

PLANNING, ZONING & BUILDING COMMISSION

CITY HALL

December 11

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The City of Cortland Planning, Zoning & Building Commission met on Monday, December 11, 2017 at 7:00 P. M. at the City Administration Building, 400 N. High Street, Cortland, Ohio. In attendance were the following board members: Chairman Curt Moll, Don Bell, Donald Fatobene and Jim Bradley. Also present were Service Director Don Wittman, Law Director Patrick Wilson and the following individuals:

Leon Sampat	22082 Lorain Rd.	Fairview Park
Dennis Benton	320 Windsor Dr.	Cortland
Dan & Kathy Schultz	252 W Main St.	Cortland
Jessica Judeh	115 Gleneagle	Cortland
Gary Hughes	115 Gleneagle	Cortland
Cindy Oravec	225 S High St.	Cortland

Curt Moll: I'd like to call to order the regular meeting of the Planning, Zoning & Building Commission for the City of Cortland. It is Monday, December 11, 2017 at 7 o'clock. First item on the agenda is a roll call, please.

Roll Call: Jim Bradley, here; Sally Lane, absent; Curt Moll, here; Don Bell, here; Donald Fatobene, here.

Curt Moll: Second item on the agenda is approval of commission minutes for November 13, 2017 regular meeting. Could I have a motion?

Don Bell made a motion to approve November 13, 2017 meeting minutes, seconded by Jim Bradley.

Curt Moll: Thank you. Any discussion or corrections to the minutes? Can we have a roll call please?

Roll Call: Donald Fatobene, abstain; Sally Lane, absent; Jim Bradley, yes; Curt Moll, yes; Don Bell, yes. **MOTION APPROVED.**

Curt Moll: The next thing on the agenda is old business and it is the discussion of the update to the zoning code to address the state of Ohio marijuana legislation. I would like to take that and postpone until we have our discussion about setting the public hearing which is the last item on the agenda. For the audience's benefit if they don't want to participate in that they can leave before that goes on. But if they would like to stay and talk about marijuana, we certainly welcome you to do that. But we are going to wait for that. First item on new business tonight is **51-17 Replat** – A Replat of Lots 119 & 120 - Walnut Run Estates Phase 3 Plat Volume 48, Page 15 & 16 forming Lot 119A. Could I have a motion for this please?

Don Bell made a motion for approval of 51-17, seconded by Donald Fatobene.

Curt Moll: Is there someone here to explain this or do we need someone here to explain that process?

Don Wittman: I believe there are some representatives here. Actually this will just be a single owner because unlike the prior lot splits where the adjacent property owners were splitting the vacant lot, this lot in its entirety is going to the owner of Lot 119, I think.

Jessica Judeh: Yes.

Don Wittman: Where there is an existing house so they will have a big sideyard now. I believe there were some conditions that the Land Bank put on purchasers as far as its one price if you bought it not divided and if you join it, there was a separate price.

Jessica Judeh: Correct.

Don Wittman: Now is there anything that precludes you from coming back to the board and doing a replat and selling it off as a separate lot?

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Jessica Judeh: Five years and one day.

Curt Moll: Okay. That makes sense. Any other questions from the board? Can we have a roll call please?

Roll Call: Curt Moll, yes; Don Bell, yes; Sally Lane, absent; Donald Fatobene, yes; Jim Bradley, yes. **MOTION PASSED.**

Don Wittman: So just as a matter of procedure, this will go to Council for their approval and then we will be able to get the Mayor's signature and then I believe we will send that on to the Land Bank afterwards. Okay? You don't have to come to Council.

Curt Moll: I appreciate you coming in this evening. There was an answer there we wouldn't have had otherwise. Next item on the agenda is **52-17 "Wall" Sign** – 252 W Main St. – Totally Dog – 7.5 sq. ft. – Internal lighting. Can I have a motion?

Don Bell made a motion for approval of **52-17**, seconded by **Donald Fatobene.**

Curt Moll: Who do we have to talk about this sign?

Daniel Schultz: It is our new business downtown. It is a really well-lit sign.

