

**SOLON CITY COUNCIL**  
**August 31, 2009 – 7:00 P.M.**

The Solon City Council met at City Hall on the above date.

Present: Council Members Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit,  
Mayor Patton, Law Director Matty, Clerk McConoughey

Vice Mayor Drucker presided.

NOTES OF CAUCUS DISCUSSION:

(Clerk's note: Agenda items not mentioned under Notes of Caucus Discussion are items that were not pertinently discussed during caucus. Agenda topics may not have been discussed in order, however, they have been placed in order for the convenience of this record.)

Also Present: City Services Director Bandiera, City Engineer Busch,  
Planning Director Frankland, Police Chief Godzich, Fire Chief  
Shaw, Public Works Director Stanek

PLANNING COMMISSION:

Mr. Frankland reviewed each item from the Planning Commission.

1. 5790 SOM Center Road – Anthony Sims: It was noted the applicant is requesting to maintain a driveway that has already been installed. Although a permit was obtained, it was only approved for a 10' width.

Councilman Stolarsky questioned if the driveway material meets the Code requirements and Mr. Busch said based on the inspection, the materials meet the Code requirements.

PLANNING COMMISSION CONSENT:

2. 5163 Crofton Avenue – Seth and Marla Silberman: Councilman Suit said a fence is very important in this location because the pool backs up to a park and questioned if Mr. Silberman will be installing a fence because it is not shown on the plan.

8. 6600 Cochran Road – City of Solon Service Garage facility: Mr. Bandiera explained certain concerns regarding soil conditions have been discovered and he would like to remove the request for site plan approval.

PENDING:

10. Solar Rezoning request: Vice Mayor Drucker advised the public hearing scheduled for August 3, 2009 will be continued this evening.

11. Ordinance No. 2009-197 – submitting to the voters the enactment of a Commercial Shopping Center District and rezoning various parcels to the new district: Mr. Matty advised Exhibit “C” of the ordinance needs to be amended. The legal description provided was incorrect and he will provide the Council with copies of the correct legal description which indicates 20.99 acres will be included in the rezoning.

12. Ordinance No. 2009-198 - rezoning various parcels from the O-1 General Office District: Mr. Matty advised this Ordinance should be rejected because the O-1 parcels will now be included in Ordinance No. 2009-197.

**CONSENT:**

18. Ordinance No. 2009-226 - authorizing a change order with Liberta dba Cioffi: Councilman Suit requested this item be removed from the Consent agenda. It will be considered following Item 15.

The caucus ended at 7:20 P.M. and the meeting began at 7:30 P.M.

Also Present: City Services Director Bandiera, City Engineer Busch, Planning Director Frankland, Police Chief Godzich, Fire Chief Shaw, Public Works Director Stanek, Assistant Finance Director Wendel

**CHANGES TO THE AGENDA:**

Item 8 was removed from the Planning Commission Consent Agenda and heard following Item 1.

Items 12 and 13 were heard following Item 10.

Item 11 was heard following Item 13.

Item 18 was removed from Consent and heard following Item 15.

**ANNOUNCEMENTS:**

Vice Mayor Drucker said announcements are as listed on the agenda. She noted that the September 7<sup>th</sup> Council meeting was cancelled and City Hall will be closed due to the Labor Day holiday.

**COMMENTS FROM THE AUDIENCE:**

Mr. Bob Paulson, 33378 Allenbury Drive, asked that the Council provide an overview of the Giant Eagle expansion project before public comments are heard at the public hearing.

Mr. John Nolan, 35200 Bainbridge Road, reiterated his comments at the last meeting regarding addressing traffic congestion issues on Bainbridge Road before the project is bid. He said NOACA updated their plans in August and sent a new

set of plans to ODOT. He believes the process is proceeding very soon and he hopes progress can be made regarding traffic congestion issues.

Vice Mayor Drucker said the issue was referred to the Public Works Committee.

PLANNING COMMISSION:

1. 5790 SOM Center Road – Anthony Sims 065-2009
  - 10' Driveway width variance – PC approved contingent upon clarification of the driveway inspection by the Engineering Department and/or a new inspection at applicant's expense

Mr. Frankland displayed the plan and explained the proposal to retain a driveway as installed. He indicated the existing drive to the house and a secondary drive that leads to a detached garage. The angle to the drive was widened more than 10' to accommodate maneuverability of vehicles, however, a secondary drive cannot exceed 10' in width according to the Code, therefore, a variance is required. Mr. Frankland indicated the pavement is 20' wide where the secondary drive diverges from the primary drive but only 10' is allowed by Code.

