

MINUTES OF MEETING
PLANNING COMMISSION
MAY 16, 2023

Members Present: Allen, DeMarco, Bishop

Presence Noted: Ray Reich, Building Commissioner
Andrew Bemer, Legal Consultant to the City for the Roundstone Project
Kate Straub, Planning and Zoning Coordinator

City Council Members Present: John Shepherd, Ward 4
Jeanne Gallagher, Ward 3
Thomas Hunt, Ward 1

Chairman Bishop called to order the May 16, 2023 meeting of the Rocky River Planning Commission at 6:00 P.M. in City Council Chambers of Rocky River City Hall. He introduced Attorney Andrew Bemer, who is the former Law Director of the City of Rocky River. He is a land use expert and will be sitting in on all meetings related to this project. He added that it also avoids a potential conflict with our Law Director, Michael O'Shea. He acknowledged the three Council members who are present. Mr. Bishop said that they don't have a voting quorum at this meeting, so no action will be taken on the agenda item, except for a discussion of the Lake Road Rocky River LLC project.

Planning Commission member, David Allen, said he would like to disclose that he just recently learned that both the Developer and the Owner of this project live on the same street as he, but at opposite ends of the street. He said it clearly will not impact his ability to review the project, but he wanted to bring it to the Chairman's attention in the interest of disclosure.

Mr. Bishop said that there was a concern about the environmental at the last meeting. The applicant submitted an environmental report as it relates to the land, and asked Building Commissioner Reich if there is an environmental report required to be submitted for the buildings themselves. Building Commissioner Reich responded that an environmental report for the buildings will be required. Mr. Conzelmann said that they have not had access to the buildings yet to prepare a report. They will have the environmental team do a full study prior to demolition. Mr. Bishop said that the land report is available in the Building Department. There is an existing gas well that is not being utilized but needs to be capped under the Ohio requirement and there is a small area of land that will need to be excavated and removed due to contamination.

Mr. Bishop said that this project went to Design Board and they are progressing. Mr. Brooker said that they feel they are getting very close to a final approval from them. Mr. Bishop said that they reduced the Linda Street drive aisle from 5 spaces to 3 spaces. They have relocated the dumpster to the end of that drive aisle and increased the enclosed garage parking by 2 spaces,

they increased level 1 open garage parking by 4 spaces and reduced level 2 open garage parking by 2 spaces, so it all results in an overall total of 2 additional spaces.

Mr. Bishop said he would like to hear from the Traffic expert who is in attendance. Mr. Chris Prisk said he is a Traffic Engineer with Langen Engineering, licensed as a Professional Engineer and a PTOE (Professional Traffic Operations Engineer) in a handful of states, including Ohio, for 20 plus years. He prepared the traffic study for this development and explained the first step of the process, which is included in his memo. The amount of traffic or “trips” is estimated based on a standard methodology from ITE (Institute of Transportation Engineers) which has a trip generation manual. The manual compiles counts people have done all over various states and various types of uses. They quantify the square footage of a building, the number of employees, its specific use, they count the driveways and collect data as to how much traffic is generated throughout different peak hours as well as overall daily total. All of this information is used to develop rates, so that they can understand for instance, when an office use is developed at a specific size or with a certain amount of employees, then a certain amount of traffic can be anticipated. They focus primarily on the peak hours of commuter traffic. The windows are typically 7:00 am to 9:00 AM and 4:00 to 6:00 PM, and they evaluate the highest number of vehicles during any one hour of those windows. They did a comparison shown in Table 1 of his memo, that during the AM peak hour, all of the existing uses generate about 105 total trips, which is further broken up into entering and existing. During the PM peak hour, it is estimated to generate about 95 trips, with 47 trips entering and 48 trips exiting. The last column represents the weekday ADT, which is the average daily traffic. The number of vehicles that go in and out of the site when everything was in full use, was about 1,100. That number represents both in and out combined. Using ITE methodology for the office use based on square footage, the total AM peak hour trips is 85, with 74 in and 11 out. The total PM peak hour is 81, with 13 in and 68 out. The ADT is 610, which is almost half of what the previous uses was. This means that the proposed use represents a net reduction in actual traffic from what was there previously in the AM and PM net reductions and the larger overall net reduction during the course of the day. They also looked at doing client specific trip generations, so instead of the manual information, the client provided information specific to his use, which is at the bottom of the table. It is projected with 140 employees would actually generate less traffic than what ITE is showing and a future 5 year look-ahead with 250 employees is comparable or may be slightly higher than the proposed office use using ITE. The takeaway from this is that the existing use when it was fully occupied would be generating more traffic than this proposed use does. Mr. Prisk moved to Table 2, which gives an idea of how much traffic would be produced by other types of uses that could be on the site. The table shows that the office use would generate the least amount of traffic compared to all of the other uses. He said that all of the uses would be generating significantly more traffic on the weekends than the office use. Referring to Table 3, Mr. Prisk said that according to the property at 19933 Lake Rd., which was a gas station, produced about 60 trips in the AM, 80 trips in the PM and 1,000 trips overall. He said that an office use would produce 45 AM trips, 42 PM trips and 300 overall, which is an obvious reduction in traffic volumes. Mr. Prisk said that just looking at the comparison between the existing site and what is being proposed, it says there is a reduction in traffic volumes. Without the existing uses, there

