOA provided for the benefit of the homeowners. He completed his presentation by showing renderings of what some of the homes may look like. He said this will be their 3<sup>rd</sup> community in Elyria they've been a good contributor and home builder in Elyria.

Mrs. Davis asked what will be the lot for these homes?

Mr. Steiger said they will be 52 feet wide lots is what is being done at Harvest Meadows, the homes will be about 40 feet wide and there will be 12 feet separation between homes. The depth will be 125 feet or 130 feet deep.

Mr. Oswald asked if what K Hovnanian is asking Council any different than any other development that's been brought for approval?

Mr. Steiger said this is the same as other proposals that they have brought for Council's approval.

Mr. Oswald asked if Mr. Steiger will satisfy the residents and answer all of their questions? Mr. Steiger said, yes, that is correct.

Chair Callahan asked if 6 feet from the property line is standard?

Mr. Steiger said that is what the Elyria code requires.

Building Official Farkas said the minimum set back between single family units is 12 feet. Keep in mind if the conditional use is granted, the other requests for variances were tabled and they will have to go back and get the variances because if you build a house right at the minimum set-back, if it's out of square at the slightest, it will become a zoning violation and would need to appeal. They were requesting a one foot variance to accommodate for any deviation in the footing or foundation installation.

Law Dir Breunig said the variance requests will be handled by Planning Commission specifically. The only thing that council will address is going to be the conditional use permit issuance which is R-PUD in a Residential-Low Density District. Any variance requests will be approved as part of the plat submission at the R-PUD with Planning Commission which would be a subsequent process they would usually typically approve those variances as part of approval for the plat, and council won't see that. The only thing the committee is looking at today is the density of that property in comparison to other City properties and other developments that have gone in the City.

Chair Stewart asked if the development across the street on the west side of Indian Hollow is the same use as far as variances, is it the same minimum set-backs that are being presented here this evening?

Mr. Steiger said yes.

Chair Callahan said there are residents who would like to speak.

1. John Forthofer, Kipton Nickle-Plate Road, Oberlin, Ohio. He wanted to speak about the 14 acres that are adjacent to the proposed sub division to the south. That parcel of land is in a family trust and was farmland since the 1950's. Mr. Forthofer's main concern is the liability and safety which is going to be encroached upon them by this new subdivision. With the population being as dense as they are planning. Originally it was approved it for 60 homes, and now they are planning a lot more and they are throwing these enormous subdividers down their throat. Yes, it's good for Elyria. He is asking council to consider when making these decisions as to what is going to be put up in our neighborhoods.

The traffic is already out of control and will be worse.

The main concern is the density and liability of these future allotments. In closing he asked the developers and the City and City Council to consider all the factors and try to help the current residents with these problems which will be forced upon them. Their liability is expensive. A fence would be a suggestion.

2. Monica Crowe, 1998 Grafton Rd. Her house is across the street to one of the proposed entrances, which is a huge issue to her. Her neighbor next door would have headlights shining directly into his window. Ms. Crowe and her neighbor are asking if the developers can flip-flop the entrances with the ponds that are proposed. Another issue is they (the 34 properties that signed the petition) would prefer that they do not develop 'high density' this is a low density area which is why they purchased their homes in this area. Ms. Crowe brought up storm water retention ponds which are planned to drill a hole straight to the river to drain the water into the river, this matter was brought up at the Planning Commission meeting. What was discussed at the previous meeting was that there would be a hole drain from the storm water retention ponds and dumped directly into the Black River. There are many residents who own river front property and their property pins are in the middle of the river. If this water is discharged directly into the river, it does not discharge at the same rate and flow that otherwise would be absorbed into the river naturally if the area was not developed with impermeable substances, like the road or the houses. Their concerns here is that this is going to flood their yards, which are on slopes. When they do get flooded, it floods the entire backyard. If there's a drain put in and the water goes directly into the river, those water levels will get really high, really fast and that will consume their backyards. The plan for the stormwater management is for that to be the responsibility of the HOA. How will it be determined what they are required to do, the rate of flow, cleanliness of the water, will there be a fountain in the water to keep it moving? She asked if there was a DNR Environmental review for the river? Will this area be tied into combined sewers that currently allow recent overflow of sewage into the Black River? No one was able to answer that question.