Councilman Stolarsky further explained the Commission's actions. He explained that since the driveway had been installed, the Commission requested the Engineering Department's assurance that the base is sufficient and installed according to the Code.

Mr. Busch said based on the inspection of the base from the sides, the base was found to be acceptable.

There were no objections to the 10' driveway width variance, therefore, it stood approved.

8. 6600 Cochran Road – City of Solon Service Garage 069-2009
  - Site plan – salt storage facility – PC recommends approval contingent upon Fire Department recommendations

Mr. Frankland displayed the plan and explained the proposal from the Service Department to install a salt storage building. Although the plan was approved by the Planning Commission, after soil testing of the site was completed, it was determined that the soil is not stable and, therefore, alternative sites will be explored.

Motion by Councilman Stolarsky, seconded by Councilman Kraus to reject the site plan for a salt storage facility at 6600 Cochran Road.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit

Nay: None

Motion Carried

PLANNING COMMISSION CONSENT:

2. 5163 Crofton Avenue – Seth & Marla Silberman 061-2009
  - 6" rear yard setback variance (pool) – PC approved
  - 6" rear yard setback variance (patio) – PC approved
  - 13.9 % rear yard coverage variance – PC approved
  - Approval of plat modification – PC approved contingent upon the applicant's agreement to install landscape screening & working with Engineering to resolve drainage issues
  
3. 5895 Elm Hill Drive – John & Kari Zimmers 062-2009
  - 15' accessory pavement setback variance – PC approved
  
4. 7371 Portage Street – PP#'s 956-38-082 & 083 063-2009  
Nelson & Nancy Ober
  - Lot consolidation – PC approved
  
5. 37860 Aurora Road – David Consolo – re-approval 064-2009
  - 86 sq ft total amount of accessory pavement variance – PC approved
  
6. 30000 Bainbridge Road – Nestle USA 067-2009
  - 13' maximum access drive width variance – PC approved upon compliance with Fire Dept.
  - 11' minimum access drive width variance – PC approved
  
7. 34905 Bridle Trail - Len Kreyman 068-2009
  - 5.5' front yard setback variance – PC approved
  - 13.2' rear yard setback variance – PC approved
  - Not parallel to street variance – PC approved

Motion by Councilman Stolarsky, seconded by Councilman Pelunis to suspend the rules and approve the items of the Planning Commission Consent Agenda.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit

Nay: None

Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit

Nay: None

Motion Carried

PENDING:

9. RESOLUTION NO. 2009-141 DECLARING IT NECESSARY TO IMPROVE CERTAIN PROPERTY IN THE CITY BY PROVIDING FOR A STORM WATER RETENTION FACILITY OF THE CITY PURSUANT TO A LEASE BY IMPROVING THE BRIAR HILL LAKE DAM AND RELATED AREA AND DECLARING AN EMERGENCY. This resolution has had three readings.

Resolution No. 2009-141 remained on third reading.

10. Correspondence from Cresco Real Estate requesting to rezone 6 parcels on Aurora Road to the C-3 and C-4 Zoning.

The public hearing from the previous Council meeting was continued.

Mr. Frankland displayed the plan and indicated the area involved in the rezoning. He advised, previously the Council discussed rezoning the existing Solar Shopping Center to a new C-3-A district and rezoning the remaining property to C-3. However, it has since been determined it would be more appropriate to rezone the entire 20.99 acre site, which includes the Aurora Road parcels, to the new C-3-A zoning classification. Mr. Frankland explained the C-3-A is a modification of the C-3 zoning classification and expands the uses allowing larger buildings for the anchor tenants of a shopping center and includes one gas station associated with the anchor tenant. He noted, however, for future projects, the C-3-A zoning will not be advisable when Planned Unit Developments are found to be appropriate.

Councilman Suit asked if Mr. Frankland recommended the C-3-A zoning for a high-quality redevelopment of Solar Center Shopping Center as stated in Mr. Frankland's August 6<sup>th</sup> memo. Mr. Frankland said that is correct.

Vice Mayor Drucker said the previous public hearing will be continued and asked for comments from the public.

There were no comments, therefore, the public hearing was closed.

12. ORDINANCE NO. 2009-198 SUBMITTING TO THE ELECTORS THE QUESTION OF REZONING VARIOUS PARCELS FROM THE O-1 GENERAL OFFICE DISTRICT TO THE C-3 COMMERCIAL DISTRICT, was read for second reading.

Councilman Stolarsky said the Planning Commission initially considered placing the Aurora Road parcels in the C-3 zoning district to prevent the GetGo gas station from potentially being located on property close to the senior housing development. However, Section 2.1(a)(e) of the Development Agreement states that the GetGo station would not be built on the particular parcels currently zoned for office use.