are typical thresholds that determine the need to do further analysis such as intersection analysis where they grade how the intersection is operating. Those thresholds are usually 100 trips in or 100 trips out, and if they are combined, there are 200 trips. The office by itself is under the 100 trip threshold, so it does not trigger any type of additional intersection analysis.

Finally, regarding site access, Mr. Prisk said that if it was only provided to Lake Rd., then a right turn into the development from Lake Rd. does not pose any challenges. A right turn out doesn't pose any challenges. There is a dedicated left turn lane at the light at Linda and a 2-way turn lane before that, so left turning vehicles turning into the site can utilize that 2-way left turn lane, which is of no concern. A left turn out onto Lake Rd., from a pure planning perspective, is not ideal due to the proximity of the signal at Linda St. and the fact that you would be turning left across or into the exclusive left turn lane. They recommend the access at Linda St. to be able to turn right onto Linda from the site then have a protected left turn at the signal. If any vehicles try to head further south on Linda, they could turn left onto Linda from the site. From an access management standpoint, they recommend full access to Linda St., as well as full access on Lake Rd. and promoting using the left turn onto Linda St. from the access.

Mr. Bishop asked whether taking any sort of an oath of honesty or truthfulness is part of the initial professional designation. Mr. Prisk responded that ethics is a large part of Professional Engineering and he has to renew that every few years as part of his continuing education credits. Regarding the second paragraph in the report, Mr. Bishop asked if the data used is from the manual or from the actual trip generation that is there. Mr. Prisk said that everything is from using the ITE Manual, so based on the previous/current use that is what the ITE says it would generate. They did not use actual counts for those. In the next paragraph, Mr. Bishop asked if the 610 number is the anticipated number for the day to the office building. Mr. Prisk responded that over the course of the day, there will be 305 vehicles enter and 305 vehicles exit, for a total of 610. Mr. Bishop asked if that is the manual data versus information from the applicant regarding how they will use the building. Mr. Prisk said that is based on the ITE calculations and lower on Table 1, shows 175 is based on information they provided and what he calculated would be the total daily trips based on how the applicant will use the building upon opening. He said that a 5-year projection goes to 277 trips. The applicants' data shows that there would be less traffic than what ITE would normally say but they kept the ITE comparison in there to be more conservative. However, the applicant is showing less traffic than what ITE would project of that use. He said that a general rule of thumb is the PM peak hours usually equates to about 10% of the total daily traffic. Mr. Bishop said that if there are 85 trips in peak, the applicant stated in the previous meeting that approximately only 80 employees will be coming on any given day initially. Mr. Prisk said that the ITE is actually showing more traffic than what the client is actually telling him they are going to generate. There is information regarding the different varieties or types of office space and there is a general, catch-all office use, which was used for this data.

On page 2, second paragraph, in the last sentence, Mr. Bishop asked what it really means. Mr. Prisk said that if you look at table 1, the last row which says client data 5-year future, it shows 97

AM peak hour trips whereas ITE shows 85 trips, which is slightly more. In the PM, it shows 97 for client future use and ITE is showing 81 for the 5-year future horizon. This is a comparison of data the client provided for future use versus what the manual would say. More discussion was had relating to the number of parking spaces which is always dictated by local Code but in most cases, he would not use the number of parking spaces as representative of the number of people in the office. He said number of parking spaces should not be used as anything to drive any kind of traffic discussion because it is based on local code and not really what will actually happen. Mr. Prisk said that the notes in the memo give more detail about the number of employees and how much of a reduction was taking for those who actually show up to work at the office versus working from home.