Chair Callahan said he believe the Planning Commission reported that everything was compliant in regards to that.

Law Dir Breunig said regardless of the zoning, any storm water and storm water retention issues would have to be approved by the City Engineer's Department in compliant with the stormwater regulations. He has no idea what types of calculations they go thru to determine that. The storm water issue was addressed at the PC Meeting and he believes there were no issues noted. Mr. Crowe said the developers had mentioned they were committed to erecting an eight foot privacy fence as Mr. Forthofer had asked for. She asked if that could be put in writing. It was also mentioned, at the last meeting, that the adjacent property owners should be happy that 41 percent of the proposed land is not currently planned for development and everyone should be happy because that's more than the minimum percentage required and that's for high density. She said they stated on record that they'll guarantee that 41 percent will remain undeveloped indefinitely with caveat.

Chair Stewart said these are a lot of valid concerns by these residents. He said the committees understand these are sensitive issues with the properties being proposed and the growth and development that's happening here and other areas of the City. There are property owners that are used to having farmland.

Growth is important and there are opportunities for everyone to work with the developer and the Chief Building Official, Law Office and getting these things ironed out. The conditional use request is just the first step in this project. These conversations we're having this evening are very valid and very important.

Law Dir Breunig reminded the committee and the residents that this is a request for a zoning classification. The actual development plat is still going to go back to Planning Commission even if Council passes the zoning change so the concerns that were brought up by Ms. Crowe, like placement of the entrance, street widths and set backs, etc., will still have to be addressed by Planning Commission regardless of what happens here tonight. This is purely for zoning and density purposes.

Ms. Crowe also reiterate that she does have signatures on a petition which do include the Carlisle Trustees as this subdivision is 100% encapsulated by Carlisle Township property owners. This subdivision does not touch Elyria.

Building Official Farkas said this current site consists of 104 acres of land. As mentioned, the density is proposed to be planned unit development. The intent of that is purposeful to get the number of homes inside the development. With consideration, the developer has significantly reduced the number of homes that they could build. If it were to be zoned a residential low density district and they did the standard lot at 75 X 125, they could still put many more homes than what they're proposing with a residential plan unit development. This proposal is consistent with what they've submitted in past subdivisions. It's been passed without question, though this does abut adjacent townships, which is a point of consideration, but as proposed, it's no different than what they've heard before.

Dir Breunig said this is slightly more restrictive to the developer than flat out asking for a rezoning to a higher density. A R-PUD like this conditional use permit requires that the Planning Commission is involved in every step of the process so they have the authority that once the Conditional Use Permit for this zoning change to get to deny or accept whatever the developer brings before them. It can be fluid to trust the Planning Commission to act in accordance with what the charter requires and still have a measure of control that you wouldn't have if they granted a flat out rezoning which could allow a lot more homes without any control from Planning Commission.

Mr. Oswald said he's been in construction all of his life and he's known of people who want to move out to farmland because it's pristine and no traffic. It's always going to happen that more and more people move out to those areas and we have to work with the surrounding communities to make this right. This will be good for Elyria. When we find out that the population in Elyria is declining, we need more residents. If we build 200 plus homes and that will generate tax revenue for Elyria. They may not all work in the City but the value of the property will bring revenue to the City, and there will be many added benefits. And they'll (developer) fix the roads and handle the traffic issues and all the other issues that were brought up and will work with everyone.

Chair Stewart said again, this is the first step in a long process that needs to happen. It's imperative that everyone understands that we'll address these conversations as the process goes along and making sure all of the concerns are addressed. The developer has made a commitment investing in our community. He wants to make sure the developer understands these concerns.