Motion by Councilman Stolarsky, seconded by Councilman Suit to suspend the rules and reject Ordinance No. 2009-198.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit  
Nay: None Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit  
Nay: None Motion Carried

13. ORDINANCE NO. 2009-199 APPROVING THE PROJECT DEVELOPMENT AGREEMENT WITH SOLAR CENTER LTD., LLC AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT, was read for second reading.

Councilman Stolarsky said as discussed in Caucus, a typographical error was corrected on the development agreement. He stated the acreage amount was

amended to 20.99 to include the parcels currently zoned in the O-1 district on Aurora Road.

Motion by Councilman Stolarsky, seconded by Councilman Scott to amend Ordinance No. 2009-199 to include the amended legal description which indicates a total project acreage of 20.99 acres.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit  
Nay: None Motion Carried

At Vice Mayor Drucker's request, Mr. Matty summarized the development agreement.

Mr. Matty stated as mandated by the Council, the developer has signed all of the development agreements with the new Exhibit as amended by the Council. Mr. Matty will forward authorizations from Percap Realty Ltd., SOM/Solon Ltd. and Caplan Perlick Ltd. authorizing Solar Center Ltd. to develop and perform the obligations of the developer under the agreement and authorize the execution of the agreement by the three parties. He explained such authorization will bind the three parties to the final project development that is contemplated by the agreement.

Mr. Matty said the final items of the development agreement have been negotiated with the developer. Commentary regarding operation of the store during the construction, which would be within Giant Eagle's discretion, as they normally proceed with their own construction, was provided from Giant Eagle and has been incorporated into the development agreement.

Mr. Matty said the development agreement which was negotiated with input from staff and Council Members, is the best agreement that can be negotiated. He noted certain items could not be negotiated for economical reasons and he recommended the Council adopt the agreement.

Mr. Matty said Giant Eagle and the developer have prepared a general letter of intent which will be presented to Council at this meeting.

Mr. Matty said although attempted, it was not possible to make all the companies that own the real estate be responsible for the development. The developer's attorney indicated to Mr. Matty that some of the companies are not in the development business and would not sign on behalf of a developer. Mr. Matty said only one company has obligations to the development, however, that company owns seven of the parcels, therefore, their own land and equity will be at risk when they develop.

Mr. Matty said the Administration has agreed to allow the use of GRIP funds with approval by Mr. Frankland as to how it will be used. The developer agreed to use the funds for demolition, building design, building improvements, building materials and any other reconstruction items that the city deems appropriate. Mr. Frankland suggested this since there is not a concept B elevation plan that he

can agree to. Therefore, the issues will be resolved through the improvement and authorization process of the City.

Mr. Matty said Mr. Busch provided examples of streetscaping which will be installed and paid for by the City because of the desire for a specific appearance. However, the City will maintain the streetscaping on City-owned property and the developer will maintain developer property.

Mr. Matty said if the rezoning is approved at the ballot, the developer understands they must approach the City within a short time to meet the development plans of Giant Eagle which is spring of 2010.

Councilman Stolarsky said he has participated in preparation of the agreement and will support the project now that there is a development agreement which he believes indicates the developer will comply with existing storm water management practices, will use materials approved by the Code and understands no guarantees have been made in regard to possible variance issues. He believes the intent of the Planning Commission was met and noted that the GetGo gas station would not be contiguous to senior housing.

Councilman Stolarsky preferred to see conceptual building elevations which were not included in the development agreement or incorporated as an exhibit, however, the agreement does indicate the design standards and building materials desired by the City.

Councilman Pelunis would have also preferred to see conceptual exterior elevations incorporated into the agreement. However, he believes the appearance of the interior elevations he has seen will be pleasing.

Councilman Suit does not support the development agreement. At Councilman Suit's request, Mr. Frankland displayed his rendering for exterior design and materials to compare it to the latest rendering submitted by the developer. Councilman Suit finds Mr. Frankland's rendering more attractive and believes it will cost just slightly more, however, the developer has refused to accept Mr. Frankland's plan.

Mr. Frankland said a Western Reserve type architecture was considered in developing the conceptual elevation. He displayed the last drawing submitted by the developer and indicated it was not acceptable to the Planning Commission or the Council. Mr. Frankland believes the additional features in the drawing modified by the Planning Department would not be expensive, however, further discussions regarding exterior elevations were discontinued by the developer after that point. Mr. Frankland said the rendering was removed from the development agreement because the terms of the development agreement contain much more stringent architectural standards than were shown on the rendering.

