

**City of Bellefontaine Neighbors
Planning and Zoning Minutes
November 10, 2014**

The meeting was called to order by Chairman Stolte at 7:00 p.m.

Present: Chairman Stolte; members Baker, Bogaski, Borzymowski, Jennings, Van Deven; City Engineer Lum, City Inspector Stocker, Alderman Migliazzo, Alderman Schultz, and Mayor Doerr

The minutes of the October 13, 2014 meeting were reviewed. A motion to approve the minutes was made by Borzymowski and seconded by Jennings. Motion passed unanimously.

Agenda:

Erika Stokes-Edmondson and Ella Simmons were present for the proposed youth center at 10017 Bellefontaine Road. The Planning & Zoning Commission had questions from the previous month to be addressed: a question on ADA compliance, a more detailed site plan, and the plan for dropping off and picking up children. Mr. Alvah Levine, the architect for the Bissell Hills Shopping Center, addressed the Commission's questions on behalf of Ms. Edmondson and Ms. Simmons. He presented a revised and enlarged site plan drawing of the second floor space. The proposed use of the space will be for after school tutoring, evening programs, educational use, and assembly use. The space is 5000 sq. ft., with an occupancy load of 104 people. There are two stairways – one in the front and one exiting at the rear of the building. There are also two existing restrooms that are adequate for this amount of people. The rear stairway has been upgraded but is not ADA compliant. The new tenants propose a buzzer system to alert staff when a child needs to be picked up, and they would escort the child to the adult. In the November 7, 2014 letter that Mr. Levine sent to the Commission's attention, he noted that the second floor space is not fully accessible for the physically handicapped. It is technically infeasible to upgrade access to the building. The existing stairs cannot be modified without affecting other tenants; the original elevator has been removed and the shaft is too small to accommodate a compliant elevator.

City Engineer Lum provided the Commission, Mr. Levine, Ms. Edmondson and Ms. Simmons with a memorandum detailing the requested recommended approval to amend a Planned Commercial Development in a 'PD-C' Zoning District. A copy of the memorandum is attached to the minutes. City Engineer Lum also suggested that, although all the requirements for compatibility are not feasible at this time, the owner should consider making the restrooms ADA compliant by adding grab bars and possibly moving toilets to become compliant. Mayor Doerr suggested moving forward by getting the owner to make these required improvements. Chairman Stolte suggested that inspections be scheduled as soon as possible with the City Inspector and the Fire Marshal, and Mr. Levine and City Engineer Lum should be present for these inspections.

Chairman Stolte advised Ms. Edmondson and Ms. Simmons that, since they will be selling food, they will need to apply for a city business license. Also, the inspection for food preparation should be scheduled with the St. Louis County Health Department. A motion was made by Jennings and seconded by Bogaski to recommend that lines 33-44 of the City Engineer's attached November 10, 2014 memorandum be written into the amended ordinance. The motion passed unanimously.

A conditional use permit for a horse stable at 1320 Shepley Drive has been requested by Ms. Joanie Cox. Ms. Cox was not present. City Engineer Lum gave the Commission a report on the zoning ordinance for a stable. After some discussion among the Commission members, a motion was made by Van Deven and seconded by Jennings that the Board of Aldermen approve the request for a Conditional Use Permit on the recommendation of the City Engineer. A second motion was made by Baker and seconded by Borzymowski to request that the

Board of Aldermen schedule a public hearing on November 20, 2014 for this conditional use permit. The motion passed unanimously.

Mayor Doerr informed the Commission that Save A Lot will be going into the Bissell Hills Shopping Center space that was previously occupied by Bill's Market.

There being no further business, a motion to adjourn was made by Van Deven and seconded by Jennings. Motion passed unanimously.

Meeting adjourned at 8:07 p.m.

Respectfully submitted,

Bob Stolte

The next meeting of the Planning and Zoning Commission will be held on December 8, 2014 at 7:00 p.m.