3. Tim Matthews, 1744 Grafton Rd. He said he has a vacant lot at the end of Grafton Road by the highway. He said it was a total injustice of what happened,



because this is Carlisle Township and it got annexed into Elyria. He didn't move out there to live in Elyria. He's lived in his house for 30 years. Indian Hollow is a mess right now, traffic is horrible and you can hardly pull out of Grafton Road. The developer said they will fix the roads...? Second thing, this area is Midview Schools. Elyria gets the tax benefits and the residents pay the the taxes for the schools. The water issue is a big problem. When Hope Court was done, it was a mess. When they ran the sewer line, they did underground boring and that water line came through his front yard and killed 2 trees. The county required that company have a five thousand dollar bond, but he never got that. The storm drain is another big thing, the storm drains on Grafton Road are 8 inches and they can't keep up with the water it's on there now. With traffic, they're going to have to widen the road and where will they widen it to? On the west side, there was a trolley system, so it could be widen to that side. But is that fair to the residents, they would lose some of their yard? He asked for these to be taken in to account. He understands it's money for Elyria but it's a lot more to the Carlisle residents. Without the homestead rule, we'd be losing all Carlisle Township for a few greedy builders back in the day.

4. William Forthofer, (didn't give address), he has comments about the proposed subdivision. He's lived in the area all of his life. To exit from Southwood Drive onto Indian Hollow and the Grafton Road intersection is difficult during rush hour and it was like that even 30 years ago. Fuller Road and Grafton Road traffic at rush hour is backed up from Fuller Road to Hope Court. By adding a minimum of 261 vehicles into the equation plus traffic from the new Harvest Meadows and new Ryan subdivision, the existing roadways aren't adequate to handle the new proposed subdivision. Either Elyria, the township or the county will have to upgrade the intersections somehow, with a traffic light or turnoff. He thinks there will be a problem. He also wonders if Elyria crews will maintain the area? They need to have a crack sealing program for these concrete streets. The builder is proposing a 26 foot, one inch roadway.

Law Dir Breunig said the variance request for the road width will be addressed by Planning Commission.

Chair Stewart understands what his concerns are and everyone else's concerns that have been brought up. He recommends, that when the time comes through for the design of the subdivision, he recommends everyone to attend those meetings and voice their concerns, whether it's a position of a house, a basin, roadway, they will be addressed by the City Engineer and Planning Commission, this is the initial phase of getting the conditional use approved. He's not making light of any comments here tonight, but this is the process they have to go through.

5. Don Harrison, owns property on Indian Hollow Road. He asked if there will be a septic sewer system going up the west side of Indian Hollow? There isn't one right now. He said he owns 3 five acre lots at 10900 Indian Hollow Road, which is on the west side. He asked if the entrances for the development will be right across the street from his property, he's concerned about headlights shining into his home and if so, he would like the developer to plant some kind of trees to block those lights.

Law Dir Breunig said the City Engineer can answer questions about the sewer lines, he doesn't know where they will be. As far as the actual subdivision plat and where the en

trances will be and the street layout, is not before the committee tonight.

The only thing before the Community Development Committee tonight is the zoning and conditional use permit request. Planning Commission will determine where those streets are and where the entrances will be.

Mr. Harrison was having trouble hearing the comments made by Mr. Breunig.

Chair Stewart told Mr. Harrison these matters will be discussed in another meeting and there will be an opportunity that once they move on that the Engineer can have a short conversation with those individuals in the lobby to give a brief history of what's going to be coming up in the process. There will be a lot more meetings. This is just the beginning step of moving this forward.

6. Greg Demyan, 11015 Indian Hollow Road, said that Mr. Oswald is proud of the fact that the city is going to get a lot of money off this development. The traffic situations that are going to happen. Grafton Road and Indian Hollow, which are not city streets and they're talking about widening or whatever, who pays for it?

Mr. Oswald said we all burden that. We all use other roads that aren't in our city. Everyone pays a share for driving on roads.