Patrick Wilson: I just passed it. I saw it and it is very well lit.

Daniel Schultz: Business is picking up.

Curt Moll: It hangs over the door?

Daniel Schultz: It does. It is perpendicular with Main Street.

Curt Moll: Okay. Is there a restriction on height for signs like that, Don?

Don Wittman: No. Just it has to be so many feet above the ground. 7'6".

Curt Moll: Very good. Any questions from the board? We are happy to have you here in town. Can we have a roll call, please?

Roll Call: Curt Moll, yes; Donald Fatobene, yes; Sally Lane, absent; Don Bell, yes; Jim Bradley, yes. **MOTION PASSED.**

Curt Moll: Thank you very much. Okay, now just pay your money and get your sign. (Laughter) Next item of business is **53-17 Final Plat for Benton Subdivision** – for Design Essentials LLC 34-107946. Could we have a motion please?

Don Bell made a motion for approval of **53-17**, seconded by **Jim Bradley.**

Curt Moll: Okay, this item is to do what? Do we have anyone to speak for this?

Curt Moll: This will be just the replat – what you are doing with the land?

Don Wittman: I think he called it a replat but it is actually a final plat. A minor subdivision.

Leon Sampat: (Put drawing on easel) Leon Sampat, LS Architects. The current lot is 3.11 acres and we are going to be splitting it since we are putting up a second building. To not have two buildings on one property, we are splitting the lot into two.

Curt Moll: I assume the land behind it is going to be a parking lot.

Leon Sampat: Retention area.

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Curt Moll: Any questions about this? Don, any comments?

Don Wittman: No, it meets all of the subdivision regulations as far as lot size and then it allows the newly constructed building to adhere to the side setbacks and rear setbacks.

Curt Moll: Very good. Can we have a roll call, please?

Roll Call: **Jim Bradley, yes; Sally Lane, absent; Don Bell, yes; Donald Fatobene, yes; Curt Moll, yes. MOTION PASSED.**

Curt Moll: Next item on the agenda- **54-17 Commercial Building** – 3345 Niles Cortland Rd. – 9, 180 sq. ft. Can I have a motion?

Donald Fatobene made a motion for approval of **54-17**, seconded by **Don Bell**.

Curt Moll: Who do we have to speak for this?

Leon Sampat: Leon Sampat, LS Architects. We are proposing for Dr. Benton at corner of 46 & 305 a new structure on 3.11 acre lot. The lot split is what we just talked about. The new building that we are proposing is going to be 4,590 square feet on first floor and the lower level is 4,590 also. The required parking for both buildings is 57 parking spaces and we are providing 58 spaces. There will be a new drive between the two buildings. There will be access off 46 and 305. There are currently curb cuts there now – we will be widening them and paving them.

Curt Moll: You are not adding any curb cuts?

Leon Sampat: We are not adding any curb cuts. There is an existing building on the lot. The existing building is a two story brick structure. The only thing we are doing to that building is we are adding an extra canopy to that building to help tie in the two buildings together. The new building – the doctor will occupy the entire first floor with his dental practice which is 4,590 square feet. The lower level – he will occupy about 1800 sq. ft. of that space and then there's an additional 2700 sq. ft. down there that will be a future tenant space or expansion. The lot does have a gradual grade change – we are taking that to our advantage – the lower level will have walk out with entry down there and access to the west parking lot. As far as exterior materials for the new building, the base of the building will have masonry that will match the existing building and then the upper portion will be a higher grade vinyl with mixture between siding and shake.

(Looking at drawings)

Curt Moll: Don, you said the setbacks are all to our regulations?

Don Wittman: Yes.

Curt Moll: So the parking in front is for clients and the parking in the back will be used for staff?

Leon Sampat: Yes and for the lower level.

Curt Moll: Retention and concerns for ?

Don Wittman: That is part of a different package that was provided to me. So as far as the stormwater and the provision for the water service and sewer will be addressed as the project moves forward and gets closer to construction. At this point, we are just looking at it from the zoning perspective for approval from this board.

