

Draft

MASTER PLAN REVIEW COMMITTEE

January 26, 2016

MEETING MINUTES

The Master Plan Review Committee meeting was called to order by Councilman Dan Fritz at 7:07pm.

PRESENT AT ROLL CALL: Mr. David Cooper, Councilman Dan Fritz, Mrs. Sibyl McBride, Mrs. Sarah Richards, Mr. Sam Steinhouse

ABSENT: Ms. Jenny Burke, Mr. David Haines, Mrs. Robin Cooper

Also Present: Mayor Susan Renda, Sherri Arrietta, Clerk of Council, Aimee Lane, Law Director, Jeff Filarski, Village Engineer

Mr. Steinhouse made a motion seconded by Mrs. McBride to approve the minutes from the Master Plan Review Committee Meeting of October 7, 2015.

ROLL CALL:

AYES: Mr. Fritz, Mrs. McBride, Ms. Richards, Mr. Steinhouse

ABSTENTIONS: Mr. Cooper

NAYS: NONE

MOTION CARRIED

Ms. Burke entered the meeting @ 7:10pm

Data Review

Mayor Renda reported that according to the results of the on-line survey, residents appear to be very happy living in Moreland Hills. They especially value the character, location and services found in the village. Character is defined largely by natural features: the village's semi-rural essence, parks and attractive lots. To a lesser extent people value its family friendly character

and the sense of community. In terms of location, residents value our proximity to Cleveland and their employment. They also value public services and educational opportunities.

In defining the negative aspects of the village, a lack of bike paths was number one and none of the above was number two. When asked what could be improved about Moreland Hills, respondents chose greater transportation options, road maintenance and sense of community as one, two and three respectively. The fourth most common answer was, again, none of the above. Thus the majority of residents are very happy with the village. Apparently about 24% think that there are no negative aspects to living in the village and/or nothing needs to be improved. That is a very high percentage of satisfied people.

She stated that as she indicated on her assessment of the survey results, she wished question four was worded differently. It asked how much development is needed which is a different question than the one the committee was interested in. The question “would you be open to more diversity in housing choices” might have been the better question. And if so, a follow-up question could have probed housing style preferences. Mayor Renda indicated that “need” is a very strong word and probably not the best choice.

The Committee felt that it was important to include transportation goals to provide guidance to village government over the next decade. Question one which probes at the importance of road and sidewalk maintenance is kind of an interesting one because there are almost no sidewalks in Moreland Hills. However the responses reinforce how important road maintenance is to our residents. Bike and walking trails and adding bike lanes rank high in importance. Increasing senior transportation is also an interesting request. Moreland Hills pays for one fourth the cost of a senior bus through the senior center but our residents do not use it. Finally adding sidewalks is important to less than 50% of respondents which is good because it would be very expensive and difficult to do at this point.

The survey also asked residents to rate priorities. One hundred percent of our respondents agreed that maintaining existing roads should be a priority. Ninety-eight percent agreed we should preserve open space, trees, parks, etc. They also felt that it was important that we coordinate with adjoining communities. Improving the appearance of neighborhoods, redeveloping vacant properties and occupying vacant commercial spaces were important to over 80 percent of respondents. Again, bike paths and parks showed up as priorities to our residents. Providing housing for young families was important to 53 percent of respondents while providing homes for seniors was important to 47 percent. Mayor Renda speculated that perhaps there was less interest in senior housing because it was not well defined and people may have been opposed to a nursing home or assisted living facilities.

In responding to question 10 which asked respondents how likely they were to stay in Moreland Hills over the next ten years, 83 percent of respondents indicated they were either likely or very likely to stay. When asked if they planned to downsize at some point, 73 percent responded yes or maybe. Only those who responded yes or maybe to the possibility of downsizing were asked two follow-up questions: one about housing preferences and one about location. Housing preferences clearly favored single family bungalows on smaller lots and detached condos. Apartments were least favorite followed closely by duplexes. Finally, a vast majority of those desiring to downsize would prefer to do so in the Chagrin Valley and/or in Moreland Hills.

