

PLANNING & ZONING COMMISSION
April 17, 2014 – 7:00 P.M.

The Planning Commission met at City Hall on the above date.

Present: Commission Members Bentley, Mazur and Newberry, Mayor Drucker, Councilman Pelunis, Assistant Law Director/Prosecutor Stolarsky, Planning Director Frankland, Secretary McConoughey

Absent: None

Also Present: Councilman Kitora, Councilman Pedicino, Fire Lieutenant Eisenhuth, City Engineer Busch, Project Engineer Lyndon

NOTES OF CAUCUS DISCUSSION:

(Secretary's note: Agenda items not mentioned under Notes of Caucus Discussion are items that were not pertinently discussed during Caucus)

Chairman Pelunis presided.

NEW:

4. 32811 Aurora Road – Liberty Investment Group, LTD – building material variance: Mr. Frankland advised representatives from Liberty Ford will be present to review the application.

6. 5825 Dodsworth Lane – William & Melissa Holler – total amount of accessory pavement variance: Councilman Pelunis noted an email was received this afternoon from an adjacent neighbor who was concerned about the property lines. She was concerned that the survey document provided by the applicant clearly stated it is to be used for lending purposes only and is not to be used for any other purpose.

Mayor Drucker asked if the neighbor had a legitimate concern and questioned what type of survey the neighbor is requesting and whether the application can move forward.

Mr. Newberry said she is likely looking for a boundary survey and although the survey is not intended to be a boundary survey, there are measurements indicated on the survey which was completed by McSteen and Associates who are a reputable firm and would not do a survey without taking measurements.

Mr. Frankland said a property owner is not normally required to have a boundary survey prepared when considering a variance.

Mr. Busch was present and provided his opinion that a boundary survey would not be necessary.

Mayor Drucker said the Commission should acknowledge the resident's email and let her know that her concerns were considered.

COMMITTEE REFERRAL:

11. Consideration of Zoning Code requirements for swimming pool fences: Mr. Frankland had no new information but said if the Commission wishes, he could draft an ordinance. However, he explained the issue brought up at the Council meeting was in regard to the fact that many of the fences could be scaled if someone wanted to enter the pool. Therefore, the ordinance would require review of each application by one or both of the safety forces.

Mr. Stolarsky is not in favor of creating a subjective ordinance that would be difficult to enforce.

After researching the issue, Mr. Mazur believes the purpose of the fence is to stop young children and toddlers from entering the pool area by scaling a fence.

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

CHANGES TO THE AGENDA:

There were no changes to the agenda.

COMMENTS FROM THE AUDIENCE:

Ms. Bin, 5815 Dodsworth Lane, was present and explained she sent an email with concerns regarding her neighbor's proposal for a driveway expansion at 5825 Dodsworth Lane. Although she understands her neighbor's desire to expand his driveway, she is concerned that the application is based on a mortgage survey, which Ms. Bin believes is not an official survey such as a boundary survey. She suggested the proposal be considered with a boundary survey. Ms. Bin explained the two driveways are close in proximity and the expansion will affect her property. She is requesting the property line be properly identified.

APPROVAL OF MINUTES:

Motion by Mr. Newberry, seconded by Mr. Bentley to approve the minutes of the March 11, 2014 meeting.

Roll Call: Aye: Bentley, Drucker, Newberry, Pelunis

Nay: None

Abstain: Mazur

Motion Carried

Motion by Mr. Mazur, seconded by Newberry to approve the minutes of the March 25, 2014 meeting.

Roll Call: Aye: Mazur, Newberry, Pelunis

Nay: None

Abstain: Bentley, Drucker

Motion Carried

PENDING:

- | | | | |
|----|--|----------|---|
| 1. | 6445 SOM Center Road – Fifth Third Bank | 018-2014 | 6 |
| | <ul style="list-style-type: none"> ▪ Structure color variance ▪ Structure material variance ▪ Number of wall signs variance to permit 1 additional
<u>Maximum wall sign square footage variance</u> ▪ Option 1 – 3.5 sq ft variance ▪ Option 2 – 1.1 sq ft variance | | |
| | <ul style="list-style-type: none"> ▪ Site plan for alteration to drive-through ATM | | |

Motion by Mr. Newberry, seconded by Mr. Bentley to table consideration of Item 1.
 Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
 Nay: None
Motion Carried

NEW:

- | | | | |
|----|--|----------|---|
| 2. | 7384 Geauga Street – Alex Bagne | 021-2014 | 1 |
| | <ul style="list-style-type: none"> ▪ Lot consolidation – PP#'s 956-38-085, 956-38-086, 956-38-087 | | |

Motion by Mayor Drucker, seconded by Mr. Mazur to schedule a public hearing on April 29, 2014 for a lot consolidation for 7384 Geauga Street.

