

**MILLERSBURG PLANNING COMMISSION
MARCH 14, 2017**

PRESENT: Planning Commission Members Dave Post, Dennis Gunner, Anne Peltier, Connie Lepin,
Dan Nixon, Scott Stimpson, Steve Vogler, Ed Perlenfein, City Manager Steve Hasson, City Planner Don Driscoll, City Recorder Barbara Castillo, City Attorney Forrest Reid

The Millersburg Planning Commission was called to order at 6 p.m. by Chairman Ed Perlenfein.

MINUTES OF FEBRUARY 14, 2017

Dan Nixon moved, seconded by Dave Post to approve the minutes of February 14, 2017 as submitted. The motion passed unanimously.

MELIN CONDITIONAL USE REQUEST FOR HOME OCCUPATION

Don Driscoll opened the Melin Public Hearing and announced: The purpose of this Public Hearing is to receive testimony on an application from Johnathon Melin requesting a Home Occupation in conformance with Code Section 6.120 for an automotive detailing business to be conducted in a 489 square foot portion of his garage.

Driscoll requested hearing members to declare and identify any actual or potential conflict of interest or ex-parte contacts on the issue. None were announced.

Driscoll announced the applicable criteria for the decision will be addressed in the Staff Report.

Driscoll summarized the Staff Report. The applicant, Johnathon Melin, is requesting a Home Occupation in conformance with Code Section 6.120 for an automotive detailing business to be conducted in a 489 square foot portion of his garage. The business will include approximately 1-2 cars a month located entirely within the garage. Time of activity will be 9-5 Monday through Sunday. No harmful chemicals or pollutant emissions will be used on the site. The action requested is approval of a Conditional Use Permit as specified in the Millersburg Land Development Code.

The Millersburg Comprehensive Plan and the Millersburg Land Development Code provides the applicable criteria for evaluation of the requested action, specifically Code Section 4.113 (3), Code Section 6.120, Code Section 2.500 and Code Section 3.200.

The property is an existing conforming lot within the Rural Residential-Urban Conversion Zone RR-10-UC. The property complies with the Development Standards specified in Code Section 4.113 although no development is proposed.

The proposed Home Occupation will occupy a 489 square foot portion of the existing garage structure on the property. The proposed use is an Automotive Detailing Business conducted entirely with the existing garage building that includes as presented:

- The Property Owner is the only person working in the described area.
- No customers working on-site.
- 1-2 cars a month work schedule.
- Monday through Sunday work-days.
- 9-5 time of operation.
- No on-site harmful chemicals or pollutant emissions.

- There are no building additions or site changes.

Staff finds that the request is in conformance with the Millersburg Comprehensive Plan and Land Development Code and can comply with all development standards. Staff therefore recommends approval of the Conditional Use request for a Home Occupation unless there is factual data presented in opposition that would alter the finds for approval of the request.

Johnathon Melin reiterated this is a low key business with no impact of environmental concerns. He has insurance specifically for this business. Steve Hasson asked him if he used paint, and if so, will the smell be wafting to the neighbor's property? Melin said there are no fumes. Hasson also asked if he would be able to accommodate all the cars on his property. He said the cars he will be working on will be in his garage, but if he did have an overflow, he has an RV concrete pad on the side of his house, plus some parking in the back. Melin said he also works full time at Auroco (Flakeboard) down the street. Steve Hasson asked what happens if the business is real successful and he ran out of room? Melin said he would then move the business to a commercial location.

Connie Lepin asked Melin if he would do this outside on a really hot day. Melin said his garage is fully insulated and his machines are very quiet.

Connie Lepin said in the Conditions of Approval it states he can have a 1 ½' sign, but our Ordinance states he can have a 4 square foot sign. Melin said he will not have any signs.

The hearing was closed.

Anne Peltier moved, seconded by Dave Post to approve the Melin Conditional use request for a Home Occupation automotive detailing business subject to compliance with the Conditions of Approval contained in the Staff Report. The motion passed unanimously.

TI SQUARED TECHNOLOGIES CONDITIONAL USE PUBLIC HEARING

Don Driscoll opened the hearing and announced: The purpose of this Public Hearing is to receive testimony on an application from TI Squared Technologies requesting approval of a Conditional Use and Site Plan Review for a foundry producing titanium casting. The proposed development is a Permitted Use in the City's Limited Industrial Zone.

