

**WHITEHALL PLANNING COMMISSION MINUTES  
THURSDAY, FEBRUARY 1, 2024**

The Whitehall Planning Commission meeting of Monday, February 1, 2024, was called to order by Planning Commission Chairman, Terry Anderson, at 6:30 p.m.

Chairman Anderson asked for roll call.

Terry Anderson – Present

Mike Brown – Present

Denny Roberge – Absent

Barb Blake – Present

Jackie Plank – Present

Jason Thomas – Absent

Casey Thomas – Present

Chairman Anderson asked for a motion to excuse absent members Jason Thomas and Denny Roberge. Mr. Brown 1<sup>st</sup> motion, C. Thomas 2<sup>nd</sup> motion. Voting was unanimous to absences.

Others in attendance: Mayor Bivens, Attorney Brad Nicodemus, Kelsey Miller, Brittney Agurs, Julie Ogg, Joseph Long, Dionna Hannah

Chairman Anderson asked for a motion to approve minutes from January 4, 2024. C. Thomas 1<sup>st</sup> motioned to approve the minutes. Ms. Plank 2<sup>nd</sup> the motion. Voting was unanimous to approve the January 4, 2023, minutes.

Chairman Anderson accepted a motion to appoint Brittney Agurs as Whitehall Planning Commission 2024 secretary. C. Thomas 1<sup>st</sup> motioned. Ms. Plank 2<sup>nd</sup>. Unanimous vote in favor to elect Ms. Agurs as secretary. Chairperson Anderson thanked Ms. Agurs for her service.

**Chairman Anderson introduced CASE 876 – ORD. 001- 2024 ERIC OWUSU TIEKU (BUY & BUY AUTO SALES LLC) is seeking a SPECIAL PERMIT for VEHICLE AND LARGE EQUIPMENT REPAIR, 1104.03H, on property located at 4333 E. MAIN STREET, parcels 090-004427, 090-004428, 090- 004429, and 090-004426. This property is owned by Bill's Auto Sales Leasing Ltd and currently operates as RECREATIONAL VEHICLE SALES. This use will be in addition to RECREATIONAL VEHICLE SALES.**

During the council meeting, Mr. Owusu emphasizes the importance of having a mechanic shop integrated into the Bill's Auto Sales Leasing building to ensure seamless operations. The primary purpose of this garage would be to handle minor repairs before selling the cars.

During the discussion, Mr. Anderson raises questions about the types of repairs that will be done at the shop, with a particular emphasis on heavy equipment. In response, the applicant offers examples such as brake repairs, oil changes, and addressing issues related to the check engine light. Furthermore, the applicant emphasizes that the primary focus of the garage will be on conducting minor repairs, enabling the smooth sale of cars and ensuring there are minimal disabled vehicles on the lot.

Ms. Plank asks if this will be used for passenger vehicles or larger equipment. Applicant clarifies smaller vehicles.

Mr. Brown shares that he personally visited the shop to ascertain the orientation of the open door. In response, the applicant clarifies that the building will be situated adjacent to the office, and specifies that the open door will face North on E Main St.

Mr. Brown inquired about the equipment and materials present on-site, Mr. Brown sought clarification regarding the presence of disabled vehicles. In response, the applicant restated that the shop's purpose is mainly for minor repairs and preparing vehicles for sale. Additionally, the applicant reassured Mr. Brown by highlighting that this shop operates differently from others. Customers will be required to make appointments, and parking facilities will be available.

Mr. Brown inquired about the type of equipment and material on site and the presence of disabled vehicles. The applicant reiterates that the shop is for minor repairs and preparation for sale (car wash, vacuum, etc. He assures Brown that the primary function of the business is the dealership and that customers will make an appointment for services and will have parking available.

Ms. Blake asks further about the presence of disabled vehicles and amount coming in from the auction. Ms. Plank inquires if customers that do not purchase a car from the dealership can have their car service. Applicant affirms.

Mr. Brown and Mr. Owusu discuss the objective of the Main Street Overlay Project, aiming to enhance accessibility for pedestrians and ensure that businesses align aesthetically with the street's ambiance. Brown inquiries about potential alternative building sites. Applicant elaborates on the advantages of Main Street for their business and pledges to maintain cleanliness in the area.