Mr. DeMarco said that in traffic studies, many times volumes of traffic are tracked as they are currently and then there is an estimation or prediction of traffic volumes at some time in the future. Mr. Prisk said that because there is no change in how much an office would generate based on the square footage of it, there would not be a prediction. Mr. DeMarco asked if an increase in number of average daily trips happens whenever there is an updated version of the ITE manual. For instance, he asked whether the ITE manual reasonably predict a higher volume of traffic than what they are currently showing. Mr. Prisk responded that with respect to the office use, when new editions of the ITE manual come out, there will be a dramatic dip. At present, it does not capture the fact that a lot of people are working hybrid schedules or from home. He said that the ITE data they have now is still the traditional model of most people heading to the office. In a few years, they will see ITE predicting less and less for office use. Traffic volumes ordinarily fluctuate over the years, based on a collaboration of new data points that they keep getting in. He said that if they re-studied the calculations in 5-years, there would be a decrease in the number of trips.

Mr. Allen said that this traffic report is meant to replicate the full use of a standard office building of this size and Mr. Prisk confirmed that he is correct. He said that with the full office use of this site, it is expected to produce 610 average daily trips. The building down the street is expected to produce 315 trips, which is a total of about 925 trips total per weekday. He said Mr. Prisk listed out a couple of other potential uses for this site and he is computing that the 925 total trips for the two office buildings are less than a fast food restaurant with a drive-thru window which would produce 1,360 trips, mixed-use trips would be 1,497 trips and one gas station would be 3,712 trips. Mr. Prisk confirmed those uses and trip numbers. Relating to the fact that Mr. Prisk said that 100 trips triggers further analysis, Mr. Allen asked where that trigger point comes from. Mr. Prisk responded that the trigger number is industry standard.

Chairman Bishop asked if Mr. Tom Perrego is present. Mr. Perrego is not present in the room. Mr. Bishop said the reason he asked if he is present is because Mr. Perrego had indicated to the City that he represented hundreds of residents and wanted to comment on the traffic study. He was going to give him the opportunity to ask questions of the Traffic Engineer, but he is not present so they will move on. He thanked Mr. Prisk and asked the applicants to come forward again.

Discussion was had relating to the drive aisle onto Linda Street. The fire department does not need it and the applicant stated on April 18th that they didn't think it was necessary. He said he thinks it was half-way justified because for the left out onto Lake Rd. from the site, it was needed the most. Mr. Conzelmann said that Mr. Bishop is correct and even though Fire might not need it, they would like it for service vehicles because of the location of the dumpster and to have an additional exit point for anybody wanting to go left at a light. Mr. Bishop said that they reached out to the Police Department and there were a few fender benders on Lake Rd. because of assured clear distance. Mr. Bishop asked the applicant to consider exit only from the drive aisle onto Linda St. Mr. Conzelmann said that he doesn't think anybody would be harmed by a right-in right-out for service vehicles and emergency, even though they say they don't need it. They can make right-in right-out work, even though their Professional Engineer recommends full access.

Mr. DeMarco said that the applicant has demonstrated that because of the relocation of the dumpster and the necessary service that takes place there, it proves a useful benefit for the applicant. He thinks the Traffic Engineer adequately defended why there could be need for it. He thinks that even having restricted right-in right-out on Linda goes miles toward eliminating the left out on Lake from the site, which could be the biggest traffic problem relating to ingress and egress to the site. He supports restricting the Linda access drive to right-in right-out with perhaps a mountable curb in the middle to allow fire truck access if they needed to get onto it. He prefers something other than striping because he doesn't think that is always effective. Regarding the drive lane off of Linda St., Mr. DeMarco said that Mr. Allen brought up at the last meeting the idea of creating a T-shaped intersection and the combination of the two internal drive lanes. He does not like the way they have resolved it there because he wonders if there is a way to take the 3 permeable paver stalls and load them onto the eastern bank on the north-south drive aisle and then potentially look to relocating the dumpster someplace else. He thinks the maneuverability internal to the site will still be difficult.

Mr. Allen said that if someone is looking to go south on Linda, then removing the drive aisle will force them to go left onto left and take an immediate left turn onto Linda, which is what the traffic consultant did not recommend. Mr. Allen said he agrees and thinks they should not have a restriction there coming out onto Linda.

Mr. Bishop said that as it stands, they are looking for 2 variances, the first being 44' in height versus the 35' required. The variance they are asking for is identical to the variance that was given to the Kennedy project and he would support that variance for the same reasons they supported the Kennedy variance. The one that he is troubled with is the building coverage variance. They are asking for 54% for building coverage versus the 30% maximum building coverage permitted. He said that this would be double the coverage by building than the Kennedy building was, which was about 26% and it did not require a variance. In this project, the building is taking up a lot of the land on the site, which our Code does not permit. It amounts to about an 80% variance.