7. Bill Griffin, 1967 Grafton Rd. He said what makes this unique is that, although this will be an Elyria subdivision, but it will be surrounded by Carlisle Township. One of his concerns is the response time for emergency services. There is only one way to get to his house on Grafton Road and that's from the Highway. It seems with this development it will increase the population density by quite a bit and on top of that with this other development that is being built. The surrounding roads are not designed for that and were never intended. If you need an example, look down Rt 57 at Chestnut Commons. They are concerned that is what this will become. There are many other concerns that were brought up tonight; the retention pond. The front of his property line goes to the river, his property is right next to where this pond is going to discharge. Are they going to have to cut through this road to put the discharge pipe there and will Grafton Road have to be closed for a length of time and completely blocked off? That increased water flow and possible erosion undercutting Grafton Road, who will be responsible for that if his property line goes there?

8. Anthony Miller, 1998 Grafton Road asked if there was a DNR Environmental study conducted or submitted to them. He believes the adjoining property is actually considered Carlisle Township which is actually connected to the river. Are they trying to skate through there on this issue. Has there been a traffic study? How can you possibly make a decision on this matter without that data? There was a traffic study with the property off Indian Hollow, they only found out about this other development because residents asked about it. They weren't informed about it, so why are both parcels only doing one traffic study, because it's proposed as one connected development and are they just wanting to just push it through. This is the first step to making it high density. The annexation paperwork from Carlisle Township to Elyria, it was stated that Elyria would maintain the look of the surrounding neighborhood. How can you make this decision to put a high density neighborhood when it was said they wouldn't.

Law Dir Breunig said traffic studies may be required by the county to grant access permits. As far as the question Mr. Miller asked about when the property was annexed to Elyria that Elyria said they maintain the look of the surrounding neighborhoods and Mr. Miller asked how they can possibly put 281 houses on the property which is not the building code and they need a variance for that.

They've allowed it in the development off Indian Hollow but this is not the case. They do not want this around their properties. Mr. Miller said that these questions and concerns should be answered before the zoning. Mr. Breunig said with respect the zoning comes first and the actual subdivision plan comes next.

Mr. Miller brought the issue of the sewer system up, that in Elyria it's already overloaded. He was in Cascade Park recently, there is complete filth, beautiful park, waste everywhere and they want to add more houses to an already overloaded system and say oh, we'll fix it later, same thing with the roads. The roads are dangerous, the proposed main entrance going to Grafton Road is on a double blind corner strip, his house is in the center of that and it's dangerous now and now will add a main entrance to a subdivision of this size. He said he will take every legal option they can to make sure this is not met.

9. Roy Libengood, 1994 Grafton Rd. The entrance to this proposed property will be shining headlights into his front window. He's not against developing the property. His neighbors, Tony and Monica brought up a lot of valid points. His biggest concern is the traffic. It seems that common sense would tell you to have a traffic study impact before they put in 200 plus houses in addition to the other development that's being built. And if you had 1.5 cars per house that's another 300 to 500 cars coming down that road. At this point they're all going to have to get on routes 10/20 off Grafton Road. I put a u shaped driveway a number of years ago because he had a hard time getting out of his driveway, there's a blind curve. As soon as he looked both ways to pull out and as soon as he pulled out into the 40 mile per hour speed limit someone there. There's been a number of accidents and once there are more cars it will be worse. Are there plans to put another entrance to Route 10/20 off Indian Hollow Rd. to alleviate some of this traffic? Common sense would tell you if you have an entrance shining into people's properties when right across the other side where the retention pond is which is owned to the river. It would make more sense to make the entrance that's facing their own property.

Mrs. Mitchell said she understands they are only voting on the conditional use permit, but she thinks it is imperative having heard all the concerns of the residents and all the questions should be addressed and answered. If this goes to Planning Commission, these residents need answers and rightfully so. They are asking for a traffic study, she said that needs to be done, that's only fair. She doesn't see how you can move forward when you have so many people who don't want this development. She's not saying it's a bad thing, and she's not saying it's a good thing. These residents have the right to request what they want. She is asking that the Planning Commission to please answer their concerns and questions, do a traffic study.