Mayor Renda stated that this information gives the view from 10,000 feet and will be used as guidance for priorities for village government over the next decade. The really difficult work for the Committee begins now in terms of recommendations from the Committee to the Planning Commission and then to Council. Law Director Aimee Lane and Engineer Jeff Filarski will discuss some areas of concern in the Village.

McKenna Memo

Mr. Fritz then discussed the public outreach memo from McKenna. He encouraged everyone to send input to him which he will forward to McKenna. There were 75 attendees at the Open

House and 187 respondents to the on-line survey. They conducted interviews with one focus group, a group of six seniors, and eight phone interviews with large land owners, real estate professionals and developers.

Mr. Fritz stated that the results of the McKenna outreach indicate that the residents do not want any major changes in the village. However, there may be small tweaks to be made. McKenna suggests given demographics in the village and national trends that there will be a need for 1500 downsized housing units for Moreland Hills and surrounding areas. The survey does indicate that many residents would prefer to downsize in Moreland Hills. The risk of not addressing this need is the possibility of unplanned development, or even vacancy in Moreland Hills. There is also the possibility that Moreland Hills will miss out on its share of new luxury housing.

Mr. Fritz then discussed the results of the Community Open House. It had a number of stations. He stated that many of the issues the residents would like to see fixed are being addressed by others in the government. The results of the post-it note exercises reinforced the results of the survey: residents value green space and the character of the Village. Stations four and five, the visual preference surveys, showed that participants preferred bungalow courts for higher density housing, townhomes for medium density and farmhouses for low density housing. There was an overwhelming consensus that assisted living facilities were not considered to be consistent with the character of the village. At station six Mr. Fritz, Mr. Cooper and Mr. Haines went over the old land use map with residents. The consensus was again, there should be no major changes. Many residents expressed a strong desire to preserve two-acre zoning. Mr. Fritz stated that Mr. Filarski has indicated that of the 1726 parcels in the village, 260, or 15% are less than two acres.

Some members of the Senior Focus Group expressed a desire to age in place. They expressed a desire to prevent commercial expansion which was countered by feedback at the Open House. They expressed a desire for bike paths and bike lanes.

Mr. Fritz discussed the U-4 zoning (Conservation Development) district in the village. This allows for clustering of housing but maintains two-acre density. This zoning district will protect large areas like Hiram House Camp and the Country Club if that land were ever sold to developers.

The areas brought up during the phone interviews were SOM Center Road at Jackson and SOM Center Road at Hiram Trail.

Mr. Fritz asked that committee members read the memo and get back to him with any input so McKenna can revise their memo if necessary. He then passed out a packet of pictures of “areas of concern” in the village.

Mrs. McBride asked, of the properties that are less than two acres, are they significantly less. Mr. Filarski provided a map that shows lot sizes. Most are concentrated in the Wiltshire, Ellendale, Berkeley, and Giles area, but there are others on Hiram, Jackson, Skyline and Canyon. Some are significantly less than two acres, in the half-acre range.

Legal Considerations re: Zoning – Mrs. Lane

Mrs. Lane stated that she wanted to go over a few points to consider when contemplating making zoning changes. She pointed out that the last time the Comprehensive Land Use Plan was updated was over 10 years ago and a lot has changed over those ten years. She wanted to impress on the members how important their role is. She urged members to be thoughtful and proactive on behalf of the village.

She pointed out that Ohio case law starts with the presumption that the zoning is constitutional and valid. The reason for that is that it has been adopted by the local legislative body. The local legislative body is different from this group but this group is the first step in proposing zoning changes. The presumption of validity is based on the thought that the local legislative bodies are better equipped to make these decisions. Case law states that the courts will not step in and

substitute its judgment. This highlights the importance of this committee and taking this information and seriously digesting it and giving some serious consideration to whether some changes are warranted. This requires you to look at existing properties that are currently developed, properties that continue to be vacant or ones that could be reused or redeveloped.

Mrs. Lane then explained the rezoning process in the village. It starts by either a private party making application to the village or the village itself initiating a zoning change. Under the code, all rezoning issues have to first go to Planning Commission which holds a public hearing. Then Planning Commission refers the issue to Council which also holds a public hearing. Council then adopts legislation to put the issue on the ballot. All changes to the zoning map must be approved by the voters. When you see challenges arise it is usually because someone who owns a piece of property wants to get it rezoned and has gone through the proper channels and for whatever reason the issue was not approved. In those instances, a private property owner can bring a lawsuit to court to challenge the constitutionality of the zoning regulation. It is often an “as applied” challenge which means that the property owner is saying your zoning laws as applied to my property is unconstitutional based on the facts and circumstances.