Chairman Anderson Asks about signage installation, hours of operation and number of employees. Application answers: Install by February 13<sup>th</sup>, Hours of operation 9AM-5PM. Three or four employees. Ms. Blake asks about extended hours. Mr. Owusu answers possibly 7pm.

Kelsey makes a statement from the staff report. The property in question is on the south side of E Mat St between Pierce Ave Westphal Ave with commercial to the north and the east, residential to the south and commercial to the west. Regarding the Main St. District 110403H and the use for the special permitted use of chapter 1125.04A, the staff's recommendation to

the Planning Commission is to vote unfavorably to the application requesting special use permit to operate this large equipment and vehicle repair business. The reason is that the intent of the zoning code update is to shift businesses on Main Street towards a quality-of-life focus, moving away from auto-oriented establishments.

Chairman Anderson Make a motion and a favorable vote to approve the recommendations for redevelopment of the site. Mr. Brown recommends favorable 1<sup>st</sup> motion on case 876. Ms. Blake 2<sup>nd</sup> motion. Chairman Anderson asked for roll call.

Terry Anderson – No

Mike Brown – No

Barb Blake – No

Jackie Plank – No

Casey Thomas – no

**Chairman Anderson introduced WPC CASE 878, FAIRWAY CLIFFS, LLC, is seeking a PRELIMINARY PLAT REVIEW, 1132, on property located at 750-800 FAIRWAY BOULEVARD, parcels 090-001775, 090-001776.**

Exhibit 1 PowerPoint Presentation

Exhibit 2 Preliminary Plat Map submitted to the court

Exhibit 3 Application Materials for Fairway Cliffs

Exhibit 4 Notice provided to the contiguous property owners

Exhibit 5 Notice provided to the property owners in the area

Chairman Anderson calls for the representative of case 878. Attorney Joe Miller of 52 East Gay St on behalf of Fairway Cliffs LLC. J. Millers' primary stance is that if the plat of land meets city code requirements, then the plans should be approved. J. Miller addresses last month's concerns about sufficient notification to local property owners. He acknowledges the certified letters sent by Kelsey Miller to contiguous property owners and owners that spoke against the application, letters to property owners within a half mile of the site. Approximately 400 letters K. Miller also uploaded the materials to the website. J Miller also acknowledges the staff report and the traffic impact study provided by EMHT and Mr. Andrews.

The discussion centered on ensuring compliance with city code requirements for the construction of 49 freestanding single-family dwellings and developments, emphasizing that this project is permissible under existing regulations. It was noted that this initiative aims to address the city's land lock issues and is regarded as a resolution. In response to concerns raised by opponents regarding adherence to certain items on the generic application checklist, it was clarified that such items are not mandated by City Code 1152.03. Additionally, attention was drawn to the inclusion of notification letters and a traffic study, which although exceeding

the specified requirements, have been undertaken as part of the project's commitment to thoroughness and community engagement. J Miller provided this clarification.

J. Miller refers to Exhibit 1 PowerPoint Presentation to address City Code 1152.03 requirements. Miller digresses on item I in Exhibit 1 because it was a concern brought up by Attorney Mr. Clark at the last meeting. Clark stated that the plat must include individual driveways from the service drive. Miller clarifies that the meaning of "service drive" does not equate to "driveway." He refers to City Code 1129.11 for the definition of a service drive and asserts that it is not a part of the city code requirements. Additionally, he addresses item K on Exhibit 1, stating that all proposed reserves must clearly indicate the proposed use of the reserves identified in items A, B, C, and D. Miller concludes his presentation by recommending to the boards to vote favorably on case 878 based on professional staff research and the advice of attorneys, while also emphasizing the importance of applying the law.

J. Miller invites questions from the attendees. Chairman Anderson inquires whether a home builder has the capability to purchase two of the parcels situated at the forefront of Etna Rd to the west of the development. Miller responds, confirming that lot 45 has already been verified by Commission member Blake. Each of these parcels is officially recorded as lots, fully meeting compliance standards, and can be developed individually. The decision to consolidate the two parcels' rests entirely at the owner's discretion.

