

Special Council

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The special meeting of the Waterville Council was called to order by Mayor Timothy Pedro at 7:30 p.m. at the Waterville Primary School.

The prayer was offered by Mayor Pedro. The Pledge of Allegiance was then recited and led by Tim Plowman.

Present at roll call were Todd Borowski, John Rozic, Anthony Bruno, Mayor Tim Pedro, Mary Duncan, Barb Bruno and Rod Frey.

Also present this evening was Jon Gochenour, Municipal Administrator; Phil Dombey, Law Director; Steve Schult, Treasurer and Jeni Malaczewski, Recording Secretary.

Staff Present:

Mark Williams – Director of Finance and Administration

Joe Valvano – Police Chief

Doug Meyer – Fire Chief

Citizens Present:

Due to the large number of residents in attendance at this evening's meeting, a sign in sheet was not provided.

Approval of Minutes

Mrs. Duncan moved to approve the minutes of the November 14, 2022 Regular Council meeting. Mr. Borowski seconded the motion, which passed by voice vote. Mr. Rozic abstained from the vote.

Citizen Comments

Wendy Gray and Terry Rousseau were present and spoke about "A Waterville Christmas to Remember" event that will take place on December 3, 2022 in downtown Waterville.

Deb Warner, 429 Patriot Drive, spoke briefly of her concerns with the amphitheater.

Communications from Council Members/Committees

Mr. Bruno – No Report

Mrs. Bruno – No Report

Mr. Rozic –

- Stated that the Fire Co-Op Board met and designated Kevin Herman, Assistant Superintendent for Anthony Wayne Schools, as Chairman of the Board. Also,

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Waterville resident, Tim Guzman, agreed to join the Fire Co-Op Board as an “at-large” member.

Mr. Borowski – No Report

Mr. Frey – No report.

Mrs. Duncan - No report.

Mayor Pedro –

- Thanked everyone for their patience and understanding throughout the zoning process in regard to the proposed amphitheater. Also, for all the letters, emails and other communications provided to Council.

OLD BUSINESS:

- A. ORDINANCE 07-22 AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF WATERVILLE TO CHANGE THE ZONING CLASSIFICATION OF A 12.527 ACRE PORTION OF PARCEL 96-56053 LOCATED IN THE 1400 BLOCK OF PRAY BOULEVARD FROM (C-3) HIGHWAY COMMERCIAL TO (R-4) MULTI-FAMILY, HIGH DENSITY RESIDENCE DISTRICT

Tabled 6/27/2022; First Reading Scheduled for July 25, 2022; Second Reading Scheduled for August 22, 2022; Third Reading, Public Hearing and Legislative Action Scheduled for September 12, 2022; Tabled until December 12, 2022

Nathan Waggner of Cash Waggner and Associates, agent, is seeking to rezone a 12.527-acre portion of a vacant 36.972- acre parcel located in the 1400 Block of Pray Boulevard from Highway Commercial District (C-3) to (R-4) Multi-Family, High Density Residence District in order to construct Phase 3 of the Waterville Place Apartments. If the zoning change request is successful, the applicant would split off the planned 12-acre portion from parcel 96-56053 and submit a site plan to construct a four building, 144-unit apartment complex. This development would be adjacent to Phases 1 and 2 of the existing Waterville Place Apartments to the east which will consist of seven buildings and 252 units once it is completed.

Although located next to the existing Waterville Place Apartment Development, a review of the proposed zoning change from commercial to multi-family, high density residential would appear to be contrary to the intent of the City of Waterville’s 2012 Comprehensive Plan. Unlike the existing Waterville Place Apartments, which are

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located on parcels that were zoned multi-family residential prior to their construction in accordance with the goals of the Comprehensive Plan, the current 36-acre site is located within the U.S. 24 Concept Area. In the Comprehensive Plan, the U.S. 24 Concept Area is intended for nonresidential uses due to its close proximity to the U.S. 24 Interchange and nearby commercial and office developments. Rezoning this parcel would not only add 144 additional units within approximately 500 feet of 528 existing multi-family units, it would remove 12.527 acres of potential commercial development from the U.S. 24 Concept Area which is key to the City maintaining a strong, diversified tax base into the future. Moreover, the requested zoning change would seem premature considering that a significant portion of Phase 2 of the adjacent Waterville Place Apartments still remains unfinished, including three apartment buildings, landscaping and other required infrastructure.

