

The regular meeting of the Olmsted Township Zoning Commission was called to order June 29, 2005 at 7:03 p.m. Present were Chairman John Lavelle, Richard Gebhard, Richard McMakin, Steven Kilo and Ronald Campanalie. Also present were Building Commissioner Keith Foulkes and Secretaries Tammy Tabor and Nicole Rosiu.

Mr. Lavelle moved to amend the agenda to review the sign applications at the start of the meeting rather than the last item on the agenda. Seconded by Mr. McMakin. Roll call. All approved.

#### Olmsted Falls Board of Education sign and sanitary

Mr. Lavelle stated that the first application was submitted by the Olmsted Falls Board of Education. The Board is requesting the approval of an identification sign for the Middle School and a composting toilet facility near the soccer field at the Middle School. Mr. Lavelle stated that due to a schedule conflict, no one was available to attend the meeting. Mr. McMakin stated that the sign was larger than permitted and the Olmsted Township Board of Zoning Appeals approved a variance for the sign and an extension of the conditional use to permit the sign and the sanitary facility. The sanitary facility would replace the need for portable toilets during the summer at the sports fields. Mr. Lavelle asked for any comments or questions from the Board members or the audience. Hearing none, Mr. Lavelle moved to approve the identification sign for the Olmsted Falls Middle School and the placement of self composting sanitary facilities near the soccer field at the middle school, provided the Cuyahoga County Board of Health approves the sanitary facilities. Seconded by Mr. McMakin. Roll call, all approved.

#### Columbia Plaza Signs

Mr. Lavelle asked for a representative for the Columbia Plaza application. Pedro Rivera from Be Next Awnings was present. Be Next Awnings has been contracted to install new signs for all of the businesses in Columbia Plaza. Pedro Rivera stated that the Plaza is changing all of the signs to be uniform. All signs will be in channel style letters, the same color, and will be lit internally. Mr. Lavelle stated that all of the signs proposed conform to the Olmsted Township Zoning Resolution. Mr. Lavelle asked for any comments or questions. Hearing none, Mr. Lavelle moved to approve the application for new signs to be installed at Columbia Plaza. Seconded by Mr. Gebhard. Roll call, all approved.

#### Olmsted Auto

Mr. Lavelle asked for a representative from Olmsted Auto Care. Patrick Theobald was present representing the Auto Care shop. Olmsted Auto Care is requesting signs to be placed on the building and on the property. Mr. Lavelle stated that the signs are conforming in size and placement on the property. Mr. Foulkes stated that the application states that the signs will be illuminated. How will that be done? Mr. Theobald stated that the signs will be lit internally. Mr. Lavelle asked for any further comments or questions. Hearing none, Mr. Lavelle moved to approve as submitted. Seconded by Mr. Kilo. Roll call, all approved.

#### Schady Creek, LLC Rezoning

Mr. Lavelle moved to recess the regular meeting and open the public hearing for Resolution F-05. Seconded by Mr. Campanalie. Roll call, all approved. Mr. Lavelle asked for a representative for Schady Creek. Mark Kopcienski was present representing Schady Creek LLC. Mr. Kopcienski stated that the land is currently zoned R-40. That requires lots to be approximately 1 acre each. Mr. Kopcienski stated that the zoning is unrealistic for the area. Mr. Kopcienski is requesting a rezoning to RMFT. Mr. Kopcienski stated that the Olmsted Township Comprehensive Land Use Plan(OTCLUP) suggests no more than PRD zoning of 2.25 units per acre. That would require a minimum of 100 acres to develop. Mr. Kopcienski stated that there are apartments on the north side of Schady Rd. and Woodgate Farms to the south of this parcel. The construction of homes on this

parcel may not be desirable to home owners. Mr. Kopcienski stated that developing this parcel as single family homes would produce many driveways along Schady and Sharp Roads. Mr. McMakin stated that with PRD and RMF zoning, green space and buffering is required.

Delores Eck is the oldest resident on Sharp Rd. Mrs. Eck stated that the area has increased in population and she would like the area to remain with single family homes.

Mr. Lavelle stated that the responsibility of the Board is to protect the existing residents and also allow the land owners to develop their property. Mr. Lavelle stated that when water and sewer are made available to properties, development will happen.

Tim Brlan, Sharp Road, stated that the development of that parcel as multi family would create an even more difficult traffic situation.

Mr. Lavelle stated that the Board has seen proposals for that parcel of R-30 and R-40.