Chairman Anderson requests a staff report, which is presented by Kelsey Miller. She delivers a concise overview of the project, emphasizing its compliance with city regulations. The city engineer Ryan Andrews, Kelsey Miller, and her staff recommend a favorable decision for the preliminary plan hearing to be proposed to the planning commission members for case 878. K. Miller elaborates on the modifications made since last month's plot, specifically adding additional labels to address concerns raised by residents and their attorney, Mr. Hart. Kelsey refers to exhibit A to elaborate on the application checklist requirements. She addresses a comment made by Mr. Hart regarding the compatibility of the proposed use with existing uses in adjacent properties. K. Miller states for the record, from a staff's perspective, it is appropriate and compatible.

Chairman Anderson asked that if anyone wanted to speak, they should come forward and state their name.

Attorney Tom Hart, residing at 5029 Cemetery Rd., represented the immediate adjacent families and property owners opposing the Fairway Cliffs Development. He mentioned his clients, including The Williams, Inglis, Kelly, and Sugar family, and emphasized their involvement in ongoing legal proceedings. Hart referred to his written testimony, labeled exhibit A, submitted to the chair. He argued that compatibility with the overall intent and purpose of the

zoning code is essential, citing Ohio law requiring lots to adhere to city zoning codes and subdivision regulations.

City code 1134.02 was cited, which stipulates that residential lot size, shape, and orientation must be suitable for the proposed subdivision and conform to zoning regulations. Hart presented an exhibit map as evidence supporting his claim. He stressed the importance of city codes in safeguarding property values and contended that the proposed plot deviates from existing standards. Furthermore, he referenced an analysis by real estate expert and appraiser, Samuel Koon, to reinforce his argument.

Hart also revisited the definition of a service drive, expressing concerns about unclear access points for the "driveway" on the plot and advocating for clarification.

Maureen Havens opposed the Fairway Cliffs Development during the meeting. She referenced Mr. Littleton's OHM Advisors comprehensive plan, which encourages citizen input from the council and community groups and serves as a guide for zoning. Haven stated her belief that the proposed plot does not align with the character and intention of the zoning code and comprehensive plan. She requested that the planning commission utilize the allotted 90-day review period to thoroughly assess the plans.

Marty White spoke in opposition to the Fairway Cliffs Development. Expressed concerns that the development does not fit with the current lots. Expresses potential traffic concerns. Mr. White believes J. Planks' father was paid by the city of Whitehall and her vote is a conflict of interest. Plank denies the claims.

Tracey Heise voiced opposition to the Fairway Cliffs Development during the meeting. She highlighted inconsistencies found within the application, notably pointing out that only 750-800 Fairway Avenue is listed, with parcel numbers 090-001792-00 and 090-001819-00, along with adjacent properties, not being included. Moreover, she drew attention to discrepancies regarding the property owner of 731 Fairway Avenue.

James Williams spoke in opposition to the Fairway Cliffs Development. Ask the planning commission to take their time to decide on the project.

Tiffany Inglis spoke in opposition to the Fairway Cliffs Development. Expresses concerns about property value, sewage and the future of the existing wildlife.

Anthony Sugar spoke in opposition to the Fairway Cliffs Development. The discussion revolved around revisiting the involvement of Ms. Planks' father in the development plan. Ms. Blake intervened to redirect Mr. Sugar to address the entire board. Mr. Sugar proceeded to voice his apprehensions concerning zoning code 1103.02.b2. Additionally, he referenced the transcript of advisor responses from the city council's previous meeting concerning the 200 ft frontage.

Holly Stein spoke in opposition to the Fairway Cliffs Development. Expressing concerns about the timing of the meeting, which she deemed premature. She referred to regulations stipulating that applications must be received at least two weeks prior to the review date. Stein pointed out that the application, submitted on January 24th, 2023, did not meet this requirement. Stein discussed her record request submission and the delay in receiving the results. Additionally, she brought up the MORPC grant during her remarks. Question why the traffic circle is present and subsidized for a for-profit developer?