Mr. Bishop asked if there was ever any consideration given to eliminating the upper portion of the garage structure and simply just not having a roof over it and having an open parking lot. This would reduce the building coverage to 26%, it will be half of the coverage they are asking for and would not require a variance. Removing the upper floor of the garage would substantially bring the scale of the structure down. He believes that the parking structure is equal to, if not slightly larger, than the building itself. This would be much less obtrusive to the neighbor to the east and it won't affect their first floor windows they have along their west wall nearly as much as what is proposed here. They would be losing 55 spaces, and he said he played around with the site and believes they could come up with about 150 spaces. He asked the applicant what the net square footage of the building is because the new code is sort of gearing toward using net square footage of office space versus gross because office buildings are being penalized versus other types of uses, because they have a lot more common area than a retail pace or other types of uses. Mr. Brooker said that after they discount vertical circulation, toilet rooms, footprint of exterior walls, they are at or just below 50,000 net sq. ft. Mr. Bishop said that the Kennedy project received a parking variance that was modeled on that same formula of 3 spaces per thousand net sq. ft. He said that the 150 spaces is a 20% reduction in parking at least limits the parking to 150 cars. If less spaces reduces traffic, then that is a plus. He asked if not having the roof on the structure was ever considered.

Mr. Conzelmann said that they looked at several iterations early on to try to avoid building and paying for a parking structure, but they were always looking at the gross square footage of the building to try to meet code, which is what drove the second floor of the parking deck. He said they would have to look at some of their former iterations to see if they could get at least 150 parking spaces. Mr. Bishop said that this would solve a lot of problems and really diminish the impact of the building, particularly for the neighbor to the east. Eliminating the roof structure would be better for the people at Beachcliff Row so they would look at a landscaped one-level parking lot that is buffered. Mr. Brooker said that they will look again at doing that and Mr. Conzelmann agreed to go back and look at it.

Mr. DeMarco said that he disagrees that looking down the drive aisle as it is currently shown will give the primary view of the parking structure. A net sq. ft. calculation for parking is the current code requirement. However, it is still more than the applicant has demonstrate even in their 5-year plan. He believes they can demonstrate that even 150 parking spots would not be filled, which he thinks is probably an adequate parking capacity for the building for the next 5 years. If they can demonstrate on a site plan that they can achieve 150 parking spaces on the property with elimination of the deck, reconfiguration of the R-5 portion of the parcel in the back and perhaps some reconfiguration of the building footprint, then he could potentially support that. Mr. Bishop said he would like to add that it is a lesser percentage than what was given to the Kennedy project.

Mr. Allen said that going with the net will eliminate the structure so there would be no coverage variance and it would be better for neighbors. Some of the consideration in the past was whether

the building would still be viable for the next owner. Mr. Bishop said that he thinks that parking requirements in general are being lowered in many cities, which is becoming a national trend. He said it doesn't seem that their need is anywhere near 180 parking spots.

Mr. Bishop asked if the applicant looked into the easement for the neighbor coming across the apron and Mr. Brooker said that they have clarified that the easement is recorded and the updated submission they made for this meeting shows it accounted for, so they will basically share the new Lake Rd. entrance and connect to their property to the west.

Law Director Bemer said that a use variance will be necessary because of the double zoned lot that we really have not figured out the history of. There is the small triangle of the building which may be 5 – 10% of the total building on the back R-5 portion of the lot because an office building is not permitted in R-5 zoning. The parking is all an accessory use. That would be an example of a classic use variance request.

Mr. Bishop said that he would still like the applicant to honor the R-5 setbacks in the R-5 area and he thinks it can be done for the sake of protection for the neighbor to the east and some to the west. The Planning Commission has a little flexibility with the parking setbacks if it is buffered properly, but he would like to see every attempt to honor the R-5 setback in the R-5 portion.

Mr. Conzelmann said that they will explore this to see if it will work.

The meeting adjourned at 6:55 pm.

Following the adjournment, Mr. Tom Perrego who just arrived to the meeting, came forward at the urging of some of the audience members because he was not present when Chairman Bishop called his name to approach the podium. Attorney Bemer said that Mr. Perrego had the opportunity to ask questions when they discussed the traffic study. Chairman Bishop said that Mr. Perrego has stated that he represents several hundred residents so he will let him have a dialogue with the Traffic Engineer who is the expert of the applicant. Anyone else who wants to make comment can send written comment up to 24 hours before the next meeting, which they do not ordinarily allow once the public hearing is closed. He said that most people articulate better in writing than they do getting up in front of the Commission and it gives the Commission something to review, which is much more helpful for them.