Jim Bradley: Is there or what's the plan for the existing building?

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Leon Sampat: It will remain as is. It is an office building.

Curt Moll: Anything else? Can we have a roll call, please?

Roll Call: **Jim Bradley, yes; Sally Lane, absent; Curt Moll, yes; Don Bell, yes; Donald Fatobene, yes. MOTION PASSED.**

Curt Moll: It is a nice looking building.

Don Wittman: Is it going to be the same company or are you going out to bid?

Leon Sampat: It should be BCI.

Curt Moll: Very good. The next item on the agenda- **55-17 Set Public Hearing** – The purpose of the hearing is to consider a variance request to allow an electronically variable message sign at 4747 Warren Rd NE that can be programmed with hours of service and specific events – NOT scrolling or flashing messages. **Hearing to be set for January 8, 2018 at 6:45 p.m.** Can I have a motion?

Don Bell made a motion for approval of 55-17, seconded by **Jim Bradley**.

Curt Moll: Any discussion?

Don Wittman: I just suggest that any of you who want to get a history lesson on electronic signs, you can review the minutes from previous zoning meetings. Specifically, when we updated the sign ordinance there was quite a bit of discussion and what transpired for the city to move in the direction to prohibit electronic variable message signs.

Don Bell: When was that, do you remember?

Curt Moll: When was sign ordinance passed?

(Multiple comments)

Curt Moll: 2009.

Don Wittman: But that was also in reaction to, I think, when First Place Bank over in Champion had their red sign that you could see from the bypass, from miles away – and the cost of these electronic LED signs were coming down so we didn't want to have a bunch of flashing signs. One of the issues would have been – we even had a discussion as far as – what about “text-only” or if people were going to be having – we wouldn't change it, it wouldn't flash, display for a minute or two and then it would change. We just got to a point where it would not be enforceable so we did the outright prohibition. So now we are looking at – the Church Board got together and they know full well that it is expressly prohibited but they want to test the water, so to speak, to see if the way they are proposing to have it would pass muster with the city.

Curt Moll: I think the Board at one point rejected one and it was approved by the Appeals Board.

Don Wittman: That was the first Speedway.

Curt Moll: That was the Speedway with the price panels. We had a lot of discussion at the time that if there was a way to control, if somebody built a sign that basically did what these things that hang on a wall and have letters do and could be restricted to that – we would probably be okay with that. But the idea of having motion pictures along the street – we didn't want to do that. We are not after that appearance, I guess. At any rate.

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it would be good to review that before the next meeting. I think we will have a good discussion.

Don Wittman: We can track those minutes down and send them out to the group in an email.

Curt Moll: That would be helpful.

Gary Hughes: Would I be out of order if I asked a question about the doctor's property?

Curt Moll: I don't think so.

Gary Hughes: He said something about 58 parking spots. Is there a state regulation where he has to put so many handicapped spots?

Curt Moll: Yes, I think there is a state regulation for percentage of parking spaces. He is a medical facility so he is going to do that.

Don Wittman: 0 to 25 I believe is one space and 25-50 is another. These separate buildings they do have 3 handicapped spaces from what I can see.

Curt Moll: But there are state and federal regulations for handicapped spots. We have regulations on how many spots he needs total for his business based on the square footage.

Don Wittman: Typically, the architects are versed in the ADA requirements, the American Disability Act..

Curt Moll: Can we have a roll call on the public hearing?

Roll Call: Donald Fatobene, yes; Sally Lane, absent; Jim Bradley, yes; Curt Moll, yes; Don Bell, yes. **MOTION PASSED.**

Curt Moll: Next item on the agenda is **56-17**. Why do we have two of them on there? 56-17 and 57-17 are the same thing basically.

Several: There are two signs.

Curt Moll: I know but they are the same sign on two different buildings.

Don Wittman: No, they are not the same sign.

Curt Moll: Okay, let's have a motion for **56-17 Wall Sign** – 225 S. High St. – Quilter's Fancy – 9 sq. ft. – Internal lighting. Can I have a motion?