Mr. Lipian would like to second what Mrs. Mitchell has said and thank her for her candor. Ultimately, there are a lot of questions and concerns. Septic, traffic studies, DNR, many questions and concerns and there don't seem to be a lot of answers. The Ukrainian bill has been delayed five times over lesser concerns with greater urgency. This is about being a good neighbor to our surrounding township and community and part of being a good neighbor is doing unto others as we would have the do unto us and it's about legislative consistency. We need to be consistent, are we going to move ahead with all of these questions and concerns left unanswered. Where in other cases we have not. That would be legislative inconsistent of us. Many questions need to be answered.

We need to exercise empathy, what would you want if this were you standing up at the microphone concerned about your property? In light of what Councilperson Mitchell has said and all who have come up to voice their concerns, thank you for speaking. He would like to make to make a motion. He motion is to table this for four weeks to allow proponents and city officials to respond to these questions and concerns.

Chair Callahan said Mr. Lipian has a motion on the floor.

Mr. Cerra stated a point of order, he asked if a zoom in call can participate?

Law Dir Breunig said that Mr. Lipian can participate in the meeting via zoom.

Chair Callahan said there is a motion on the floor.

Mrs. Mitchell seconded the motion to table this matter until a later date and until we can get more information and alleviate some concerns.

Law Dir Breunig noted there is a motion on the floor and they can vote on this but he noted that a lot of these same questions did come before the Planning Commission. Some had answers and some did not. The headlights and access for one, he noted that the developer expressed a willingness to make those changes. Again, those are items that are addressed by the Planning Commission as part of the development plan. It's not something that council get to weigh on directly. If this were to pass tonight and go on to Public Hearing and move forward, it still goes back to Planning Commission for subdivision preliminary plat and then the final plat would eventually come before council for the acceptance of city streets and utilities. He stated that for clarification.

Mrs. Mitchell said in light of what the Law Dir said, she'll resend her second.

Anthony Miller of 1998 Grafton Road came back up to the microphone to speak. He said that they were all told to come to this meeting to discuss these problems and here you are saying on no, it's Planning and you'll just pass this through. He thanked Mrs. Mitchell for bringing up great points and he thanked Mr. Lipian. He said they need answers with this and said they cannot move forward with this and pointing fingers to each other and saying we'll talk about that later. He said they need to be proactive. Don't do everything first and then be reactive, that's what causes problems. He also said, that anymore more accidents on that road to bystanders, motorists, that's going to be on you guys.

Mr. Oswald asked Mr. Breunig to say one more time what the committee is voting on this evening, so everyone understands the process.

Law Dir Breunig said what the committee is voting on tonight is granting or denying a conditional use permit for a residential planned unit development (R-PUD) in a residential low-density district (R-LD), what that means is you are voting on the parcels that are being applied for to put a higher density of homes into an R-LD district. They are passing a development plan, they are not passing road maintenance issues, not passing on the sewer, storm water, not passing any of those items. What the committee is discussing and voting on is the zoning.

Mr. Oswald said if this does go forward then that's when all of these comments will be brought up and that's the process.

Mr. Breunig said that would go back to Planning Commission for approval of the preliminary plat. Planning Commission has the authority to do that, per the Elyria Charter, Council does not.

Tim Matthews of 1744 Grafton Road came back to the microphone to speak. He said when Lorne Elbert had this annexed into the City of Elyria during the JED.

It was a back-door deal and it never should've happened, but it did. The problem is, what will we do about this. There are at least one or two fatalities every year on Grafton Road because of traffic. By adding more subdivisions with all of these houses in there and the way people drive. Will Elyria police patrol that subdivision in the area. Or will it be the Sheriff Dept. that already have too much to do already? Everyone speeds. Since he's lived there for 30 years, he's witnessed 3 deaths. It's all about more money. And everyone talks about climate change. We got water going everywhere. When Hope Court was put in, everyone's yards on Miller Court and Grafton Rd. get flooded. No one cares. Carlisle Township has to deal with it. It never should've happened. A traffic study is really needed and the water runoff issue needs to be looked into.

