

City of Groveport

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Groveport, OH 43125
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Meeting Minutes

Monday, November 22, 2021

6:15 PM

0 Hamilton Rd - Final Dev Plan

Council Chambers

Public Hearing

Mayor Lance Westcamp

Council Members - Jean Ann Hilbert, Ed Dildine, Shawn Cleary, Becky Hutson, Scott Lockett & John Houglan

1. Call To Order

by Mayor Lance Westcamp at 6:15 p.m.

Staff Present: BJ King - Administrator, Kevin Shannon - Law Director, Jason Carr - Director of Finance, Casey Adams - Chief of Police, Jeff Green - Development Director, Steve Farst -City Engineer, Mike Poirier - Building Inspector, Ruthanne Sargus Ross - Clerk of Council

Guests Present: The Guest Book is on file with the Clerk of Council.

2. Roll Call

Council Member Ed Dildine arrived at 6:16 pm.

Present: 6 - Cleary, Dildine, Hilbert, Hougland, Hutson, and Lockett

3. Approval of Minutes - October 11, 2021

The October 11, 2021 Public Hearing Minutes stand approved as submitted.

[#295-2021](#)

Public Hearing Minutes

Attachments: [Public Hearing Minutes 10-11-2021.pdf](#)

4. Notice

Clerk of Council Ross read of the Notice of Public Hearing.

[#296-2021](#)

Notice of Public Hearing

Attachments: [Notice of Public Hearing.pdf](#)

5. Certification

Clerk of Council Ross read of the Certification of Public Hearing.

[#297-2021](#)

Certification of Public Hearing

Attachments: [Certification of Public Hearing.pdf](#)

Clerk of Council Ross read of the Certification of Public Hearing.

6. Zoning Ordinance:

[Ord. 2021-042](#)

AN ORDINANCE APPROVING THE FINAL DEVELOPMENT PLAN FOR 0 HAMILTON ROAD, BOBBY SYKES, APPLICANT, (PARCEL NUMBER 185-001164)

Sponsors: Dildine

Attachments: [Ord. 2021-042 Exhibit A.pdf](#)
[Ord. 2021-042 Exhibit B2.pdf](#)

Clerk of Council Ross read by title Ordinance No. 2021-042.

Building Inspector Mike Poirier:

Building Inspector Mike Poirier read from the staff report. The applicant is proposing to develop approximately 24 acres along Hamilton Road. Though the ALTA / NSPS Land Title Survey shows the property being owned by Lowery Asset Management Limited Partnership, the Franklin County Auditors website shows that the property is actually owned by Bedrock Property Holdings, LLC. The proposed use of the property is a contractor trade service and is an allowed use under the SCPD zoning regulations. The applicant is requesting to utilize the property as a laydown, storage, and stockpile area, and would like access to this parcel via a property access easement from a parcel owned by Lowery Asset Management Limited Partnership to the south. The access drive within this easement is not shown as being constructed as per the regulations set in Section 1177.07 of the Groveport Zoning Code. The application does not address any parking for employees and patrons as per Section 161.03(c) and Chapter 1177. This application does not show any site lighting but states that the use of the lot will only occur during daylight hours. The site plan shows two (2) signs being installed and only one freestanding sign is allowed. A Final Plat is required to be approved prior to the issuance of a Certificate of Zoning Compliance per Section 1135.01(e). *Mr. Poirier added that sheet 2 of 5 of Exhibit "B" notes this development plan for is for temporary use. In conclusion staff recommends the following:*

1. A registered surveyor or engineer shall seal the Land Title Survey.
2. The construction of the access drive shall comply with Chapter 1177 of the Groveport Zoning Code and this drive shall be constructed and completed before any other site development begins.
3. The construction of the fence and mounding be sixty percent (60%) opaque and fully completed before any use of the property takes place.
4. The applicant should provide an updated Economic Feasibility Study for any future development.