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3 **Memorandum**
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5 To: Planning and Zoning Commissioners Date: November 10, 2014
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7 From: Philip E. Lum, AIA-City Engineer cc: Mayor
8 Public Works
9 Applicant
10 File
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12 **Subject: 9641 BELLEFONTAINE ROAD:** Request Recommended Approval for
13 to amend a Planned Commercial Development in a 'PD-C' Zoning
14 District.
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16 **I. PROJECT DESCRIPTION:**
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18 This report is following my discussion with JJAMs representatives Alvah Levine. This is
19 a request for Recommended Approval by Planning & Zoning to amend Ordinance 1452.
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21 **II. EXISTING SITE CONDITIONS:**
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23 The Site Development Plan must be amended to include any use that was not original to
24 the development, according to Ord. 1452 "... *The current developments, facilities and*
25 *uses of the property rezoned in accord herewith are hereby approved as the final*
26 *development plans for such properties. Any current uses which would require the*
27 *issuance of conditional use permits pursuant to Article XVI of Ordinance 396 are hereby*
28 *granted such permits...* "
29

30 Ordinance suggested amendments: Should the owner not want only the uses as they
31 originally existed, the following may be in order:
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- 33 1. Request recommendation that a Youth Activities Center, be considered as a
34 permitted use in this district with consideration of :
35 a. Occupant load
36 b. Accessibility:
37 i. Interior accessible route
38 ii. Restroom fixture count.
39 iii. Service sink.
40 iv. Drinking fountain.
41 2. Request recommendation that any uses that are permitted uses in the 'C' Districts
42 to be permitted uses in this District

- 43 3. Request that any uses which would require a Conditional Use, not be permitted
44 without an amendment to Ord. 1452.

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46 **III. SURROUNDING PROPERTIES:**

47 Public Hearing to be advertised to all property owners within required distance.

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49 **IV. STAFF ANALYSIS:**

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51 The following are further staff comments:

- 52
53 A. Amendments to the uses above would allow for any permitted uses in the ‘C’
54 Districts to be permitted uses at Bissell Hills.
55 B. Regarding letter received by Levine Associates pertaining to feasibility, the code
56 requires the portion of the Shopping Center being affected by the change in use to
57 comply with Accessibility. The architect refers to chapter 34, however, the
58 condition may or may not be found infeasible per definition in 3402.1:

59 *Technically Infeasible. An alteration of a building or a facility that has little likelihood of*
60 *being accomplished because the existing structural conditions require the removal or alteration*
61 *of a load-bearing member that is an essential part of the structural frame, or because other*
62 *existing physical or site constraints prohibit modification or addition of elements, the minimum*
63 *requirements for new construction and which are necessary to provide accessibility.*

- 64 C. 3411.7 makes possible a lesser condition to be explored. The code commentary
65 says this regarding 3411.7:

66 *“An area containing a primary function is one in which a major activity for which*
67 *the building or facility is intended is carried out. For example, the lobby of a hotel in*
68 *which the registration and check-out desk is located would be a primary function*
69 *area. Other examples would be the dining area of a restaurant, the meeting rooms*
70 *or exhibition halls in a conference center, virtually all office and work areas in a*
71 *business building and retail display areas in a mercantile occupancy. The key*
72 *concept is that a primary function area is one that contains a major activity of the*
73 *facility. Areas that contain activities not related to the main purpose of the*
74 *facility would not be considered a primary function area. For example, a*
75 *mechanical equipment room, storage closet, toilet facilities, corridors, lounges*
76 *and locker rooms would not be considered primary function areas. With this*
77 *background, it is clear that areas containing a primary function are clearly more*
78 *critical in terms of the purpose for which people enter and use the facility;*
79 *therefore, this section reflects that when such areas are altered or added, it is*
80 *important to require that an accessible route to the primary function area be*
81 *provided. When an accessible route to a primary function area is required by this*
82 *section, an accessible route to such facilities, including any restrooms and*
83 *drinking fountains, serving the primary function area, must also be made*
84 *accessible, even though such facilities and areas may not by themselves be*
85 *considered primary function areas. There are conditions under which it may not*
86 *be reasonable to enforce strictly this requirement for an accessible route to an*
87 *altered or added primary function area. Exception 1 approaches this by utilizing*
88 *the cost of the alterations or addition as a basis for determining if providing an*
89 *accessible route is reasonable. The requirement for a complete accessible route*
90 *does not apply when the cost of providing it exceeds 20 percent of the cost of the*
91 *alterations or addition to the primary function area. These costs are intended to be*
92 *based on the actual costs of the planned alterations or addition to the primary*
93 *function area before consideration of the cost of providing an accessible route. For*
94 *example, if the planned alterations will cost \$100,000, not including the cost of an*