Chair Callahan said there was a motion on the floor and was seconded by Mrs. Mitchell and rescinded, so for the lack of a second to that motion, it has died.

Mr. Lipian has the floor, he said he wants to say something else before the motion dies because the member of the public talked about having ducks in a row and said we need to have our ducks in a row before this is passed. He understands this is a conditional use permit, the Law Dir's advice was this will be discussed further. But with other pieces of legislation, we need to have all of our ducks in a row, namely, the Ukrainian Refugee bill and he was told they can't pass that until the programmatic guts are completed until everyone's questions and concerns have been identified and addressed and every time he addresses questions and concerns, additional questions and concerns come up with those solutions and he begins to feel like he's playing a game and he doesn't want members of the public to go through what he's been going through. So let's be consistent. If the ducks aren't in a row, let's not pass this out of committee today. Let's be respectful of these members of the public and be good neighbors. Let's allow this to have it's full hearing after details and the ducks are in a row. He is asking for a second be considered. He asking this out of legislative consistency because it's important this body should practice that.

Mr. Tollett said that what Mr. Lipian is referring to is financial funding for Ukrainian which is a complete unrelated issue with no bearing on the other.

Mrs. Mitchell asked for the chair to read the committee report so they can move forward.

Mr. Lipian said to Councilman Tollett there is something called false comparison or comparing apples to oranges. He said he's not comparing the similarity between giving refugees money and approving a conditional use permit, what he is comparing, is moving forward legislation out of a committee when not all the ducks are in a row and not all of the details and concerns have been answered regardless of how the construction has been identified. Additional comments and concerns according to the legislative consistency of this body should therefore be under consideration before further moving into passing this out of committee. There's an appreciation for that subtle distinction, especially since so many fine lines have been drawn about whether proper prior notices have been given, whether they about the property. Many things need to be answered before this is passed out of committee in order for this body to be legislatively consistent and that's what he's calling for.

Mrs. Simmons said she lives on Middle Ave. and she's the 5<sup>th</sup> Ward Councilperson and she understands their concerns. She lives near S Maple and motorists speed down Middle Ave to Rural King or going toward Chestnut Ridge to go to Walmart. She understands those concerns.

She asked why were these residents told to come to this meeting with their concerns instead of Planning Commission.

Law Dir Breunig said that was a point he was trying to make at the Planning Commission Meeting, he thinks the PC was trying to look at several things at once and we really needed to focus on one issue which was the conditional use permit itself, They were trying to simultaneously pass on the preliminary subdivision plat and that clearly wasn't ready. The conditional use permit of that could move forward to council but the preliminary plat needed to be addressed and the developer addressed willingness to do that, but those are two different things. The conditional use permit is to give the developer some kind of closure they know they can obtain the type of zoning they need to put the studies and everything else, the re-engineer, the subdivision plat to address the concerns that were raised at PC before PC could finally approve the preliminary plat. They will still have the opportunity to do that. Why they were told to come here and address these concerns, is this is a public meeting, so everyone has comments and he understands that, again we have to separate out what is being determined at which meeting. This meeting determines the zoning and PC meetings determine the preliminary development plat, which is the design.

Mayor Whitfield said he went home and listened to the meeting on youtube and couldn't help but get back in his car to get back up here. As the chair of the Planning Commission he said their position was, yes we understand the process of approving the conditional use permit and that later, we would address the lights shining into homes and the traffic issues, but we felt those things should be addressed beforehand, before they approve the conditional use, because it was where they were at, at the time, as opposed to approving this and then them coming back. We have people here who have legitimate concerns similar to the sentiment he heard that councilwoman Mitchell shared. Like they felt, with all these concerns, how can we move forward with this. Knowing the process is this, and then more to follow and so our recommendation to the developers, and the City has had an excellent track record with K Hovnanian and we've approved every request they've brought before us. They know we're not difficult to work with, they know this is an exception and we ask them to let us table this and we bring these issues back to the PC that show the vision of addressing the headlights shining into homes and other issues and then we'll approve this and we'll start the process. So the folks here today, he thinks they're right to be here today and they're right to voice their concerns because they saw the PC take the position of, why approve this conditional use if there's so many concerns. They understand from the developer's standpoint, that they feel like why would they put their money out there and not get approved, but the reality of approval they have is 100 percent. That's to clarify why the people are here today.