City Engineer Steve Farst:

City Engineer Steve Farst read from the staff report: The proposed use of the lot is for contractor trade service and the proposed plan illustrates site use for equipment and material storage in a broad laydown and staging area without

showing any proposed buildings and parking areas. The plan illustrates filled areas that will be covered with a gravel surface. *There is a note on the plan stating, "This Development Plan is for Temporary Use and the final condition of the site will require a future development plan. Owner will need the site to be in this temporary condition for five years. Gravel will be removed at this time and all permanent impervious area required for future development will be asphalt or concrete."* It is implied that the subject application for Development Plan approval is for a proposed temporary use. As the note states there will be a future phase of site development, a revised Final Development Plan application will be required for that future phase. Applicant should address their plan and schedule for full site buildout as it relates to those five years.

The preliminary Development Plan shows a proposed stormwater retention pond at the west end of the site and an elevated laydown & staging area to be brought up with between 3 to 9 feet of fill material. Along the north and south site boundaries will be drainage ditches to convey storm runoff in a westerly direction to the retention pond, which will discharge to an existing culvert under the railroad and into Hendron Ditch. Grading contours of the proposed ditch along the north line appears to be from 4 ½ to 1-foot in depth with drainage direction to the west.

There is concern that the preliminary plan as drawn shows embankment fill to be placed along the eastern property line that may, if constructed as drawn, "shed" drainage onto the rear of the properties along Hamilton Road. The final site engineering grading plan when prepared, should provide for a swale to intercept this drainage to direct it away from the adjacent properties. No schedule for construction of these drainage conveyances was provided. *The next phase of site development, if these development plans are approved, the applicant would have to do full engineering construction plans.* Design of these drainage improvements shall conform to Groveport's Subdivision regulations and Chapter 935, Groveport stormwater management policy. Final site design (construction) plans for detailed grading and drainage design shall be prepared and submitted to the City for review and approval. Design shall demonstrate that grading of the site and the drainage system of ditches and the retention pond shall not result in property damage to adjacent properties. Due to importance of appropriate drainage control with site development, it is recommended that the applicant be required to commit to complete the drainage improvements for the ditches, pipes, and the detention basin as one of the first steps in developing the site. *Mr. Farst finds that provisions for water and sanitary sewer services to the site are feasible. The Development Plan shows an 8" water main extension from the end of Lowry Court and there is an existing gravity sanitary service main through the property.* Expectations are that with or prior to the complete build out of the subject site, drainage conveyances carrying offsite drainage shall be piped (unless otherwise approved by the City Administrator) and set at the appropriate depth to accept and accommodate drainage from off-site areas that are tributary to the site, specifically areas from the

east and immediate north, conveying said areas to the stormwater detention facility. Responsibility for maintenance of the stormwater management facility is recommended to be private until future accommodation for converting it to a permanent regional basin is approved, at which time the City could contemplate accepting that basin as a public improvement. It is suggested a development agreement be established to memorialize these expectations.

If the application is approved engineering staff recommend the following conditions:

1. Design of site improvements, including the temporary and permanent site improvements, shall conform with site design requirements contained within the City Codified ordinances, including but not limited to requirements within Chapter 935, Stormwater Management Policy, within Chapter 1341 Flood Damage Prevention, and within Chapter 1399, Erosion and Sediment Pollution Control.
2. Site drainage improvements shall be constructed in advance of or contemporaneously with construction of the laydown area.
3. Maintenance of all drainage features and the stormwater management basin constructed with this Phase 1 plan shall be privately maintained and will not be accepted as public infrastructure.
4. The traffic impact study performed in 2020 and on file in the office of the City Engineer will be updated if so required by the City Engineer.
5. A development agreement be established to memorialize the period of time that the temporary condition will be permitted to exist and to contain details related to these conditions.

Law Director Kevin Shannon advised that what typically happens when conditions are to be added to an ordinance is when Planning & Zoning makes positive recommendations on the matter. Those conditions are set forth in the record of Planning & Zoning. The Clerk will draft the ordinance as amended to include all of the conditions as stated by Mike Poirier and Steve Farst this evening. This is a situation where the Planning & Zoning Commission did not make a positive recommendation on this matter. When Ordinance 2021-042 has its third reading on December 20, 2021, if at that time Council considers a motion to pass the legislation, Mr. Shannon suggests that Council first make a motion to amend the ordinance to include all of the conditions as set forth by Mr. Poirier and Mr. Farst of record in this public hearing since Council did not have the benefit of having a recommendation from the Planning & Zoning Commission where all the conditions are normally set.