Jim Schiely, Olmsted Falls, stated that he is on the Voices committee for the Board of Education and the OF Parks and Recreation Board. Mr. Schiely stated that the schools are already overcrowded and higher density will cause an even larger burden. Mr. Schiely also stated that Olmsted Township does not provide any recreational areas for its residents. Olmsted Falls has parks available and they are becoming over crowded with Township residents. Mr. Schiely agrees with the Cuyahoga County Planning Commission (CCPC) recommendation of no more than 2.25 units per acre south of Schady Road is acceptable. Mr. Schiely stated that he lives in a subdivision off Schady and the roads are congested and the water pressure is low. The schools cannot accommodate the amount of students now, adding additional students will multiply the problem Lee Charboneau owns the property directly south of the parcel requested for rezoning. Mr. Charboneau stated that rezoning of Mr. Kopcienski parcel would create a domino effect and decrease the land values to the south of Schady Road.

Lina Baehr, Schady Road, stated that the addition of townhouses to the south of Schady Road would create an explosion of developers wanting to build multi family homes.

Eric Lyon, Sharp Rd, asked what density is being proposed.

Mr. Lavelle stated that Mr. Kopcienski is requesting 7 units per acre.

Mr. Kopcienski stated that he is willing to work with the Township to develop the land.

Mr.Lavelle asked for any further comments or questions. Hearing none, Mr. Lavelle moved to approve Resolution F-05 as submitted. Seconded by Mr. McMakin. Roll call, Mr. Gebhard-no, Mr. McMakin-no, Mr. Kilo-no, Mr. Campanalie-no, Mr. Lavelle-no.

Mr. Lavelle moved to close the public hearing for Resolution F-05 and open the public hearing for Resolution G-05. Seconded by Mr. Kilo. Roll call, all approved.

#### Resolution G-05- Arbors at Olmsted development plan

David Conwill was present representing Cook Road Investments. Mr. Lavelle stated that Mr. Conwill came before the Board with a preliminary plan for development of this site. Mr. Lavelle asked Mr. Conwill what changes had been made to the plan since the preliminary design. Mr. Conwill stated that the only changes to the plan include a site for trash dumpsters, the water and sanitary systems and the storm water management for the site. Mr. Conwill stated that Cook Road Investments would be extending the sanitary line west down Cook Road to their site as well as the water line. Mr.Lavelle asked if those utilities would be restricted to existing residents. Mr. Conwill stated that connection to those lines would be controlled by the utility companies and not Cook Road Investments.

Gertrude Plasius, Cinnamon Woods resident, asked how far back they would be building. Mr. Conwill provided a site plan showing where building construction would be on the site.

Peggy Meckley, Cook Rd., asked what kinds of plans are available for the site. Ms. Rosiu provided Ms. Meckley with the proposed plans for the site. Ms. Meckley lives across the street from the proposed development and wanted to know how the property was being developed.

Mr. Foulkes stated that the Board of Trustees would like to see plans of the roadway signs and all identification signs proposed for the development.

Mr. Lavelle asked if there were any other comments or questions. Hearing none, Mr. Lavelle moved to approve Resolution G-05 as submitted. Seconded by Mr. Gebhard. Roll call, all approved.

Mr. Lavelle moved to close the public hearing on Resolution G-05. Seconded by Mr. Campanalie. Roll call, all approved.

#### Resolution H-05-Oakwood Estates

Mr. Lavelle moved to open the public hearing for Resolution H-05. Seconded by Mr. Kilo. Roll call, all approved. Mr. Lavelle stated that CLP Realty is proposing converting a section of the Oakwood Estates Apartments, which is a rental facility, to Condominiums with ownership of individual units. CLP Realty is proposing a subdivision of the property

Mr. Lavelle stated that Edward Kancler, legal council for the Township, would explain the reason for this hearing.

Mr. Kancler explained that a portion of the Oakwood Estates Apartments is being purchased by CLP and the property is being split and sold and the buildings that are being converted by CLP will have units that are individually owned. Mr. Kancler stated that under Ohio condominium law, this request is not subject to subdivision law. Mr. Kancler stated that he has not been able to find case law pertaining to lot splits for the purpose of converting apartments to condominiums. Mr. Kancler stated that the only case he found was in California in 1963 that has nothing to do with subdivision of land.

Mr. Kancler stated that Oakwood Estates is currently a lawful non-conforming use. Mr. Kancler stated that the Oakwood Estates Apartment complex was a conforming use when it was constructed. It will remain a non-conforming use until that use is voluntarily vacated. The apartment use and subdivision of land is not subject to condominium law.

Section 340.02 c Change in Principal Use of Building. The principal use of a non conforming building may be changed to any other use permitted in the district in which it is located so long as the new use complies with all regulations of this Zoning Resolution specified for such use except the regulations to which the building did not conform prior to the change in use.