Law Dir Breunig added if council grants a conditional use permit, that starts the clock. Conditional use permits expire if no construction starts. And no construction can start until a preliminary plan is approved. In a way it would put the developer under pressure to meet the concerns of Planning Commission if the conditional use permit is granted. It would accelerate their need to meet whatever demands are being made by Planning Commission provided those demands are reasonable and that all the concerns that were raised are absolutely reasonable.

Mr. Cerra asked if this were to get passed tonight and ultimately through the next Council Meeting, council would have no more control over this?

Would it be strictly Planning Commission?

Mr. Breunig said PC would control the preliminary plat. Council wouldn't see this again until the time the final plat is processed through and we were accepting the public streets and utilities for dedication as public use. Planning Commission would control the actual development process, not council.

Mr. Lipian said that a vote on this starts the clock. He feels it evokes the image of a race. It starts the race and we're going to come and address this again just before we get to the finish line. But with these questions and concerns not being answered, we're starting the race without tying our shoes and we could fall along the process. He remembers Council Callahan saying something a few months ago that we want to do the good but we don't want to get hurt along the process. His question is why are we going to start the race on something we're not sure we're going to be able to finish? Wouldn't it be more beneficial to prepare properly before? Again, that's about legislative consistency. He is surprised and disheartened that it was so quick and so easy to persuade esteemed councilperson Mitchell with just a simple conversation that we address this again because it will be addressed at a much later date at which time it would be a lot harder to stop the process. If they find additional concerns, there'll be more pressure. He doesn't think it's wise, especially given other matters the council and committees have looked at. He's going to see if anyone on council has the gumption to contain this bill before it gets too far down the line because again it's about legislative consistency blithely worshipping at the alter of technocracy.

Daniel Steiger of K Hovnanian Homes came back to the microphone and said that there is no intention to not answer the questions and concerns. They are following the rules of law for the City of Elyria. As the Law Dir stated, the first step is to make certain that they have the zoning. Once the zoning is approved they will have to comply with all the design regulations and all the concerns will have to be addressed. The conflation of all of these things one before the other is obscuring the view of what needs to be done. They are not going to avoid, they're not going to ignore, they're not going to mistreat. They have to go by the rule of law and they are following them. He asked that process is not obstructed. They have professional design consultants who will address all concerns raised by everyone who has a say on this project.

Mayor Whitfield asked why they didn't just table this and address the issues and then come back to this body? Why did you still choose to move forward after the Planning Commission rejected it and he made specific recommendation and he's curious.....

Mr. Steiger of K Hovnanian interrupted the Mayor and said before we involve ourselves in employing the engineer to do all the work to get all the consultants involved, we had to make sure that we got past step one. Please understand, we're talking about a lot of money, which they will spend in which to address all, but to do it before you tell us that we could even enter in the gate does not make sense and that is not what your laws require. He understands the concerns, he knows he doesn't want them rushing ahead with something that's going to be damaging or not in the best interest of the City or it's neighbors, they have no intention to do that, but before they spend time and money and working with the City's staff on what's to be done, let's make sure that we have the zoning to base it upon because right now we don't have that foundation.

Mayor Whitfield said we have a 100 percent approval rating for K Hovnanian subdivisions while he's been mayor. There is probably some rationale behind it and I think you're seeing that today and what he was trying to advise from a political standpoint was a route to get there and now we're here. He understands the money that's going to be spent, but he was hoping they would've followed the advice they tried to provide because they could've avoided this hour and a half discussion tonight by doing so.