Bobby Sykes, Applicant

Bobby Sykes, 1055 West Market Street, Baltimore, Ohio 43105, summarized the objective of his application. Ultimately, the applicant

wants to submit a final development plan potentially for a business park. Most of the property is in a floodplain, and there are some infrastructural measures needed to manage to bring the land out of the floodplain. Mr. Sykes owns an excavating construction company doing commercial excavating. He does some work in Groveport. When the property was purchased, the intent was to bring it up out of the floodplain so the property would become more marketable. It is unusable as it is now. Bringing the land out of the floodplain would make it more valuable, and a shop building could be constructed for their business. Bedrock has about a hundred employees and started out of warehouse space on Lowery Court. The business was born in Groveport, and he wants to stay in Groveport. They see the property as an area to store the overflow of materials for job sites like pipe. The company has a couple of conex boxes (storage containers) used as job trailers, semi-trailers, lowboy trailers, and dump trucks. The company has run out of space on the property it rents on Lowery Court. The development aspect of this application is all new to Mr. Sykes. The short-term goal is to get this zoning matter approved so the company can put in the infrastructure to allow them to fill the land out of the floodplain. Mr. Sykes chose a timeline of five years because they have no idea how long it may take to get the volume of fill material needed to build the land out of the floodplain.

This is a first step in the development phase approach. It's not known what the final development will look like because he hopes the business continues to grow. Before there are any structures constructed it has to be built up out of the floodplain. Step two is how Bedrock intends to use the land. Mr. Poirier referenced a letter from EMH&T specifically naming the types of things the company plans to store on the property.

The following is a list of items that will be stored in the laydown and staging area noted on the development plan:

- Heavy Equipment including but not limited to:
 - Excavators, Dozers, compactors, scrapers, haul trucks, skidsteers, telehandlers, loaders, light plants, air compressors, snow plows, street sweeper.
- Trucks and trailers including but not limited to:
 - Pickup trucks, Dump trucks, slinger trucks, trailers, semi tractors.
- Misc. large piping and fittings.
- Conex storage containers
- Gravel
- Asphalt Millings
- Topsoil
- Clay

- Sand
- Lumber
- Rolls of geotextile fabric
- Septic tank chambers

Administrator BJ King noted that one unique aspect of this application is the temporary nature of the development plan, which typically is not how development plans are done. Development plans get approved, run with the property, and are in place for the duration of the use of a particular property. The City has no precedent on enforcing a temporary development plan. This applicant says five years, but what if it takes six or seven years. After five years, the City has to consider how it is going to enforce it when the expiration falls on the five-year temporary plan. Groveport has never dealt with a temporary development plan, nor has Mr. King ever seen one approved. Mr. Shannon stated most codes don't call for temporary development plans. Mr. Sykes does have a vision that makes sense. When he previously applied for rezoning for this parcel, his presentation focused on his business going there. It made sense as it was a permit able use within that area. The problem he faces is he has to develop the site out of the floodplain, and Groveport doesn't have a mechanism wherein it can enforce the limitation on a development plan that only lasts for four or five years. The only way Mr. Shannon knows that the City can do it, as Mr. Poirier and Mr. Farst both mentioned, would be to enter into a development agreement as it relates to this laydown site. The problem with a development agreement is that the only way the City can conceivably enforce the development agreement since the City doesn't have anything is its zoning text saying it can be rescinded if not followed, is to bring a breach of contract action for failure to follow the development plan. That is a new area that most jurisdictions have never gotten into because they don't do temporary uses. It's a unique situation for the applicant, and Mr. Shannon understands why Mr. Sykes is doing what he is doing. However, the City doesn't have a way of enforcing a temporary use of a development plan. All the development plans the City has passed through all of its rezonings dealt with a final development plan that was related to the property and ran with the property from that moment forward. So that the City could have a say if something wasn't being adhered to as originally promised before City Council and the Planning & Zoning Commission. The City could say this is contrary to the established development plan that was finalized. Therein lies the issue of a temporary land use/development plan. Council Member Dildine thinks if City Council agrees to want to help anyone wanting to raise their property out of a floodplain, it should do anything within its power to help a property owner get to that end