The village has an example of an “as applied” zoning challenge, the Jaylin case from 2002 in which the developer tried to argue that the two-acre minimum lot requirement was unconstitutional on a very environmentally sensitive piece of property. Ultimately, the court found that the zoning was constitutional. When presented with a zoning challenge, the court is going to look at whether the regulation is unreasonable, arbitrary or whether it is substantially related to the public health, safety and welfare. Often these cases become a battle of experts as each side hires its own experts to further its case.

Mrs. Lane discussed the property at the corner of Miles and SOM in Solon which is being developed as a result of a court case. In that case, the property was zoned single family residential with one acre lots. The property owner originally wanted to use it for commercial use. Council would not put the issue on the ballot so the property owner sued. The developer sued

arguing that the approved uses were not practical or economically viable. The developer then changed course and wanted to use the property for multi-family dwellings. The court agreed and found that the property was not conducive to single family residential zoning. Because of the intersection, it did not make sense to have multiple driveways right there because of the safety hazard. Also the court found it significant that there was non-residential development across the street. The court gave the city of Solon time to try to rezone so council put it on the ballot but the voters would not approve it. Mrs. Lane stated that she mentions this case to impress upon the committee the importance of giving this information thorough consideration and looking around your community to look at properties where minor adjustments in zoning can be made without degrading the integrity of the community. There are some ways where adjustments can be made without degrading the importance of the two acre lot size.

One possibility is an overlay district within a zoning district which would be available in very limited circumstances. An overlay district has a full-blown, multi-page set of zoning regulations that sets forth uses by right, conditional uses, and has the restrictions that are typical in any zoning district. She stated there are ways to make small changes to the zoning map without having a huge change in the code. There are ways to tweak the zoning to make it fit what is right for the current conditions of the community. She finished by explaining that there are criteria in the current zoning code for making amendments to zoning districts or zoning classifications. These criteria talk about amendments being necessary because of changed or changing conditions in the area, compatibility with other things going on in the area, or considering the availability of utilities, etc. She also stated that it was important to stay ahead of the curve.

Mr. Fritz asked about the Jaylin lawsuit, whether the diversity in the zoning code helped the village win the court case. Mrs. Lane responded that some diversity can help. Zoning is always changing and evolving. It is especially helpful to look at vacant parcels to determine why they are undeveloped. Diversifying zoning can be a benefit to a community especially when information shows that needs have changed over time.

Mr. Steinhouse stated that this committee is supposed to look at whole picture and survey residents and try to interpret that information. He stated that what we got is mostly “leave it the way it is” or maybe make a tweak here or there. But what Mrs. Lane is bringing up is equally important. We need to focus on those areas where we just cannot sit back and wait until others act on us because then you are in a defensive posture. We need to take a proactive posture. He stated our most important task is to act on behalf of residents and to be proactive.

Mrs. Lane stated she wants to emphasize that when a zoning ordinance is challenged it is usually an “as applied” challenge, not a challenge to the entire zoning classification of the village. She stated that she wants members to consider, as they are going through the process, that there may be some areas that are worthy of further consideration.

Ms. Burke asked if there is a vacant lot on SOM Center, but not at the intersection, could someone in the future use those developments at the corners to create a case for rezoning. Mrs. Lane replied that every piece of real estate is considered unique. Mrs. Lane does not think that the Solon case would necessarily decide the case. Every property has unique variations. Mr. Fritz asked if proximity to a different zoning district might affect a zoning case. Mrs. Lane stated that specific areas of the village may be more susceptible to a challenge because of what is surrounding it. Safety issues would also be considered.

WEB Area – Mr. Filarski

Mr. Filarski explained that winning the Jaylin case is an example of the village having strong environmental legislation in place. The property in question in the Jaylin case was environmentally sensitive with steep ravines, streams and forests. This helped us make a good argument in the court case and, opposed to having 35 homes there, there are now just 5 homes in what is essentially a family compound.