Another resident came up to the microphone to speak again; Anthony Miller, 1998 Grafton Rd. asked who seconded the motion on the floor. He went on to say they don't want high density, they want low density. Elyria annexed it as low density because of the surrounding neighborhood. He doesn't understand how they can possibly change it to high density.

Mayor Whitfield said he heard comments and he disagrees with some of those. He said the Planning Commission isn't against the high density development, they wanted the concerns that were voiced by the folks to be addressed. That's important but they also understand there was a discrepancy of how the property was annexed and what the commissioners back in the day did. At this moment in time this developer wants to do something and there are citizen concerns which we want addressed but we weren't against moving this forward, they just wanted to do the right thing on both sides.

Mr. Miller was hoping this would be tabled this and get some answers before you make a decision.

Mr. Lipian said the motion is still on the table on have yet to hear a second. In light of the considerations of the concerns brought here tonight. He asked there is a second on his motion.

Mr. Cerra said, it was stated earlier that this is zoned low density and they could actually put in more homes than what they're proposing, under that current zoning?

Building Official Farkas said right now it's zoned residential low density district and if the developer chose to, he could forgo any conditional use request and move right into the subdivision submittal and propose types of homes with larger lots but most likely, would have to build more to accommodate the loss, because of the lot size.

This is actually a win with a plan unit development because you get a closer development, they've already agreed to not use all the acreage, which they could. The development is confined to one acre. In his opinion, they are getting bigger lots, but you'll probably get more homes, it may increase the number of homes proposed is 281. The numbers can change the lot density calculations in the water retention areas, which is part of engineering. But as a whole they could do more.

Chair Callahan thanked Mr. Farkas and he read the Committee Report.

**Mr. Schneider moved and Mrs. Mitchell seconded to recommend an ordinance authorizing the 'said' Conditional Use Permit for Riverfield Reserve Subdivision.**

**AYES - (4)**

**ABSTAIN - (1 - Mr. Lipian)**

**MOTION MADE**

**COMMITTEE REPORT WRITTEN**

Mrs. Mitchell stated 'Point-of-Order'

Law Dir Breunig said that Mr. Lipian participated in the discussions and he asked him if he's choosing not to cast a vote?

*Mr. Lipian said that he can't cast a vote and he cannot be recognized because the vote was already taken and the question was already called.*

Law Dir Breunig said he was just clarifying that Mr. Lipian is abstaining?



Mr. Lipian said, yes, he is abstaining.  
Mr. Lipian thinks it would be in bad conscience to vote on something where there is so little details and few concerns have been addressed. That is why he abstained.  
Law Dir Breunig said they will count Mr. Lipian's vote as a nay.

**5. The matter of a Conditional Use Request for a Barbershop/Salon at 1000 Lowell St.**

**Referred By: Ernest Pickens, 1000 Lowell St., LLC**

***[This matter was approved by Planning Commission on May 3<sup>rd</sup>, 2022].***

Mr. Glen Pickens of 1000 Lowell St., LLC is requesting a conditional use for a salon/barbershop in an existing general business zoning district.

Mrs. Mitchell welcomed Mr. Pickens to the neighborhood. She said the EST Bank Building is very large, she asked if he will use the entire building for the salon?

Mr. Pickens said yes, his company will be using the entire building.

There were no other questions.

**Mr. Schneider moved and Mrs. Mitchell seconded to recommend an ordinance authorizing the 'said' Conditional Use Permit.**

**AYES - (4)**

**ABSTAIN - (1 - Mr. Lipian)**

**MOTION MADE**

**COMMITTEE REPORT WRITTEN**

Mrs. Mitchell asked the Chair if the committees may take a five minute break before they call the Finance Committee to order?

Chair Callahan called for a five minute recess at 8:00 P.M.

***The evening's meetings continued with The JOINT Meeting and Chair Stewart called the Finance Committee to order at 8:05 P.M.***

*Respectfully submitted by,*

*Colleen Rosado,  
Council Clerk Secretary*

*CMR/*