Councilman Suit believes if the development agreement is more stringent, more problems will arise in the future. Councilman Suit said he participated in

negotiating the development agreement and based on the following, he is concerned about the architectural design and materials that will be used:

- Developer demanded the word "fired" in describing brick, be removed. (By definition brick is a fired product).
- Drawings show the use of much quick brick as a primary material. (Allowable materials indicated in the development agreement should be listed in the ordinance creating the C-3-A district).
- The development agreement contains many legitimate reasons the developer can terminate the agreement. (If the developer terminates the agreement, the result will be a C-3-A zoning that does not specify architectural design or material restrictions).
- Ordinances that apply to the rest of the commercial zones do not include the C-3-A classification.

Councilman Suit said he requested Mr. Frankland prepare a section which could be incorporated into the ordinance stating that the developer will comply with required materials and design as required for every commercial zone and questioned if the developer would be willing to add this language.

Councilman Suit questioned the developer's interpretation of the agreement.

In regard to the ordinance creating the C-3-A zoning, Vice Mayor Drucker said it is still questionable if the new zoning classification will be approved by the voters and by adding mandatory requirements, it would be part of an ordinance that may or may not be approved by the voters. She believes there will be sufficient time to make adjustments if the voters approve the ordinance.

Mr. Matty explained by Charter, the Ordinance creating the C-3-A zoning would not become effective until it is approved by the voters, both city-wide and in the affected ward and after the election results are certified by the Board of Elections. Mr. Matty further explained how the zoning classification becomes effective and that amendments to the ordinance could be made in advance of the effective date for the C-3-A zoning. He said the developer is bound by other sections of the Code including sections on materials.

Councilman Suit is not suggesting the other ordinances be changed, however, he is suggesting a section of the ordinance currently before the Council be modified to make this ordinance applicable to others. He said the ordinance will then contain requirements for setbacks, green space and design and materials.

Councilman Pelunis believes the voters should be able to view and understand a proposed exterior rendering along with the ordinance and zoning classifications. He said it could be posted on the City website.

Mr. Frankland agreed and said it is a common practice with every major development proposed to provide a prospective drawing of what the project would look like. Mr. Frankland suggested placing a contingency to approval of the ordinance that a prospective drawing be submitted by the next Council meeting to allow the residents to view a conceptual drawing of the project.

Mr. Frankland agreed with Councilman Suit that the code does not currently refer to design standards, signs or landscape standards because the code was amended in 2005 to include permitted uses and setbacks within each district. Other sections of the code address landscaping, building materials and sign requirements. However, since the C-3-A zoning district does not yet exist in the code, upon approval at the ballot, the district will be added to the sections that apply to signs, building design and landscaping. Mr. Frankland said the ordinance could be amended to regulate these issues, however, it would not coordinate with the other zoning classifications in the City and will cause referring to and changing of other sections of the Code, which Mr. Frankland was trying to avoid when the Code was amended in 2005.

Mr. Frankland said the ordinance creating the C-3-A could be amended now and/or the amendment could be added after approval of the C-3-A district by the voters. However, Mr. Frankland questioned the legality of amending the ordinance now.

Councilman Suit questioned if the language is added after approval by the voters, can the developer argue that they were grandfathered because there was no reference to this ordinance at the time it was placed on the ballot and the election took place and, therefore, they do not have to be held to the other standards.

Mr. Matty suggested no changes be made to the C-3-A ordinance. However, the Council should obtain the developer's consent on record regarding the issue of the general standards of the City applying to both the development agreement and the C-3-A zone. The Council should also approve a motion to direct the Planning Director and Law Director, following approval of the C-3-A zoning by both the city and ward, to immediately prepare the necessary amendments to add the C-3-A zone to the Planning Director's General Standards sections before receiving the certification of the Board of Elections. Mr. Matty said this will avoid a grandfathering argument from the developer and will direct the Law and Planning Directors to timely and promptly change the Code so the issue is in effect when the plans are received by the City.

Mr. Phillips said the developer in not is a position to claim something does not apply. If the development agreement was terminated, the developer would comply with the existing city ordinances. He asked that the developer's construction representatives be allowed to review the language, however, Mr. Phillips does not object.

For clarification, Mr. Frankland recapped the Council's intent to Mr. Phillips.

Mr. Coyne said the developer recognizes that the City can retain at its expense an architect to review the plans and there is no special process by which the plans will be approved. The developer insisted on an expedited process and there is a good faith provision to proceed in the development agreement. However, Mr. Coyne said it was recognized by the developer that the city shall have the exclusive right to approve, modify or deny preliminary or final site plan elevation plans submitted to the City for the review pursuant to the Charter and ordinances of the City. The City ordinances and state law will govern the agreement in review of all submittals. Mr. Coyne said if something changed, in good faith, the developer will have to comply and the City has the discretion to deny submitted elevations.