Don Bell made a motion for approval of **56-17**, seconded by **Jim Bradley**.

Don Wittman: We can discuss them both at the same time if you would like.

Curt Moll: That is what I would like. I don't want to have both motions open. If you would like to come up and talk about your signs – both signs.

Cindy Oravec: These are quiet non-moving signs. (Laughter). Quilter's Fancy has two units there. There was an existing sign above what was Wollam and an existing sign above the door of Storm Service. We decided to use both signs and didn't want to repeat the same sign on each one and thought we would add more information. That's what we did.

Curt Moll: So one of these will go on one and the other one will go on the other.

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Cindy Oravec: Yes.

Curt Moll: The two at the bottom are for the panels by the street which I think I saw. They are on, I think I saw them?

Cindy Oravec: Yes, they are on.

Curt Moll: Any questions about the sign? Can we have a roll call on 56-17, please?

Roll Call: Sally Lane, absent; Jim Bradley, yes; Donald Fatobene, yes; Curt Moll, yes; Don Bell, yes. **MOTION PASSED.**

Curt Moll: Okay, can I get a motion for **57-17 Wall Sign** – 227 S. High St. – Quilter’s Fancy – 9 sq. ft. – Internal lighting. Can I have a motion?

Donald Fatobene made a motion for approval of **57-17**, seconded by **Don Bell**.

Curt Moll: Any further discussion?

Cindy Oravec: Can I say one thing? In regards to those moving signs, I just want to say I don’t think they should be a detriment to safety when you are driving down the road.

Curt Moll: Do you mean like the Bazetta sign?

Patrick Wilson: That is one of the things we talked about.

Cindy Oravec: It is almost like a text.

Curt Moll: If they change more frequently than you can read in the time it takes you to drive by them then it is a problem. And there is no way to control that.

Cindy Oravec: Anyway, that is all I’m saying. It is a driving and safety issue. When I drive through Washington, it is like a television with color and it is just so long. That is all I am saying. Thank you very much.

Curt Moll: Can we have a roll call on the second one?

Roll Call: Curt Moll, yes; Don Bell, yes; Sally Lane, absent; Donald Fatobene, yes; Jim Bradley, yes. **MOTION PASSED.**

Curt Moll: We have from old business, the discussion to the update of the zoning code to address the state of Ohio marijuana legislation. That is **50-17** and we have **58-17 Set Public Hearing** – The purpose of the hearing is to consider an amendment to the Planning and Zoning Code to allow Marijuana Dispensaries and Level II Cultivator as a Use Permitted Upon Review in certain Commercial Districts and to allow Marijuana Cultivator Level I and/or II as a Use Permitted Upon Review in Industrial District.

Hearing to be set for January 8, 2018 at 6:30 p.m. Can I have a motion?

Donald Fatobene made a motion for approval of **58-17**, seconded by **Don Bell**.

Curt Moll: Now we can talk about it. I don’t need a motion for the discussion?

Patrick Wilson: No.

Curt Moll: We have the stuff that Don put together. Do you want to tell us what you did, Don?

Don Wittman: I followed up with our discussion from the previous meeting and put together the proposal, looked at the Ohio administrative code and got some of the definitions from there so we could define Dispensary and Level I Cultivator and Level II

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Cultivator. And then, I did read a news article that there is another – there is a Processor. So cultivators may not necessarily be the processors. You have to get a processing license as well.

Curt Moll: Typically, I think they are assuming that the processor will be the cultivator.

Don Wittman: I think this would be simple enough for our sake. I don't think we need to go into every aspect and branch that marijuana cultivation may bring.

Curt Moll: Is there a way to put in the definition – we can change anything in here at this point.

Don Wittman: Yes.

Curt Moll: Where it says, you've got 3 definitions there.

Don Wittman: Basically you would want to keep the processing in the same area as the cultivator.

Curt Moll: That is what I was going to say – can we just add Cultivator slash Processor as used in Chapter 3796 of the Revised Code as part of the definition?

Don Wittman: Okay.