Mr. Bishop called the Traffic Engineer forward along with the applicants. He said it is unfortunate because he missed the entire presentation and all of the questions the Commission had for him. Mr. Perrego read a statement aloud that he prepared ahead of time. He is a Rocky River resident on Kensington Rd. He runs an Engineering Company and performs traffic studies for large manufacturing clients. His recent project was designing the site and building layout for a 1 million sq. ft. facility, including choosing the equipment and determining how many people were required to build a specific number of modular nuclear reactors, which is now being used as

a defense to take out a billion dollar loan from City Bank. So he is qualified to respond to this and he apologized because he thought the meeting was from 7:00 to 9:00 pm. He said that a group of concerned residents from a 450 petition signers of a Change.org has retained him to do the due diligence on the planning variance and request process and the accuracy of the proposed traffic study. He continued to read his prepared statement and former Law Director Bemmer corrected some of the information that Mr. Perrego was incorrect about, such as the fact that it is not the duty of anyone in the Building Department to review a traffic study and that it is the duty of the Planning Commission to review it. He said he never said anything about a “closed deal” as Mr. Perrego claimed. Mr. Bemmer said he is not going to accept the falsehoods that Mr. Perrego is claiming and his responses are all in writing. Mr. Perrego said that the minutes of the April 18, 2023 Planning Commission meeting, there were no Ward Council members present. Chairman Bishop said he recognized every council member in the room at that meeting. Mr. Perrego said that it was not recorded on the meeting minutes and Chairman Bishop said that the Council members’ presence was recorded on those meeting minutes.

Chairman Bishop asked Mr. Perrego for his specific qualifications. Mr. Perrego said that he has a Bachelors and Masters of Science degree in industrial process design engineering. He performs traffic studies on 50 acre lots of manufacturing facilities for OSHA requirements to be sure everything is safe.

Mr. Perrego asked questions of the Traffic Engineer and Mr. Prisk attempted to answer them without being interrupted. Also, Chairman Bishop tried to clarify some things and Mr. Perrego said that the Traffic Engineer took the worst case scenario of a restaurant with a drive-thru to compare to what they are proposing against. Chairman Bishop said that this Planning Commission is interested in what the worst case scenario is and what the best case scenario is. He said that the owner has property rights and they try to find out what the best thing that can happen on this site and what is the least impactful use to the traffic. He said that the zoning code allows a 5-story multi-family building with over 100 tenants, and it has been demonstrated that the trip generation would be substantially more, and has a greater impact on traffic than an office building. More discussion was had about the potential uses and how each one could affect the traffic. Mr. DeMarco said that on the R-5 portion of the property, they could build a 5-story multi-family residential facility with a footprint of 14,400 sq. ft. That 5-story building could have 72,000 gross square feet and single story retail could potentially be 12,000 sq. ft. Per our Zoning Code, a 5-story multi-family building would require 180 parking stalls. Mr. DeMarco continued by saying that on the Local Business portion of the property, someone could build 12,000 sq. ft. of retail facility which would require 80 to 100 parking spaces, which is a total of over 200 to 300 parking spaces for uses that are permitted on these properties. One of the things the Planning Commission is charged with is figuring out and evaluating what is the highest and best use of the property. He said that an office building is a permitted use on this property and there is empirical data in front of them that has been studied and is based on fact and statistics that is demonstrating that an office building is the least impactful to the traffic of all of the other permitted uses. More comments were made relating to permitted uses and the rights of property owners, and the effects of uses along Lake Rd.

Chairman Bishop said that it is unfortunate that Mr. Perrego was not here because they discussed a lot of important information earlier in the meeting. If Mr. Perrego was here during the last hour, he would understand that this project is not a “done deal.” He added that they just suggested a substantial change that they asked the applicant to consider and come back with. Mr. Allen listed all of the data points that he and the Commission have used, other than the traffic study, to evaluate this project. Chairman Bishop said that it is also important to realize that every single person on this Commission is a resident of Rocky River and the reason they sit on the Commission is because they want to be part of and protect their community. He said that part of the role of being a member of this Commission is to go through the data and the application so that the very best project for that location is the result. He said that they turned away a 129-unit apartment proposal last year for this same site.

Chairman Bishop said that Mr. Perrego should read the particular traffic study that he held up, which gives traffic counts in 15-minute increments.

The meeting adjourned at 7:30 pm.

William Bishop, Chairman

Michael DeMarco, Vice-Chairman

Date: _____