Councilman Suit said the development agreement indicates that the City can approve, modify or deny requests for variances, however, there is a section in the termination clause that requires approval by the developer of all matters to be approved by the City and the developer under this agreement. Councilman Suit questioned if the developer were to apply for a variance to use quick brick as a primary building material and the city rejected the request, would the termination clause give the developer the right to terminate the agreement because it was not approved.

Mr. Phillips said in his view it would. He said if the developer felt a variance rejection would make the project unfeasible, the developer would have the right to terminate the project.

Councilman Suit was dismayed by Mr. Phillip's answer. He said cheaper materials are being proposed and will require a variance. He said past shopping center projects in the City have been built using quality materials including brick and due to the high visibility of the area, this project should be held to the same standards.

Councilman Suit discussed various portions of the agreement he is displeased with, which include negotiations regarding streetscaping, final approval of architectural design and materials, placement of the GetGo on the site, the liberal terms of the termination clause, and the language regarding GRIP funding.

Councilman Suit recommended a statement be included in the agreement stating it is understood by all parties that the architectural design and materials used by the developer are a material part of the agreement. He said another part of the agreement states that any material change made after the final approval will be subject to the approval process of the City. He said the developer does not believe architectural design and materials are a material part of the contract because they rejected it.

Councilman Suit is disappointed with the comments made by Mr. Phillips. He believes the Master Plan is being abandoned and a less desirable plan is being proposed. He referred to the Planning Director's August 6, 2009 memo indicating the C-3-A will achieve the high-quality redevelopment of the Solar Shopping Center site and questioned why the development agreement would not

specifically state that the design and materials are a material part of the agreement. He believes the developer's rendering shows a less than desirable plan using material that does not meet the City's standards.

Councilman Suit said the developer's financing has been questioned and asked why there are no letters of credit submitted as has been done in the past for other projects. He said the City should maintain high standards and does not believe the issue is ready to go to the ballot, therefore, he will not support it.

Councilman Kraus asked if Mr. Matty is comfortable that the agreement protects the City's interests.

Mr. Matty asked Mr. Phillips if he understands that the building material, landscaping, sign regulations and any other standard regulation that is in the Code will apply to not only this district, but to this redevelopment project.

Mr. Phillips said he does not have an issue with that.

Mr. Matty advised the Council to make a motion to direct the Planning Director and the Law Director to take appropriate action after the vote.

Mr. Matty advised although this development agreement is not the best one he has ever negotiated, it is the best agreement to be reached with the parties involved. He said without Giant Eagle's involvement, it would be very difficult for the developer to achieve the redevelopment because he is a local developer. He said the assistance of the Economic Development Manager and Planning Director is necessary because there are items desired that will only be achieved if the City participates. Mr. Matty said the developer has been candid regarding his goal and what he can afford.

Councilman Kraus asked if Mr. Frankland is agreeable with the development agreement. Mr. Frankland said much was gained through the development agreement in regard to design criteria, establishing the types of buildings, etc. He understands Councilman Suit's concern regarding how easily the developer can terminate the agreement. Mr. Frankland said although some trust is necessary with any agreement, he believes they will need to comply with the building standards to obtain GRIP funds. He said if the development agreement is terminated by the developer, the City is unlikely to provide variances for materials and each building will be required to be constructed of high quality material. He believes the project will be a high quality redevelopment based on the development agreement and zoning code.

Councilman Kraus said the City will not accept a mediocre project and being a long-term property owner, the developer is committed to providing a high-standard project. He said the drawings submitted are preliminary and the developer is committed to providing a high quality project. Councilman Kraus said renovation of the shopping centers is desired by the City, the developer and the residents. He commended the developer for approaching the City with the

project given the current economic conditions. He supports placing the issue on the ballot and allowing the voters to make the decision regarding this project.

Based on Mr. Phillips' previous comments regarding termination of the agreement, Councilman Suit cautioned the Council's actions and again stated he is not prepared to send the issue to the ballot.

Mayor Patton said exterior renderings including the Giant Eagle store will be placed on the website. Mayor Patton said residents believed a new Giant Eagle store would be the result of the approval of the SOM Center Road rezoning last year. Mayor Patton said the future of Giant Eagle in Solon was questionable, therefore, the City made it a priority that Giant Eagle remain through negotiations. He thanked Mr. Frankland, Mr. Matty, Mr. Coyne, Councilmen Kraus, Suit and Stolarsky, representatives of Giant Eagle and Mr. Perlick for their efforts on the project. He believes the project will be beneficial for all parties involved and needs to move forward. Although Mayor Patton understands Councilman Suit's concerns, he believes the City has the ability to address any future problems.