Mark Schieber, Landscape Architect, spoke in opposition to the Fairway Cliffs Development. He read a letter that reiterated points previously discussed in the meeting. Schieber also praised Maureen for her insights regarding the comprehensive plan and underscored its importance.

Brian Inglis spoke in opposition to the Fairway Cliffs Development. Emphasizing the inconsistency with the compatibility of the new development. Also voices concerns about traffic and proper notification of the development.

Kimberly spoke in opposition to the Fairway Cliffs Development. Cosigns previous speaker(s). Voices concerns about the presidents being set with this future development plans.

Cory Robinson spoke in opposition to the Fairway Cliffs Development. Commends the staff about the details presented by the staff. Voices concerns about property value. And the impact of neighbor care, wildlife and traffic. Request a landscaping plan. Presents alternative solutions to the plan.

Collin Finan spoke in opposition to the Fairway Cliffs Development. Commends the city of Whitehall for efforts to notify the community about the development. Expressed order of confirmation.

Vanessa Trout spoke in opposition to the Fairway Cliffs Development. Vanessa Trout acknowledged and commended the city of Whitehall for its efforts to inform the community about the development. She agreed with Mr. Hart's perspective and expressed concerns regarding the preservation of the character of historical homes. Trout emphasized the importance of ensuring that any future development aligns with the current design aesthetics.

Dennis Coffman spoke in opposition to the Fairway Cliffs Development. Agrees with the previous speakers. Expresses concerns about the development plans.

Karolina Cretovska opposition to the Fairway Cliffs Development. Expresses concerns about the development plans.

Cindy Ebner spoke in opposition to the Fairway Cliffs Development. Expresses concerns about the timing of the meeting, which she deemed premature. Ebner also addresses the 200 feet of frontage on Fairway Blvd.

Brad Nicodemus clears the record about Ms. Plank. States That Mr. Plank is an attorney that does not currently represent the City of Whitehall.

Chairman Anderson requests a staff overview.

Nicodemus states that if the plat checklist requirement from city code 1132.03, then the plans should be approved by the planning commission board, not administration. If there is a provision missing, it must be specifically stated what's missing, why it does not comply.

Attorney Joe Miller responded to previous concerns raised after his presentation. He noted that Attorney Mr. Hart focused solely on city code 1134 in his presentation, particularly the section regarding conformity. Miller assured the planning commission that the plan aligns with this code.

Additionally, Miller pointed out that the concept of fronting is not applicable in the plan. He emphasized that the planning commission does not have the authority to extend the 30-day deadline. Miller cited a ruling by the Supreme Court of Ohio, stating that this timeframe ensures prompt action to protect the developer from bureaucratic delays, referencing citation 61 Ohio State section 17.

Attorney Hart requested a rebuttal of Mr. Miller's comments, stressing the importance of the board adhering to the zoning code. He underscored that the platting of land must maintain consistency with the provisions outlined in the code. He highlights that the city has the authority to adopt other standards.

Anthony Sugar Request to request to revisit Ms. Planks' father's involvement with this project. Mr. Sugar is dismissed by Mayor Bivens and Chairman Anderson.

Mr. Nicodemus address traffic study

Ms. Miller offers to elaborate on additional information that is not pertinent to the vote.

Chairman Anderson request a vote for case # 878. C. Thomas makes an affirmative 1<sup>st</sup> motion. Plank 2<sup>nd</sup> motion.

Chairman Anderson asked for roll call.

Terry Anderson – Yes

Mike Brown – Yes

Barb Blake – Yes

Jackie Plank – Yes

Casey Thomas – Yes

Chairman Anderson request a motion to adjourn. C. Thomas makes an affirmative 1<sup>st</sup> motion.  
Blake2<sup>nd</sup> motion. Voting was unanimous to adjourn.

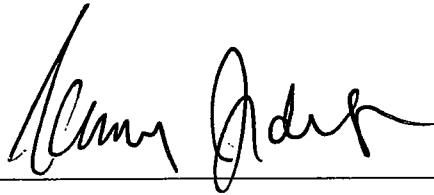
Submitted by,

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Brittney Agurs, Planning Commission Secretary

Date

APPROVED:



Planning Commission Chairman Terry Anderson

5-2-2024

Date