Curt Moll: So it could be either/or or both. But all would require approval.

Patrick Wilson: I like how Don has set this up so that anything that comes into the city has to come before this group. I think that is a good way to handle it.

Curt Moll: Absolutely. I told him it wouldn't work if it wasn't. I think a lot of things should be like that. We don't have a very strong business regulation. The other thing we picked up is there was an inconsistency in the way restaurants were defined so we added that to this change.

Don Wittman: So I guess if we go to the proposed Attachment D, is everybody in agreement that those are the appropriate areas to have a Dispensary – Service District obviously, Highway Commercial District and I guess the only questionable one would be Central Business District. There aren't too many areas that are zoned Central Business District, but if we were to follow through with our zoning amendments it would probably be the downtown section.

Curt Moll: So we are saying that you can sell it in any of the commercial districts in town except office district and neighborhood and not in residential?

Don Wittman: Correct, it would be a use permitted upon review.

Curt Moll: And Level II Cultivator could be in Service District or where's the Industrial List?

Don Wittman: There is no attachment for the Industrial List. That is in the code – it is in the body of the enumerated uses for Industrial. That is on the next sheet.

Curt Moll: I thought we had Level I and II in there.

Don Wittman: That was kind of the, I had written it up as Level I and then Level II as well - question mark.

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Curt Moll: I think that is what it ought to be.

Don Wittman: Okay.

Patrick Wilson: In the Industrial District.

Curt Moll: I can see somebody coming in and becoming a Level II after they have been a Level I and if we don't allow it in that district now they have to move their facility. If they had plans to do that then they could go straight to Industrial (inaudible).

Don Wittman: You could expand, you could go from Level II to a Level I.

Curt Moll: You would have to do that in an Industrial Area. That would keep that control. I don't know whether you want to put Level I and Level II in there as separate items. That would force them to come back. If they came in as a Level II, we want them to come back if they want to be Level I.

Don Wittman: I think I thought of it after I did the renumbering so that's why I left it as is. If we go to finalize it, 17 would be Marijuana Cultivator Level I and 18 would be Marijuana Cultivator Level II and then everything else after that.

Curt Moll: That's good. I think that is what you need to do.

Patrick Wilson: The more often you have people coming back is the better.

Curt Moll: Right, especially if it is an area where you might have a lot of public input.

Don Wittman: Just for the record, this doesn't necessarily mean a marijuana operation is going to be approved. It is going to be subject to this board for approval much like we have a "Use Permitted Upon Review" for sexually oriented businesses. Probably, it would be my opinion that an outright prohibition on a legal activity at least according to the State of Ohio would not pass the due process or things like that. I can't say constitutional because it is the Ohio Constitution not the Federal Constitution – I guess it still would even though it violates the Federal Law. So we are probably getting out ahead of that because if you prohibit an activity that's legal...

Curt Moll: ...that's legal, then I think you have a problem. But you can have them come in and if there is a huge outcry from the citizenry then we can probably say no, or we have a good reason to say no.

Patrick Wilson: It is highly regulated or regulated enough that you would be able to say no.

Curt Moll: The other concern I guess I've had is they have not come in and said you are not allowed to control this like minerals.

Patrick Wilson: Right. They are letting it be controlled at the local level.

Curt Moll: I think I saw a legal decision on that, that said the cities are allowed to control the businesses.

Patrick Wilson: That is correct. Under the Home Rule is what we're really talking about.

Don Wittman: Are there other communities that have expressly stated that they are not permitted in their city?

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Several: Yes.

Curt Moll: Townships have for sure.

Don Bell: Hubbard, Liberty, Austintown.

Don Wittman: Is that something that the state legislature allowed them to do?

Patrick Wilson: Yes. For the time being.

Curt Moll: They had significant push back and we haven't. We are more rural I think – a little more used to growing things here.

Patrick Wilson: Well Oberlin, I always laugh. Oberlin with Oberlin College right there, a very liberal college and they were very proud to be one of the first to allow it into the city. I think they want to grow it at City Hall.