Councilman Suit questioned if there are exterior renderings of the proposed Giant Eagle. Mayor Patton said renderings provided were of newer Giant Eagle buildings.

Mr. Frankland said photos were submitted of newer existing Giant Eagle buildings and some displayed the western reserve architectural design desired by the City.

Mayor Patton asked for a commitment that the developer or Giant Eagle will provide the City a conceptual rendering of the proposed Giant Eagle store and the remainder of the shopping area at least one month in advance of the election to promote the center to the residents.

Councilman Kraus expects an aggressive campaign with renderings and literature to support the redevelopment to gain public support.

Councilman Suit asked that the photos the Mayor referred to be made available to the Council.

Mr. Matty said in addition to the amended exhibit, additional revisions were made to the agreement since the first reading and, therefore, a motion is necessary to amend the agreement to include the most recent revisions provided to the Council.

Motion by Councilman Stolarsky, seconded by Councilman Kraus to suspend the rules and amend Ordinance No. 2009-199 approving the development agreement, to include the most recent revisions as provided to the Council.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit  
Nay: None Motion Carried  
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit  
Nay: None Motion Carried

Motion by Councilman Stolarsky, seconded by Councilman Kraus to suspend the rules and place Ordinance No. 2009-199 on third and final reading as amended.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky

Nay: Suit

Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky

Nay: Suit

Motion Carried

11. ORDINANCE NO. 2009-197 SUBMITTING TO THE ELECTORS THE QUESTION OF ENACTING A NEW CHAPTER 1278 OF THE PLANNING AND ZONING CODE CREATING A COMMERCIAL SHOPPING CENTER DISTRICT AND REZONING VARIOUS PARCELS TO THE C-3-A ZONING DISTRICT, was read for second reading.

Motion by Councilman Stolarsky, seconded by Councilman Kraus to amend Ordinance No. 2009-197 to include the revisions made to Sections 3 and 5 of the Ordinance and Exhibit "C" which will indicate a total of 20.99 acres for the rezoning.

Mr. Matty explained the amendments are the result of merging two rezoning ordinances into one and two legal descriptions into one legal description to rezone all of the parcels to the C-3-A. The amendment includes changes to the ballot language, the parcel numbers and the legal descriptions.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit

Nay: None

Motion Carried

Motion by Councilman Stolarsky, seconded by Councilman Kraus to suspend the rules and place Ordinance No. 2009-197 as amended, on third and final reading.

Councilman Scott asked for a commitment from Giant Eagle representatives that should an off-site location become available for the GetGo station, Giant Eagle would consider locating the GetGo at that site. He believes it is important to the residents that the GetGo be located off-site and if a location became available, he would expect Giant Eagle to fulfill the commitment and respect the wishes of the community.

Mr. Jim Chickini, Giant Eagle, said if a facility becomes available that meets the minimum requirements for a GetGo station, it would be considered and pursued.

Councilman Scott referred to Mr. Perlick's drawing that was revised and presented by Mr. Frankland. He asked Mr. Perlick if he agrees to the added features and questioned if the modifications would become an issue.

Mr. Perlick said he does not have a problem with the revised drawing presented by Mr. Frankland.

Mr. Perlick commented that the Perlick family has owned the shopping center property for many years and will own it for many more. He indicated that the

shopping center renovation will be a first-class project in the best interest of all parties involved. The redevelopment will provide the community with modern amenities currently unavailable.

Councilman Scott said it is important to pay attention to the economics of the project to make it affordable to tenants and to maintain the local atmosphere of the shopping center. He believes once there is a positive vote on the issue, the project will go through the City process and it is necessary to trust the process. Councilman Scott supports the project and that it will benefit the community.

Councilman Kraus asked Mr. Frankland if the project is compatible with the proposed Master Plan. Mr. Frankland said the project is very similar to the goals of the Master Plan.

Councilman Kraus asked if placing the creation of the commercial shopping center district and the rezoning on one ordinance has been done in the past. Mr. Matty said yes and that it follows procedures. He advised a majority vote is needed city-wide and ward-wide for approval.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky  
Nay: Suit Motion Carried  
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky  
Nay: Suit Motion Carried

Motion by Councilman Stolarsky, seconded by Councilman Kraus that upon affirmative votes in November of the majority of the voters of Solon and the majority of the voters in Ward 6, the Planning Director and Law Director be directed at the earliest available date to prepare the necessary amendments to the general standards sections of the Code, specifically landscape design and ordinances that can incorporate the standards into the C-3-A zoning classification.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit  
Nay: None Motion Carried

14. Notice to legislative authority regarding annual renewal of liquor permit applications

Correspondence was received from the deputy tax auditor.