In light of the considerable amount of existing multi-family housing in the City of Waterville, including the 528 units currently located within 500 feet of this proposed apartment project, it would seem that there is an adequate supply of this type of housing for a small community of 6,000 residents. Moreover, rapid and unplanned residential growth will inevitably overburden emergency services, traffic capacity and school enrollments and have a negative fiscal impact on the City budget. In an effort to ensure balanced growth and a strong diversified tax base, the 2012 Comprehensive Plan envisions development for parcels within the U.S. 24 Concept Area to be nonresidential. In addition, three of the proposed seven apartment buildings in the Waterville Place Apartments Complex still remain unfinished after nearly three years of development. Consequently, it was the recommendation of the Planning Commission at their June 6, 2022 public meeting to deny the proposed zoning change request for a 12.527-acre portion of a 36.972-acre parcel located in the 1400 Block of Pray Boulevard from Highway Commercial District (C-3) to (R-4) Multi-family, High Density Residence District since the request is contrary to good planning practice and the promotion of the goals contained in the 2012 Comprehensive Plan. This issue was tabled at the June 27, 2022 Council meeting at the request of the applicant and tabled again at the request of the applicant until the October 24, 2022 Council Meeting. The third reading of this ordinance was scheduled for October 24, 2022. The applicant has again requested that this issue be tabled until the December 12, 2022 Council meeting.

- B. ORDINANCE 10-22 AN ORDINANCE GRANTING A CONDITIONAL USE PERMIT TO PERMIT THE OPERATION OF AN OUTDOOR ENTERTAINMENT FACILITY ON A PARCEL ZONED (C-4) MIXED USE BUSINESS DISTRICT AND (C-3) HIGHWAY COMMERCIAL DISTRICT LOCATED IN THE 600 BLOCK OF PRAY BOULEVARD

First Reading Scheduled for September 12, 2022; Second Reading scheduled for September 26, 2022, continued until October 10, 2022; Third Reading, Public Hearing and Administrative Action Scheduled for October 10, 2022, continued until October 24, 2022

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DFG Waterville Landing LLC, property owner, has submitted a request for a Conditional Use Permit for the construction of an outdoor amphitheater facility located off of Pray Boulevard south of St. Rt. 64/Waterville-Swanton Rd. The proposed location is south of the Meijer property on the west side of a planned 1,200-foot roadway extension of Pray Boulevard. The amphitheater would be seasonal and contain 5,199 permanent seats, a lawn area for general admission and have a maximum capacity for 9,375 attendees. According to the site plan, the 61,000 square foot facility will be set approximately 7-feet below grade and be oriented to the southwest toward U.S. 24 to mitigate the noise level away from the residential areas of the City. The amphitheater will not have a permanent stage with the stage being put up and taken down after each season. The only permanent buildings on the site will be concession stands, restrooms, ticket booths and an operations office. Renderings of these buildings were also included with the site plan. The site will provide paved parking for 2,533 vehicles with parking areas located on the east and west sides of the new Pray Boulevard roadway extension. The operator of the facility, HB Concerts, plans to hold 20 to 25 events per season with concerts being held Thursday through Sunday. According to the operator, the facility would open at 5:30 p.m. with concerts starting at 7 p.m. and ending at approximately 10:30 p.m. HB Concerts has also provided information outlining the general operation of the amphitheater, staffing, security and the potential economic impact to the City. A traffic impact study was provided with the application which analyzes current traffic conditions on U.S. 24, St. Rt. 64 and Pray Boulevard, potential traffic volumes during “peak hour” arrival times to the site and provides a suggested “maintenance of traffic plan” to safely manage vehicles entering and leaving the facility after the event is over. If the Conditional Use Permit was approved by City Council, the applicant would submit a “roadway dedication plat” for the proposed extension of Pray Boulevard to the Planning Commission for final approval. The City Engineer has reviewed the Pray Boulevard extension plans, the proposed storm water management and drainage report, an original traffic impact study, dated June 27, 2022 and a second, revised traffic impact study, dated September 8, 2022, his comments were provided prior to the September 12, 2022 Council meeting.