game. Mr. King responded there is a way to get the property out of a floodplain without this temporary development plan. Mike Poirier advised Mr. Sykes could apply for and gain permits in order to fill the property and bring it up out of the floodplain. That is not a zoning matter, that is a floodplain permit and an engineering matter to make sure soil and erosion controls are put into place. Steve Farst advised that a floodplain permit has limitations to it. It has to be done in a certain amount of time; the surface would have to be seeded and stabilized, etc., to prevent future erosion. There is a process the applicant has to go through with FEMA to get the property officially acknowledged as being out of the floodplain. Mrs. Hilbert inquired as to why the applicant didn't go that route. Mr. King explained a floodplain permit allows for just the filling of the property to bring it out of a floodplain. It does not allow for the storage of the materials and equipment on the site. It does not allow for the use. Mrs. Hilbert wanted to clarify that he would have to get it out of the floodplain before he could use it anyway. The Mayor remarked not if Council approves this legislation. Mr. Shannon explained that is why Mr. Sykes is seeking this alternative route of having the equipment there on site already and the laydown yard so he can use that equipment to bring the property out of the floodplain. Another thing it will allow Mr. Sykes to do, as a practical matter, is have a base for his equipment and materials to be dropped off. He would make use of the property while waiting to get into a position where he can then go through the processes already discussed tonight. Mike Poirier added that once the floodplain was filled, the equipment would still have to be removed from the property because it wouldn't be zoned for storage use.

Booby Sykes offered another reason for his approach is that a good part of the fill material will be coming out of the basin to be constructed to the west of the property. The basin will handle the water, the drainage and maintain the drainage for all the properties surrounding the site. That way, as they construct the site over the two to five-year period, they won't be concerned about water issues. Mr. Shannon pointed out that he thinks everyone agrees that Mr. Sykes' intent is five years, a worst case scenario. What he, nor the City, can control is that if it takes longer because of whatever circumstances that may arise, whether it's his business, the economy, or whatever the situation is, and he can't move forward as he planned in five years. Then eight years down the road, Council is asking why there is still a laydown area on the site. That is the situation Groveport could be faced with. Mrs. Hilbert wanted to know how Council would avoid that situation. Mr. Shannon stated that is why Council doesn't do temporary uses. Mr. Dildine asked, "There are no time limits on temporary uses?" Mr. Shannon explained when Council

approves a development plan; it is never for temporary use. It is a final use.

Mr. Cleary asked if Mr. Sykes would be able to insure his equipment and materials if they sit on a floodplain, and the worse thing would happen. Mr. Sykes stated that as part of the development plan, they are required to put the driveway from the easement. The part of the property where that meets, there is a nine-foot fill. That is the area where they are currently storing things, and that would be a place to put in a laydown pad that would meet that elevation. Eighty-five percent of the land is in the floodplain; there are about six acres not in the flood zone. The FEMA picture shows the bottom right-hand corner land as being out of the flood zone. Mayor Westcamp added Council would vote on this item at its third reading on December 20, 2021. So there is time for Council to consider the matter, and Bobby Sykes, Steve Farst, and Mike Poirier are available to answer any other questions that might arise. It also gives time to do some research on the issue. It can't be the only time this situation has come up in Ohio.

[#298-2021](#)

Ord. 2021-042 Staff Reports

Attachments: [Ord. 2021-042 Staff Report 2.pdf](#)

7. Close of Public Hearing

A motion was made by Cleary, seconded by Dildine, to close the Public Hearing at 6:48 p.m. The motion carried by the following vote:

Yes: 6 - Cleary, Dildine, Hilbert, Hougland, Hutson and Lockett

Lance Westcamp, Mayor

Ruthanne Sargus Ross, CMC
Clerk of Council

PLEASE NOTE: THESE MINUTES ARE NOT VERBATIM. A RECORDING OF THE MEETING IS AVAILABLE IN THE CLERK'S OFFICE DURING REGULAR BUSINESS HOURS.