He stated that two-acre zoning is largely responsible for the look of Moreland Hills as it is today, as opposed to the look of Solon, Pepper Pike, etc. Much of the development occurred after this

zoning requirement was in effect, thereby using up a majority of the vacant land. It provided the canvas for larger homes on wooded lots, much in the way that the areas with smaller lots that were platted in the earlier days of the area provided the canvas for the type of homes that were desired at that time, i.e. smaller cottage-type homes.

The areas in Moreland Hills of small lot neighborhoods are found mostly on Wiltshire, Ellendale, Berkeley and, to a lesser extent, on Giles, Skyline, Canyon and the eastern end of Hiram Trail. Areas with smaller non-conforming lots that do not have access to sewers also have issues with septic systems. Many are currently in need of replacement. Furthermore, there are no on-lot systems that can be used, thus requiring permits from OEPA with the associated monitoring and testing costs.

The redevelopment in the Wiltshire, Ellendale, Berkeley (WEB) area, which has been going on with new homes built there in the last 15 years, could be improved if some of the smaller lots were combined into larger lots, but not necessarily 2 acre lots. This would allow for homes larger than can currently be built there, and provide more housing variety. Currently, one cannot combine lots there if the resulting lot does not meet the 2 acre threshold. Setbacks from the road and sidelines would also be designed to result in an attractive neighborhood. When looking at the homes themselves, there could be requirements that limit the mass of the homes from being too overwhelming.

Zoning is always dynamic over time based on what people want and pressure, both good and bad, from developers. In the WEB area this committee may want to consider recommending a zoning change so that a builder or property owner will have more flexibility to combine smaller lots into larger lots that do not necessarily meet the two-acre minimum. There are currently some vacant lots that could possibly be packaged together which cannot be done now because of the 2-acre requirement. The size of homes should be considered, enacting regulations for size of house in order to keep new construction from being too overwhelming compared to house next to it. Furthermore, on a non-conforming lot a new house can only be built on the footprint of the

existing house. That has led to some unfortunate development in the village. Mr. Fritz provided a picture of a newer house on Ellendale as an example.

Mrs. McBride asked about the set backs in the WEB are. Mr. Filarski said that they do exist but are smaller than in other areas of the village. Thus, there is a tight feel. Mayor Renda made the point that the original houses were smaller and in scale with the neighborhood. Sometimes newer construction is more massive so the setbacks no longer feel appropriate. Plus there is the issue of the necessity of building in the footprint of the previous home on nonconforming lots which puts some houses very close to the roads.

Mr. Filarski stated that the other area he wanted to discuss this evening was the SOM/Hiram Trail intersection. The SOM/Hiram Trail corner has been looked at for a higher density development by at least one developer. This area is located on the corner of a state route and an east-west collector road. The 5.4 acres site had one house on it, which sat vacant after the owner passed, then the Village purchased it. It was then sold, and the subsequent owner split it into two parcels. It has the ability to connect to the sanitary system and has access to city water and all utilities. Properties around it are less than 2 acres.

Bryan Stone

Mayor Renda introduced Bryan Stone of Omni Development. Mr. Stone met with her and Mrs. Lane several weeks ago to discuss an idea for a new development on Chagrin Blvd. She stated she is not endorsing this idea nor is she specifically opposed to it. She asked him to come present his idea to the Committee because she felt it would be disingenuous not to do so. She felt it was important to share this information with everyone.

Bryan Stone thanked committee members for allowing him to speak. He explained that he is Executive Vice President and General Counsel of Omni Development. Richard Stone, his father and founder, lives in Moreland Hills. He also introduced David B. Melecka, architect and planner, and Stephen Bittance, lead attorney for Omni and partner at Tucker Ellis.

Mr. Stone explained that his group is proposing to create a new zoning district, a “Planned Unit Development (PUD).” According to Mr. Stone a PUD allows the village to require planned skill and thoughtful planning in a specific area to make sure the buildings are complementary. At the same time they can impose higher standards, require environment features and other features and both add to a sense of community and can increase tax revenues. PUD gives the village the ability to approve a specific development plan for a specific property and allows for the establishment of architectural standards for that development.