Motion by Councilman Scott, seconded by Councilman Pelunis to instruct the Clerk to not seek a hearing for the entities that have been submitted with the exception of Bull Moose, Inc. (Slam Jams), 6050 Enterprise Pkwy, Unit R; Liu & Associates dba Mandarin Express Restaurants, 34214 Aurora Road; Dhami Solon dba Solon Sunoco, 6395 SOM Center Road and Belvino LLC, 31300 Bainbridge Road in which a hearing is to be requested.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit  
Nay: None Motion Carried

NEW:

15. ORDINANCE NO. 2009-225 AMENDING ORDINANCE NO. 2009-194 AUTHORIZING THE PURCHASE OF VIDEO CONFERENCING EQUIPMENT THROUGH THE STATE OF OHIO COOPERATIVE PURCHASING PROGRAM TO INCLUDE AN ADDITIONAL AMOUNT FOR REQUIRED MONITORS, was read for first reading.

Councilman Russo said the ordinance will include the cost for monitors that were previously omitted.

Motion by Councilman Russo, seconded by Councilman Stolarsky to suspend the rules and place Ordinance No. 2009-225 on third and final reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit  
Nay: None Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit  
Nay: None Motion Carried

18. ORDINANCE NO. 2009-226 APPROVING A CHANGE ORDER TO THE CONTRACT WITH LIBERTA DBA CIOFFI FOR THE 2009 ANNUAL RESIDENTIAL CONCRETE REPAIR PROGRAM, was read for first reading.

Councilman Suit objected to awarding the change order to Liberta. He has received complaints from constituents in his ward in the SOM Hills area regarding the company in which profanity was used toward residents by the company's employees and work that was supposed to be completed was not completed. Councilman Suit said the pavement color on each side of the street is inconsistent. He noted problems have been reported in past years as well.

Councilman Pelunis said the ordinance is the recommendation of the Public Works Committee for concrete repair to the remainder of Cromwell Drive that has not been repaired, Springside Lane and Outley Park Drive.

Councilman Pelunis said the Committee agreed that the company must finish any existing work under the existing contract before beginning this project.

Vice Mayor Drucker asked if the concrete will be completely replaced on the identified streets. Mr. Stanek said the work will be replacement of large areas in the road or, in some cases, the entire road.

In regard to Councilman Suit's comments, Mr. Stanek said issues arise when contractors are exposed to residents during the projects. However, it is encouraged that the contractor perform the work in a manner that minimizes impact on the residents. Mr. Stanek said there has been a commitment to address the issues Councilman Suit raised. He said work has been performed by the contractor in other areas of the city in which many compliments have been received.

Councilman Kraus said the contractor has worked in his ward and no complaints were received and some compliments were received.

Motion by Councilman Kraus, seconded by Councilman Stolarsky to suspend the rules and place Ordinance No. 2009-226 on third and final reading and that the remaining work in SOM Hills be completed per the instructions of the Engineering Department and Public Works Director.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit  
Nay: None Motion Carried  
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky  
Nay: Suit Motion Carried

CONSENT:

Motion by Councilman Stolarsky, seconded by Councilman Scott to suspend the rules and place the following Consent items on third and final reading.

The appropriate Council or Administrative representative provided an explanation for each item.

16. ORDINANCE NO. 2009-227 ACCEPTING THE BID OF TRANSPORTATION EQUIPMENT SALES CORPORATION FOR THE PURCHASE OF A WHEEL CHAIR ACCESSIBLE MINI-VAN FOR USE BY THE SENIOR CENTER, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit  
Nay: None Motion Carried  
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit  
Nay: None Motion Carried

17. ORDINANCE NO. 2009-228 AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH HARTVILLE PROFESSIONAL CENTRE, INC. UNDER THE GROWTH AND REVITALIZATION INCENTIVE PROGRAM AND DECLARING AN EMERGENCY, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit  
Nay: None Motion Carried  
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit  
Nay: None Motion Carried

COMMENTS FROM THE AUDIENCE:

Mr. Paulson supports the Giant Eagle rezoning, however, asked if the C-3-A zoning classification is specifically for the Solar Shopping Center site or for any site in Solon.

Mr. Frankland said it is applicable to any site the voters would apply it to.

Mr. Paulson asked if the C-3-A zoning could apply to the Sears/Marc's plaza and Solon Square Shopping Center.

Mr. Frankland said it would be available, but a Planned Unit Development zoning would be recommended.

Mr. Paulson asked if a gas station could be placed in the previously mentioned shopping centers under C-3-A. Mr. Frankland said yes.