Due to the size and potential impact of the planned development on the City of Waterville, the approval of a Conditional Use Permit is required for this project. Under the City Zoning Ordinance, the Planning Commission may recommend to Council “conditions of approval” on the construction, location and operation of the proposed use. All approved Conditional Uses shall incorporate by reference a detailed site plan and any deviation from or modification of the site plan shall require Planning Commission review and Council approval. Any approved conditional use shall be subject to periodic review by the Planning Commission and Council to ensure that such use continues to be compatible with the permitted uses in the zoning district.

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The issue was first considered by the Planning Commission at their August 15, 2022 public meeting. The requested conditional use permit was continued by the Planning Commission to their next public meeting held on September 12, 2022. At this meeting, the Planning Commission recommended approval of the proposed conditional use permit to Council, by a vote of 3 votes to 2, with the following recommended conditions needed for the potential approval by Council:

1. The maximum capacity of the amphitheater will be 9,375 or a smaller size if requested by the developer. The traffic study references a maximum capacity of 10,300 seats while media reports have also provided different information in regards to capacity size. The maximum capacity of 9,375 of the facility will be used to determine the required amount of parking which will be based on the ratio of 2.5 tickets per vehicle which is the standard used in determining the number of vehicle trips entering the site in the original traffic impact study. Since the 2,533 paved parking spaces for vehicles indicated on the current site plan will not provide enough parking spaces to accommodate the amphitheater's maximum capacity of 9,375 ticket holders or the additional parking spaces required for employees, the capacity of the amphitheater will be limited to 5,200 ticket holders. If or when the developer obtains more land for additional parking, the capacity may be increased to a maximum capacity of 9,375 after the final review and approval of the Planning Commission and City Council;
2. The developer/operator will establish general hours of operation for all concert events held at the amphitheater which is subject to the approval of the City of Waterville. The operator has indicated that the general hours of operation for concert events is 5:30 p.m. to 10:30 p.m. Thursday through Sunday. In order to deter performances from exceeding the agreed upon ending time, a financial penalty would be imposed for each minute a performance goes beyond its scheduled ending time as determined by City Council. The establishment of hours of operation will be necessary to ensure that adequate resources are available to manage the flow of traffic into and out of the facility and allow for the advance scheduling of law enforcement personnel to direct traffic and provide required security;
3. The developer will submit a revised and detailed site plan which addresses the requirements contained in Chapter 1146 of the City Zoning Ordinance including a landscaping plan prepared by a landscape architect registered in the State of Ohio and an exterior lighting plan prepared by a professional engineer registered in the State of Ohio for approval by the Planning Commission. The landscaping plan shall provide a landscaping buffer of approximately 1,254 feet along the eastern property line of the parcel consisting of earthen mounding at a minimum of 10 feet in height with staggered plantings of evergreen trees at a

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minimum of 15 inches on center to block music, parking lot lighting and vehicle noise from residential areas located to the east of the property;