95 accessible route to a primary function area, this exception would apply if the
96 additional cost of providing the accessible route would exceed \$20,000. It is not
97 the intent to exempt all requirements for accessibility when the total cost for
98 providing the accessible route exceeds the 20-percent threshold. Improvements to
99 the accessible route are required to the extent that costs do not exceed 20 percent
100 of the cost to the planned alteration or addition. It is not required that the full 20
101 percent be spent. If the accessible route (including accessible bathrooms) is
102 already provided, no additional expenditure is required. Note that there is not a
103 priority list given for where money should be spent on improving the accessible
104 route. The logical progression is access to the site, accessible exterior routes to
105 accessible entrances, access throughout the facility, access to services within the
106 facility, toilet and bathing rooms and, finally, drinking fountains. Evaluation on
107 how and where the money available should best be spent must be made on a case-
108 by-case basis. For example, if an accessible route is not available to an upper level,
109 and the cost of an elevator is more than 20 percent of the cost of the renovation,
110 then other alternatives could be investigated, such as a platform lift or limited access
111 elevator, or adding the elevator pit and shaft at this time, with elevator equipment
112 added later. If all such items are in excess of the 20-percent limit, perhaps the
113 money available could be spent towards making the toilet rooms accessible. The idea
114 is that existing buildings would become fully accessible over time. Exceptions 2 and
115 3 identify certain alterations that are not intended to trigger the requirement for
116 providing an accessible route to a primary function area. Alterations limited to
117 such elements as windows, hardware, operating controls, electrical outlets,
118 signage, mechanical, electrical and fire protection systems, including alterations
119 for the purpose of abating a hazardous materials circumstance, do not affect the
120 usability of a primary function area in the same manner as alterations that affect
121 the floor plan or the configuration, location or size of rooms or spaces. It is
122 therefore considered unreasonable to require the installation of an accessible
123 route when the scope of alterations is limited to that reflected in these exceptions.
124 Note that the costs for these items are not "backed out" of the total cost for the
125 alteration before applying Exception 1. Exceptions 2 and 3 are alterations limited
126 to the specific items referenced. Exception 4 is intended to avoid penalizing a
127 building owner who is undertaking alterations or additions for the purpose of
128 increasing accessibility. It is appropriate to encourage owners to make such
129 alterations without requiring them to do more work simply because they chose to
130 increase the accessibility of the space. This could otherwise have the opposite
131 effect of discouraging such alterations to avoid the expense of undertaking more
132 work and expense than was originally planned. For example, federal law
133 [Americans with Disabilities Act (ADA)] requires that owners of existing buildings
134 re- move certain existing barriers to accessibility. Removal of such barriers may
135 require a permit from the building official. It would be unreasonable to have such
136 activity trigger the mandatory requirement for further alterations to accomplish
137 accessibility beyond the original planned work. In principle, the code takes the
138 view that some extent of greater accessibility is positive progress and should be
139 encouraged, not penalized."

141 VI. STAFF RECOMMENDATIONS:

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143 If there is a recommendation for approval, staff recommends consideration be given to
144 matters discussed in this report, along with the following:

- 145 1. That the applicant complete as many accessible requirements as possible,
146 recognizing the need for all to be completed over time.
- 147 2. Consider a wheelchair lift in the existing elevator hoistway at another time.

148 (end report)