Dave Post said he is well acquainted with the applicant, Chris Martin, but can make a fair and unbiased decision regarding this request. No other conflict of interests was declared.

Don Driscoll said from a city standpoint, this is a very nice development. Millersburg used to be the industrial center of the Mid-Willamette Valley at one time and we have lost a lot of our local industry. In terms of external impacts, this is very well located as it is located way back from Old Salem Road and sits on a cul-de-sac. In terms of the actual product they produce, that is what comes under the conditional use. That it poses no potential impacts. There are a few things that need to be identified and submitted into the record. These are Identification of exterior stored materials, potential hazardous materials, emissions and controls, on-site open storage and signs and lighting. Driscoll said they meet everything or what they don't meet; they won't have a problem meeting. There are 15 conditions of approval. It is well located, well presented and very clear of what they are doing. They will be a good employer for the city.

Items from their application: The building will likely be steel construction, with portions up to 60' tall. The perimeter of the property will likely have an 8' chain link fence in

compliance with zoning regulations. The facility will connect to city water and sewer. Waste streams will be managed within city regulations, and handled by outside sources as required. The construction is broken in to two phases. Phase 1 would likely occur from June 2017 through June of 2018. Phase 2 expansion would potentially be 5+ years out. There will potentially be three signs. One at the front of the property near the entrance and illuminated, the front of the building at the building entrance, and the back of the building facing I-5 up to 10' x 20'. The estimated number of occupants will likely range from 30-100. Estimated two trips per day per occupant traveling both to and from the plant, anticipating additional three trips per day for shipping and receiving. They do not anticipate day to day customer visits. Their current standard hours of operation are weekday's 5a.m. to 5p.m. one shift. Production works 5:00 am - 1:30 pm; administrative hours are from 8:00 a.m. - 5:00 p.m. This could be a 23 hour 7 day operation depending on business demand. Emissions will be steam, minimal smoke and dust and all will be contained within DEQ requirements by means of filtering equipment. They do not anticipate any odors generated by the facility. Some noises will be generated for example pressurized steam release and forklift traffic moving materials around the site. The facility will also have outside storage of materials, equipment, and storage containers. The long term plan (5-10 years) is to incorporate a Chemical Milling operation which will include Hydrofluoric and Nitric Acids. This will be a fully enclosed system, in compliance with DEQ requirements. Their top priority is our employees and neighbors and are committed to providing a safe and healthy work environment.

Chris Martin, Manager of TI Squared Technologies, said they are a small foundry in Sweet Home with minimal to zero emissions. Chris said they put in this plan the biggest and most intrusive of what could be. Their current building is 12,000 sf and their proposed building will be about 40,000 sf and could go to 100,000 sf in the future. The Interim size is 40,000 sf. We put the building to be 60 feet tall depending what kind of market we get. Right now we are looking at less than all of these things. There will potentially be hazardous materials on site in the future, but right now we don't have anything that you can't put in a land fill. The potentially hazardous materials are required on some aero-space products that we plan on producing.

There were no comments in favor of the land use application.
There were no comments in opposition of the land use application.

Steve Hasson asked if the building could potentially be 60' tall, does Jefferson Rural Fire Department have equipment that can reach that tall to protect it. Don Driscoll said there is an item in the Conditions of Approval that addresses this issue.

Dennis Gunner asked how large their products would be. Martin said they do hope to manufacture large products up to 350 pounds and about the size of a pallet--40" x potentially 40" tall. Gunner said this would be a wonderful addition.

Chris Martin said in their outdoor storage area, you will see some materials in storage containers on site, some maintenance material like angle iron and everything will be neat and orderly.

Connie Lepin asked if the Planning Commission would be approving a Chemical Milling operation and was told yes, you would be approving the location and submittal of activities that would take place within the building. Chris Martin said he loves Millersburg but needs to know that he can do the Chem Mill operation in this proposed location, because he cannot make aero-space products without using chemicals. Connie said she wasn't objecting to it, but just had some questions about it. It was explained that the Chemical Mill is a very small operation like a vat or the size of a small swimming pool and would be entirely enclosed.

It was noted that future expansion of the facility would require the applicant to come back to the Planning Commission for further review.

Anne Peltier moved, seconded by Dan Nixon to approve the TI Squared Technologies Application for a Site Plan Review and Conditional Use for a proposed foundry subject to compliance with the Conditions of Approval. The motion passed unanimously.