Mr. Malecka was part of implementing of PUD in New Albany, Ohio, an upscale suburb of Columbus. He explained that a PUD allows for determination of exact design standards for development, plans for how trees and roads and sidewalks are placed and what materials can be used, etc. He emphasized it gives the village a lot of control. Mr. Fritz asked about price points. Mr. Melecka stated that it varies with the expense of the materials used.

Mrs. Burke asked about the relationship between a PUD and an overlay district. Mrs. Lane stated she does not have a lot of experience with PUD’s but will do research and get back to the committee with more information. Mr. Bittance stated that PUD is a zoning classification; it is different from an overlay in that it creates a lot more specificity and uniformity in the design process. It creates an opportunity for a collaborative process between Planning, Zoning, and the developer. It offers an extra layer of control for the village.

Mr. Stone stated that their specific area of Moreland Hills lends itself better than other areas of the village for a PUD designation. They currently have 21 acres on Chagrin Blvd. under contract. This property is located across from Pepper Pike Learning Center, near the Senior Center and Library and next to the Orange School District Administration Building. This property is unlike and apart from the rest of Moreland Hills. They believe this area is primed for a PUD designation, unlike the rest of Moreland Hills. PUD’s are usually 15 acres or larger. The area is surrounded by Pepper Pike and properties that have commercial or public use. The property is very deep so if traditional zoning were applied there would be a very long, narrow lots lined up

with many driveways coming onto Chagrin which is not aesthetically pleasing. In summary Mr. Stone stated that his group would like the Master Plan Review Committee to recommend the adoption of a PUD for this area.

Mrs. Lane stated she will look into how various communities have used PUD's to determine how their zoning code is structured. Mr. Bittner stated some communities use it as a classification and others as an overlay.

Ms. Burke asked what is there now. Mr. Stone stated the property is currently zoned single family residential. Several properties are being used for month to month rentals. The houses are older and one is vacant. There are currently seven houses on the property.

Wrap-Up

Mayor Renda stated this committee has their work cut out. She wanted the committee members to be aware that there are a lot of residents that do not realize that the WEB area exists or that Moreland Hills already has Heathermore or they do not know about this property on Chagrin. Therefore, when they say we absolutely have to have 2 acres, they do not realize that 15% of Moreland Hills is not 2 acres and that they are preexisting lots. Mayor Renda stated that what this committee needs to do in the next few weeks is to educate yourselves and decided what you want to do with all this information we took in tonight and ultimately what recommendations to make to Council.

Mrs. Arrietta will send out an email this week with a few date options for the next meeting.

Questions

Ms. Burke asked about basic timeline for the rest of this process. Mayor Renda stated that she had hoped to present recommendations to Planning Commission in February but that is a tight time frame now. If not then, definitely in March. Once we present our recommendations to

Planning Commission, McKenna will take all those suggested changes and add them to their documents as well as adding whatever zoning recommendations we make.

Mr. Steinhouse suggested taking those items that were discussed and have them framed out for the next meeting. This way, the committee can see what the group thinks instead of constructing them by themselves, which will end up taking several more meetings. Mayor Renda stated she, Mrs. Lane, Mr. Filarski, and Mr. Fritz will meet and come up with parameters that can then be debated at the next meeting.

Mrs. Richards asked what, if any, impact a zoning change would have on the residents of the WEB area. Mr. Filarski stated that he does not see a negative impact for them. If someone were looking to sell their property in that area now and a buyer wants a larger lot, they could lose the ability to sell their property. But if they were able to combine two properties and have larger lots (even if it is not 2 acres), it could only be beneficial to them as well as improving the neighborhood aesthetically.

Mrs. McBride made a motion seconded by Ms. Burke to adjourn the meeting.

ROLL CALL:

AYES: Ms. Jenny Burke, Mr. David Cooper, Councilman Dan Fritz, Mrs. Sibyl McBride, Mrs. Sarah Richards, Mr. Sam Steinhouse

NAYS: NONE

MOTION CARRIED

The Master Plan Review Committee Meeting was adjourned at 8:53pm.

Respectfully submitted by:

Sherri Arrietta, Clerk of Council