Mr. Paulson asked if there is a maximum size for the C-3-A gas station. Mr. Frankland said the accessory building cannot exceed 3% of the size of the main building.

Mr. Paulson asked if it addresses amenities and what is allowed to be sold at the gas station. Mr. Frankland said zoning ordinances are not that detailed and this ordinance does not address amenities and what is allowed to be sold at the gas station.

Mr. Paulson asked if Giant Eagle specified what size GetGo is proposed for the site. Mr. Frankland said they have indicated 1,100 square feet.

Mr. Paulson asked if the GetGo will have street access to SOM Center Road. Mr. Frankland said the conceptual drawing indicates internal access and the City conveyed to Giant Eagle that is what the City would want. Mr. Paulson asked if it can be mandated or if it is negotiable. Mr. Frankland said the development agreement states no more than three access points with spacing of 200' between the access points. Mr. Paulson believes traffic will already be impacted by the project. Mr. Frankland said internal street access is proposed and a traffic study is required.

Mr. Paulson asked if the City could contribute up to \$140,000 in GRIP funds for demolition purposes only or for any purpose. Mr. Frankland said the development agreement was amended to specify what the funds are used for; such as materials, buildings, demolition, etc. Mr. Paulson's main concern is that other shopping centers could add a gas station under C-3-A zoning.

Councilman Scott said at the last meeting, Giant Eagle did commit to ingress and egress only from their site and not from SOM Center Road.

It was clarified that the agreement states "at least \$140,000 in GRIP funds".

Mayor Patton asked if GRIP funds could exceed \$140,000. Mr. Frankland said that is correct.

Mr. Matty said the actual wording indicates that the City Administration shall use its good faith efforts to recommend and obtain a grant from the GRIP storefront renovation program for storefront improvement and demolition in an amount equal to at least \$140,000. These funds shall be provided to the developer in progress payments to be negotiated by the director of the program and approved by City Council. The funds shall be used for demolition, building design, building materials and improvements and any other reconstruction approved by the City for the use of such funds.

Mayor Patton said GRIP funds could be increased if the Council chooses.

Agnes Norton, 35385 Aurora Road, asked how far the GetGo would be from existing residents and what the GetGo and new Giant Eagle hours of operation would be. She prefers not to rezone the site. She prefers encouraging Giant Eagle to use the former Sunoco location and redevelop the current store. Ms. Norton asked how many variances would be necessary if the zoning remained the same and what variances would be necessary. She believes the voters should be educated about the project before they vote.

COMMENTS FROM COUNCIL:

In turn, members of Council wished everyone a happy Labor Day weekend.

Councilman Scott commended those involved in negotiations of the Solar Shopping Center development agreement.

Councilman Kraus said although the Bainbridge Road project is a County project in which the City has little control, he would like to address specific safety and restoration issues before the project is bid. Specific language in the restoration agreements will be discussed at the next Public Works Committee meeting. An open house is scheduled at Grantwood on September 22<sup>nd</sup> with the County Engineers and others to address specific concerns.

Vice Mayor Drucker clarified that the County is bidding the Bainbridge Road Project.

Councilman Russo asked residents to obey the laws in regard to school buses as school is back in session. He noted the Police will be conducting selective enforcement.

Councilman Stolarsky reported the Cannon Road Bridge has been re-opened.

COMMENTS FROM THE ADMINISTRATION:

Mayor Patton congratulated the Solon Schools for being named #1 in the area rankings in the *Plain Dealer*.

Mayor Patton said a primary election will be held in Wards 4 and 6 on Tuesday, September 8<sup>th</sup>. He encouraged residents in those wards to vote.

Mr. Matty commended Councilmen Suit and Stolarsky for their input in regard to the project development agreement.

Mr. Busch said Phase II of the Pettibone Reconstruction Project between SOM Center Road and Liberty Road is progressing. Installation of water lines has begun and installation of the temporary pavement continues. Two-way traffic has been maintained in the area.

Mr. Busch said one-way traffic from SOM Center into Phase 1 will take effect after Labor Day.

Mr. Stanek announced that Phase II rubbish containers are being delivered this week. Service using the containers will begin the week of September 14<sup>th</sup>.

Motion by Councilman Stolarsky, seconded by Councilman Pelunis to adjourn into executive session at 9:16 P.M. for consideration of collective bargaining matters and property acquisition.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit

Nay: None

Motion Carried

The meeting reconvened at 10:00 P.M.

Motion by Councilman Stolarsky, seconded by Councilman Scott to adjourn the meeting at 10:00 P.M.

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Vice Mayor

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Clerk of Council