4. The submittal of a final traffic access and vehicle management plan approved by the City of Waterville which incorporates the comments of the City Engineer including the construction of a second westbound lane on the north side of St. Rt. 64, between Pray Boulevard and the U.S. 24 northbound on ramp, for a distance of approximately 1,100 feet, to ensure the safe and efficient flow of traffic out of the amphitheater. Any traffic control signage, traffic cones or other equipment used to manage and direct traffic into and out of the amphitheater will be purchased and maintained by the operator and be installed and removed by the operator's employees or contractors for each concert event. All exiting traffic will be required to turn left only onto St. Rt. 64 from Pray Boulevard and enter the north or southbound on ramps of U.S. 24 after each event. The developer/operator will reimburse the City of Waterville for all expenses incurred by the City associated with law enforcement directing traffic into and out of the facility;
5. The submittal of a final public safety plan for the amphitheater approved by the City of Waterville which mandates that there will be a specific number of off duty uniformed police officers and private security personnel at each concert event based on a ratio of ticket holders in attendance. The outline provided by the operator indicated that 11 uniformed, off duty officers and 23 private security personnel would be provided at the amphitheater. The safety plan will also specify that there will be one (1) private EMS ambulance, fully staffed on site for each event, which will assume the primary responsibility for BLS medical transport emergencies. The plan will also provide details on how the operator will respond to weather events, medical, police and other potential emergency situations;
6. The developer/operator will submit a noise mitigation study prepared by a professional engineer registered in the State of Ohio to determine if the depth and orientation of the amphitheater site is sufficient to prevent excessive noise from adversely affecting adjacent properties. The developer/operator will make all required improvements recommended in the study to the site, including increased landscaping, mounding or other noise mitigation methods, necessary to ensure excess noise does not adversely affect adjacent properties;
7. The developer will submit a "roadway dedication plat" to the Planning Commission and City Engineer for final approval for the extension of Pray Boulevard as a public roadway;
8. The developer/operator agrees to and will cooperate with the City of Waterville

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in the establishment of an “Admission Tax”, as provided under the Ohio Revised Code, to offset any indirect costs incurred by the City due to the operation of the amphitheater site. Upon request, the developer/operator agrees to provide financial information to the City to verify the accuracy of admission tax receipts submitted to the City;

9. Detailed engineering and construction drawings for all roadway, water, sanitary and storm sewer improvements to be maintained by the City of Waterville shall be submitted for the review and final approval of the City Engineer.
10. Agreement to all of the conditions of approval by the developer/operator is necessary for the issuance of a final zoning permit for this project by the City of Waterville.

Council members were provided with copies of the current site plan, renderings of facility buildings, a traffic impact study, dated September 8, 2022, as well as grading and site utility plans. On Friday, October 21, 2022, the applicant submitted an “Acoustical Study”, not prepared by a professional engineer, another revised traffic impact study, dated October 9, 2022 and a “preliminary” landscaping plan which provides no landscaping details for the proposed parking area located on the east side of the new Pray Boulevard roadway extension which borders the nearby Mill Creek residential subdivision. This additional supplementary information, included in the October 24 meeting packet, does not meet the conditions for recommended approval by the Planning Commission. Also, included are the additional proposed conditions read by Mr. Rozic at the September 26, 2022 public meeting.

Mr. Rozic stated as a clarification that all 10 conditions put forth by the Planning Commission must be met in order for the Conditional Use Permit to be issued. All of these conditions after being met are subject to continued future review by the Planning Commission and City Council. Mr. Dombey stated that this was correct.

Mr. Bruno made a motion to adopt Ordinance 10-22. Mrs. Bruno seconded the motion.

Roll Call: Mr. Bruno – yes, Mrs. Bruno – yes, Mr. Frey – abstained, Mr. Borowski - yes, Mayor Pedro – no, Mr. Rozic – yes and Mrs. Duncan – no. The motion passed 4 yes votes, 2 no votes and 1 abstention.

NEW BUSINESS:

A. ORDINANCE 12-22 AN ORDINANCE ACCEPTING OFFERED AMPHITHEATER RESTRICTIONS AND DECLARING AN EMERGENCY

Mrs. Duncan stated that now that a majority of the Waterville City Council has voted

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to approve the applicant's Conditional Use Permit request according to all of the conditions of approval recommended by the Waterville Planning Commission, I would like to move that the following additional operational restrictions offered and agreed to by the applicants on the record at the Public Hearing held on October 24, 2022 be accepted by City Council:

1. Transcript page 27, lines 12 and 13. "The agreed to capacity limit is 9,375. The permanent seating is a little over 5,200.";
2. Transcript page 28, lines 23 and 24. "The initial season, we've agreed to limit the number of shows to 30 shows.";
3. Transcript page 31, lines 19-23. "Has the development team agreed with the City to have the imposition of a ticket tax starting at three percent (3%) and escalating overtime up to five percent (5%)? That's correct.";
4. Transcript page 34, line 7-11. "Has the development team agreed that during the first 12 months – in other words, the first year after the Amphitheater opens, that there will be no festivals, multiday events, things like that? We have agreed to that." After the first 12 months of operation, the operator may request permission to hold festivals, multi-day festivals or similar events outside of approved operating hours with the review and approval of Council.;
5. Transcript page 34, lines 15-16 and 21-22. "We would discourage any tailgating at the event." "We will have people in the parking lot – you know parking lot attendants – to deal with that."
6. Transcript page 34, lines 23-24. "And have you agreed to prohibit camping? There will be no camping onsite."
7. Transcript page 35, lines 1-6. "Now one of the concerns that has been raised is screening of the backstage area where the trucks will be loading the various equipment that goes with the show. Are you aware that there are plans to provide screening around that area? I am. I am."
8. Transcript page 35, lines 10-14. "And has the development team agreed to install some gates at access points to the parking lots to make sure that it's safe and secure? Yes – Yes, safe and secure when it's not open. Right."
9. Transcript page 35, lines 18-30. "There will be people onsite all the time. Year round? Year round, there will be people on site; ..."

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10. Transcript page 35, lines 24-25, page 36, lines 1-2. “Are there plans to provide security while it’s idle during - Yes. The video, the cameras, all that kind of stuff.”
11. Transcript page 36, lines 5 and 6. “No skateboarding, no- none of that kind of stuff.”
12. Transcript page 36, lines 7-11. “It’s my understanding that the stage will be assembled at the beginning of the season, in late spring, and will come down in the fall and be taken away; is that true? That’s correct.”
13. Transcript page 36, lines 23-25, page 37, lines 1-4. “What about fireworks?... If a band is going to want pyrotechnics, we would go to the City, and we would get all the proper approvals of that. And we would have to have proof of insurance, both on the band’s part as well as us as owners.”
14. Transcript page 37, lines 10 and 15-19. “There will be naming rights ... Whatever naming rights that we do come up with, it will be prudent, and the company or ... you know, the naming branding that we use - - and we will present it to the City prior to us, you know signing the deal.”
15. Transcript page 38, lines 15-19. “And the final condition that the planning commission proposed is that the developers need to agree to all of the final conditions before approval is granted. Are the developers ready to do that? Yeah, we’re ready to do that.”

Mrs. Duncan stated that all provisions must be strictly adhered to for proper compliance with the terms and conditions of this agreement and Conditional Use Permit. City Council, Planning Commission and City Staff reserve the right to periodically review the use to ensure that it continues to be in compliance with applicants’ representations and agreement and with the terms and conditions of the Conditional Use Permit.

Mayor Pedro made a motion to suspend the rules to allow for the passage of Ordinance 12-22 as an emergency measure. Mrs. Duncan seconded the motion.

Roll Call: Mayor Pedro - yes, Mrs. Duncan – yes, Mr. Frey – abstain, Mr. Borowski – yes, Mr. Bruno – yes, Mrs. Bruno – yes and John Rozic - yes. The motion passed.

Mr. Pedro made a motion to move for the passage of Ordinance 12-22 as an emergency measure. Mrs. Duncan seconded the motion.

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Roll Call: Mayor Pedro – yes, Mrs. Duncan – yes, Mr. Frey – abstain, Mr. Borowski – yes, Mr. Bruno – yes, Mrs. Bruno– yes and John Rozic - yes. The motion passed.

Other Business

None

Adjournment

There being no further business to come before Council, Mrs. Bruno made a motion to close the meeting at 8:10 p.m. Mr. Borowski seconded the motion, which carried by unanimous voice vote.

Jon D. Gochenour, Clerk of Council

Timothy G. Pedro, Mayor