PERLENFEIN SUDIVISION TENTATIVE PLAN

Chairman Ed Perlenfein opened the Perlenfein Properties Subdivision Request, declared a conflict of interest and said he will not vote on this issue.

Don Driscoll announced: The purpose of this Review is to consider a request from Perlenfein Properties for a 12.24 acre Urban Subdivision containing 33 Lots on property located in the Rural Residential Urban Conversion Zone RR-2.5-UC.

Don Driscoll said that Zuhlke Lane is presented as part of the subdivision as a city right of way and is important. On the proposed site plan Zuhlke Lane becomes a part of the subdivision itself; it is still a half street but big enough to accommodate two lanes. Driscoll said in a previous application there was an extension of Zuhlke Lane to be a reservation strip initially and with the assistance of our city attorney and the applicant, that also has been designated a right of way, so we now have right of ways to the west and it's a good move. We have one full right of way and part of a right of way to a future extension to the west to four large rural parcels that have a street called Woods Avenue to Woods Road.

Perlenfein said the last approval for this subdivision was with hammerheads and/or one lane of Zuhlke Road on his side. He doesn't like hammerheads so he changed the plan to connect all the roads. He took eight feet of the property and moved it to the south so he could widen Zuhlke Lane to 24 feet which gives it two way traffic with curbs on the north side. Perlenfein said they are concerned with water on the Nichol's property and all the water from their lots will drain towards the front so they are blocking the water going onto the Nichols property. The water table onto Nichols tends to drain north easterly and they have done to the best of their ability to make sure any ground water would be diverted from the Nichols property.

Connie Lepin asked if the drainage easement is going to be in a ditch. There is a proposed 20' wide public sewer and storm drain easement that will go through the Penning property to the west to Woods Road. The storm drain will be in an underground culvert through that easement.

Anne Peltier asked about the smaller width of two of the lots. Lot 1 is 75.2' and lot 10 is 73.1'. and is consistent with previous approval.

Connie Lepin suggested removing #8 under Conditions of Approval that deals with the CC&R's. No action was taken on this request.

Dave Post moved, seconded by Anne Peltier to approve the Perlenfein Subdivision Tentative Plan request contingent upon compliance with the Conditions of Approval contained in the Staff Report as amended by the Planning Commission. The motion passed with 7 votes in favor and one abstention by Ed Perlenfein.

BAILEY LAND PARTITION REVIEW REQUEST

Don Driscoll opened the Bailey Land Partition Review Request and announced: The purpose of this Review is to consider a request from Skylar Bailey for a 0.89 acre Urban Partition containing 3 parcels on property located in the Rural Residential Urban Conversion Zone RR-2.5-UC. This is not a public hearing but a review.

Driscoll said this request is for a partition that has an easement that provides access to all 3 parcels, and this is permissible in the code and in many cases is preferred. If you have a driveway that doesn't interconnect with city streets, it wouldn't make sense to make it a city street because then the city becomes responsible for it. You have to look at it as a driveway and not a street because it serves a limited number of people. We've had a problem in the past with approving these easements and there has been some concern. We've had an appeal with the denial of the last request for an access easement. You can't really compare the two but the kind of conditions are the same. If we do have a problem with these, then we have to get it cleared up. In our code it says under access management that ***every property shall abut a street other than an alley, for a minimum width of 25 feet except where the Planning Commission has approved an easement for access or where the easement existed prior to the adoption of this Code.***

Driscoll said If we are having problems with the access easements, then we should make changes to the code. It is not a permitted use but it is subject to Planning Commission approval. It is the Planning Commission's choice.

Ed Perlenfein explained his vote in favor of the Dayton Land Partition was that he was involved in the growth of the city. This issue has never been challenged before and several approvals to access easements have been made over the years. His background is to make it work with the laws we have and he was shocked at the last meeting because it didn't pass. He said it can't just be black and white and things have to shape themselves. If we can make it work, I call it wiggle room.

Dennis Gunner said it is not the job of the Planning Commission to make life easy for builders and developers but to make them follow the regulations of the city.

Don Driscoll said it is a discretionary decision by the Planning Commission to permit an easement. Utility easements are available in every subdivision that goes across people's property. It doesn't interconnect to city streets, but is a driveway. The burden has to be on those 3 parcels to maintain the driveway/access easement. Driscoll questioned why would you have a right of way that would make it city property and said if you don't want to do these any more, take them out of the code.