The change in use is technically single family attached. The single family attached use is change of ownership of rental to ownership of each unit. The single family attached is a permitted use in the RMFA zone. There is no way that the subdivided property cannot comply with current regulations. The resolution is clear when it says except that when the prior to the change in use which means the regulations that applied prior still apply. There are no rezoning issue or variance issues except to be certain that the application you have with section 520 complies with the zoning resolution to the extent that it is necessary for. Mr. Kancler stated that the application filed under section 520 of the Olmsted Township Zoning Resolution expect that the applicant will present the following evidence to be considered with this application;

1. recorded condominium declaration
2. bylaws of the condominium association
3. addresses of each unit / and # assigned to each unit and names of the occupants
4. addresses of unsold units
5. tenants in unsold units/ dates of expiration of lease
6. applicant is responsible for maintenance, repairs, upkeep until the condominium association and has provided for the maintenance, upkeep and repairs of the property
7. all laws applicable to the property

John Lavelle- asked if homeownership is permitted in the district

Mr. Kanceler stated that because of the non conforming use the Resolution permits the change in principal use except that they don't have to conform to the set backs, height regulations  
Mr. Lavelle asked that that is according to section 340 of the Olmsted Township Zoning Resolution.

Mr. Kancler stated that in discussions with Marty Strelau and others in the Township the concept of this situation is being resolved by an agreement of the parties so that this can go forward. The Township is asking Mr. Moffie to comply with what Mr. Kancler is recommending. There have been no cases in Ohio that deal with this situation and the cost to investigate this case would be astronomical to the Township. The accommodation that applicant had made is being done in good faith.

Mr. Lavelle asked if a variance is required. Mr. Kancler stated that according to Section 340, variances are not required .

Mr. Foulkes stated that an application has been submitted to the Olmsted Township Board of Zoning Appeals also.

Mr. Kancler stated that depending on the action taken by the Olmsted Township Zoning Commission today, the Olmsted Township Board of Zoning Appeals application would be mute.

Mr. Lavelle stated that the Olmsted Township Board of Zoning Appeals would not need to grant a variance. Mr. Kancler stated that the necessity of going to the BZA and trying to explain each variance would cause more trouble. Mr. Lavelle asked if the HOA documents have been reviewed by the Township's legal council according to section 520 of the Olmsted Township Zoning Resolution. Mr. Kancler stated that he has not reviewed those documents.

Jeff Moffie introduced Tom Nader, legal council for CLP. Mr. Moffie stated that there are 86 units being purchased and converted to condos.

Mr. Lavelle stated that there are no changes to site, density, buildings or parking.

Tom Nader, provided blue prints of units, elevations, copies of recorded declaration and bylaws, responsibility of upkeep of the land.

Mr. Nader stated that the asking price is approximately \$75000.00 per unit. Tax base should go up. There will be no exterior changes. Mr. Nader stated that the property borders North Olmsted. Currently 2 owners control land, when converted to condominiums, 86 owners control land, and that will help to limit annexation.

Mr. Kancler asked when the condo association will take over

Mr. Nader stated that when 50% of the units are purchased 1 member of the board transfers to homeowners, 75% are purchased the total board membership transfers to the homeowners .

Mr. McMakin asked how many tenants are purchasing the units. Mr. Nader stated 40% of the current residents are purchasing the units.

Mr. Nader stated that he also has provided a list of all units involved in the transfer

Mr. Moffie stated that he did not provide the names of tenants that are in rental units. He provided the names of people purchasing the units.

Mr. Foulkes asked who is providing the maintenance for the area. The building department received complaints regarding the removal of trash not being done. Mr. Moffie stated that Landmark disposal will be contracted to remove the trash. They were there to dump the containers today.

Mr. McMakin made a motion to approve and make determination and recommendation to the Board of Trustees to comply with chapter 520 as applicable. The applicant has provided evidence of recorded declaration and bylaws, addresses & unit numbers of owner occupants and indications of expiration dates of leases of non owner occupants. Applicant will be responsible for maintenance and upkeep of the development until such time that the condominium association is responsible. The applicant has submitted evidence of the development's non conforming use status  
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under section 340.02 (c) and that the use change from rental units to ownership units complies with said section. As a consequence, it is determined that to the extent that section 520.08 applies to the non conforming use as aforesaid, applicant is in compliance. The Olmsted Township Zoning Commission recommends to the Board of Trustees pursuant to section 520.09 of the Olmsted Township Zoning Resolution that the application be approved subject to the applicants continued compliance with all laws and regulations applicable to the party as well as maintenance of the property until which time the condominium association shall be responsible  
Seconded by Mr. Kilo. Roll call, Mr. Campanalie-yes, Mr.Kilo-yes, Mr. Gebhard-yes, Mr. McMakin-yes, Mr. Lavelle-no.

Mr. Lavelle moved to close the public hearing for Resolution H-05 and reopen the regular meeting. Seconded by Mr. McMakin. Roll call, all approved.

Mr. Lavelle asked for any other business to be conducted. Hearing none, Mr. Lavelle moved to adjourn the meeting. Seconded by Mr. McMakin. Roll call, all approved.

Respectfully submitted,

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Tammy Tabor, secretary

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John Lavelle, Chairman

Date