(Laughter)

Curt Moll: Any other comments about this? Are you guys okay with this?

Don Bell: I have a question on the processor. What does a processor, what is their function?

Don Wittman: Their function would be to take the leaf product and convert it to the oil. Because the Ohio Medical Marijuana does not allow for smoking. So it has to be converted to oils or medicine.

Patrick Wilson: Something digestible, not smoked.

Curt Moll: There is a fairly good discussion of it on the internet. Tells you what they do.

Don Wittman: From what I've heard one way to do it would be the butter.

Curt Moll: Okay. Hearing no further discussion or questions, I would ask for a roll call on the public hearing.

Roll Call: **Curt Moll, yes; Donald Fatobene, yes; Sally Lane, absent; Don Bell, yes; Jim Bradley, yes. MOTION PASSED.**

Curt Moll: Okay. Do you have anything, Don?

Don Wittman: I guess a discussion on what constitutes a new sign and when does it have to come before the board. After the last meeting, Furniture Décor & More came in for their wall sign and I was leaving work and driving by and right out front there was a brand new red sign – completely changed the previous sign. It has always been the policy that if it goes beyond any sort of cosmetic modification or alteration that it would be a new sign and a permit would be required. The zoning ordinance does state that new signs shall be approved by this commission. I was just kind of caught off guard because they were presenting a wall sign and didn't say anything about re-facing or a complete total overhaul of the existing ground mounted sign up front. It went from black and white to where I don't know if anybody has noticed it, it is red with a new logo and everything.

Curt Moll: So we had a discussion and the discussion involved is it really a new sign – it is the same size, same post, different colors, same words, same owners – do we really need to have them come in here and pay more money to get another sign approval? I set

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down on the side that I think it is maintenance and Don was on the other side that it was a new sign.

Don Bell: I seem to agree with you.

Curt Moll: I look at it as being a little bit hard on businesses to make them come in every time they want to change something like that. I like to be nicer to businesses. We want to control that, but..

Don Wittman: And I have done that like Campbell Carpet updated their sign, but it doesn't look different.

Curt Moll: Well this one looks different, because it is red.

(laughter)

Don Wittman: If I was color-blind I probably wouldn't have noticed it.

Curt Moll: If you came from my hometown, you would think red was great.

Don Wittman: I just wanted to get the temperature of this board. It is one thing if it is a business –

Curt Moll: Well if it was a new business –

Don Wittman: ...or even changing a pre-existing nonconforming sign like Cortland Auto Spa.

Curt Moll: There is no reason they shouldn't have come in.

Jim Bradley: I agree with you. If you go back through all of our agendas from this year every month there is a few signs and I don't know if they always need to come before the board – maybe if you are changing the name or changing the style or color but if it is a maintenance idea you wouldn't have to.

Curt Moll: I just look at it as a business says we've got to change that sign, it is getting pretty shabby we don't really want to charge them extra for doing that.

Patrick Wilson: It is 25 bucks.

Don Wittman: You still say it is a money grab.

Curt Moll: Yes. It is not as bad as a speed camera but it is close.

Patrick Wilson: As long as you apply what you have on the books uniformly to every business owner in town you can be as burdensome and onerous as you want. It is a money raiser for most municipalities and villages especially now with the state budgets cutting out the local guys more and more – the locals are looking for more ways to raise revenue and signage is one of them.

Curt Moll: We have always had – in the time I have been involved with this I think this is the 3rd time it has come up in 15 years.

Patrick Wilson: I think this city is good at getting word out.

Don Wittman: We are just having the discussion because I want to be consistent in the application and I think I have enough information here moving forward.

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Curt Moll: Good. Anything further? I need a motion to adjourn.

Don Bell made a motion to adjourn the meeting, seconded by **Donald Fatobene**.

Roll Call: Jim Bradley, yes; Sally Lane, absent; Don Bell, yes; Donald Fatobene, yes; Curt Moll, yes. **MOTION APPROVED.**

Meeting Adjourned: **7:37 pm.**

Chairman

Date

Secretary