Dennis Gunner said the only reason the property owner wants the access easement is because they don't have enough road frontage for a flag lot and it is a way to subvert our requirement for 10,000 square foot lots.

Skylar Bailey said he developed Bailey Estates on the south side of it. He is aware of the code and street requirements and is not trying to get away with anything. This parcel was purchased by me for my family to live on. When there were disputes with the neighbors over a shop I wanted to build, I decided to purchase property somewhere else and now have this property for sale. There was no collaboration with Andrew Dayton about doing something with the two properties. Andrew bought his property for himself and planned on putting his home on it after he retired. When he discovered that the road in Conser's subdivision was going to come out right in front of his house, he had second thoughts because the lights from the cars stopped at the stop sign would most likely shine right into his windows. So then he decided to divide the property and sell both parcels. You guys are talking that an access easement would take property away from the size of the property and make them smaller

lots. Probably 25% of the properties in Millersburg have access easements through them. Because of the Bailey Estates there is already an easement for utilities there. Combining my property with Dayton's property wouldn't allow even a skinny street to go in there because it would make all of those lots too small. Bailey said he was not trying to cut any corners and had he known in the beginning that I couldn't build my desired shop, I would have made Bailey estates go all the way through to 54th.

Dennis Gunner asked Bailey if he had always intended this property to be a single lot, and his neighbor, Mr. Dayton had also intended his property to be a single lot. Bailey concurred with that. Gunner said your building plans didn't work out for you, but these lots are still saleable as single lots.

Bailey believes that one of his options is to maximize the value of his property. The only way that his property can be divided into three parcels is to use part of his property as an access easement. Bailey read from Section 5.122 (c) in the Millersburg Land Use Development Code where it reads, "Approval of a private road that does not meet all of the standards for public streets. This approach should only be used for isolated short streets serving a limited number of sites and where future city street alignments will not be needed in the future."

Bailey said this is a very limited number of lots and he is meeting all of the requirements in the code.

There is an existing 10' sewer easement on the east side of his property and a 10' storm drain easement and 10' sewer easement on the west side of his property.

Connie Lepin had questions about how did we (the city) throw away the city's opportunity to have the street from the Bailey subdivision not go through to 54th. Bailey said he purchased the lot he was planning on building his house on before he purchased the subdivision property. Where his house was going to be was right in the middle of where the street in the subdivision would have gone through to 54th. It was never his plan to put a street from the subdivision through. He had planned the cul-de-sac which was approved by the Planning Commission in January 2016. When he tried to get his shop on his house property and it fell through, that is when he changed direction to divide the property into 3 parcels and sell it.

Steve Hasson said he is not a fan of private drives but they do serve a purpose. He asked if this plan was approved, what happens over time with the private drive. Steve had concerns of the private driveway deteriorating over the years. If we are going to allow the private driveways, they should have sub-surface standards equivalent to city street standards.

Skylar Bailey said this would be extremely cost prohibitive and would add \$100,000 to do a driveway that would destroy any plans and is unfair.

Anne Peltier moved, seconded by Steve Vogler to approve the Bailey Partition Tentative Plan Request contingent upon compliance with the Findings and Conditions of Approval contained in the Staff Report. The motion failed with four votes in favor of the request, (Dave Post, Steve Vogler, Ed Perlenfein, Anne Peltier) and four no votes against the request, (Dennis Gunner, Connie Lepin, Scott Stimpson and Dan Nixon).

LOVE'S TRAVEL CENTER

Steve Hasson reported that Love's Travel Center is making progress with ODOT to satisfy their obligations. Several buildings need to be torn down and they found out today they will need a Demolition Permit. They have plans to be open October 2017.

MISCELLANEOUS BUSINESS

- Connie Lepin said she doesn't want the staff to tell us how we should vote. It was mentioned that in most jurisdictions, staff does make a recommendation to the Planning Commission.
- Jim Lepin suggested we should put a moratorium on partitions until we fix the issues.
- Steve Hasson said this community is growing very fast and as we look at the development process it's a mish mash. He met with the city's engineers and they are working on areas of duplication and it is the goal of the mayor to avoid this and have a comprehensive knowledge of all of the processes.

The meeting adjourned at 8:14 p.m.

Respectfully submitted,

Barbara Castillo
City Recorder