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|----|---|----------|---|
| 3. | 32811 Aurora Road – Liberty Investment Group | 022-2014 | 6 |
| | <ul style="list-style-type: none"> ▪ Lot consolidation – PP#'s 954-02-035 thru 954-02-043 <li style="padding-left: 2.5em;">PP#'s 954-02-044 thru 954-02-047 <li style="padding-left: 2.5em;">PP#'s 954-02-063 thru 954-02-064 <li style="padding-left: 2.5em;">PP#'s 954-02-077 thru 954-02-087 | | |

Motion by Mr. Bentley, seconded by Mr. Newberry to schedule a public hearing on April 29, 2014 for a lot consolidation for 32811 Aurora Road.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
 Nay: None
Motion Carried

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|----|--|----------|---|
| 4. | 32811 Aurora Road – Liberty Investment Group | 025-2014 | 6 |
| | <ul style="list-style-type: none"> ▪ Building material variance ▪ Equipment screening variance | | |

Mr. Rick Siegfried, RSA Architects and Mr. Greg Bumbu, Liberty Ford, were present. Mr. Siegfried displayed a rendering of the previously approved plan and the proposed modifications for the south-west elevation of the new facility. He explained that the right section of the building which will face Aurora Road has been re-imaged. Mr. Siegfried indicated where changes have been made by adding a cast-stone product which looks like limestone to break-up the long brick wall on the approved elevation rendering.

Mr. Seigfried presented a display board indicating the various materials that will be applied to the new building. He questioned the need for a building material variance since the product for the proposed change is a cast-stone product and not a fiberglass panel. Mr. Seigfried said the two products do look very similar which was purposely planned for cohesiveness.

In response to Mayor Drucker's question, Mr. Seigfried said there will be no changes made to the previously approved signage and there will be a "Parts" sign which was omitted from the proposed elevation rendering.

Mr. Siegfried displayed an overall site plan of the building, parking and landscaping and a rendering of the rear view of the building. He said the request is to not screen the roof top units from the sides and the rear. Mr. Siegfried indicated the brand wall as seen from the rear of the building which extends approximately 8 feet above the roof. He said the RTU units are silhouetted against that wall and it is their belief that adding further screening will draw more attention to the roof. Mr. Siegfried does not believe the units will be visible from the front of the building.

In response to Councilman Pelunis' question, Mr. Siegfried said once the building is completed, if the units can be seen from Aurora Road, the equipment will be screened.

Mr. Newberry asked if the roof equipment could be painted to match the brand wall to blend in better.

Mr. Siegfried believes this to be an excellent idea and said that can be done.

Mr. Bumbu said the screening that has been reviewed for this area will only draw more attention to it. He said the variance request to not further screen the units is for aesthetics and not because of cost.

Mr. Bentley asked if the "Parts" sign will be centered over the doors.

Mr. Siegfried said the "Parts" sign will be slightly off-centered over the doors.

Mr. Mazur said roof top equipment can be seen in other areas on the rendering as well. He asked what type of screening, if any, will be installed.

Mr. Siegfried said it is still unclear at this time what equipment will be installed on the roof and it will be reviewed at a later date as to the necessity of screening.

Mr. Stolarsky said if the variance is approved, it should only be granted for the main mechanical equipment which is currently being considered and, if necessary, the applicant would have to return to seek additional screening variances for other equipment deemed necessary.

Mr. Newberry asked about the portion of the wall in the rear elevation and whether or not it will be fiberglass or painted.

Mr. Siegfried displayed another rendering indicating views from the back of the building. He indicated the height variations in the roof lines and indicated a vertical plain with no wall beneath it which makes it difficult to install brick. He added that brick is more prone to cracking and it would not be a practical material for this location. Mr. Siegfried said they are proposing the installation of an aluminum panel, rather than brick. He displayed a rendering indicating the view and said it is in an area that will not be seen by many.

Mr. Frankland explained that there are more material variances than the Commission was aware of and this would be another one. He said this would be a red-painted panel which would require a variance. Mr. Frankland said this item was reviewed by the City's architect consultant who is not opposed to the variance since this is not a highly visible area.

Mr. Siegfried displayed another rendering indicating a small, unobtrusive portion of the roof in the rear of the building that will also require an aluminum panel for the same reason as the previous request.

Councilman Pelunis said, therefore, three building material variances are required.

Motion by Mr. Newberry, seconded by Mr. Bentley to approve the following material variances:

1. To permit the use of cast-stone material over the doors on the front elevation as a modification to the previous approval.
2. To permit aluminum framing as proposed for the doors.
3. To permit the installation of an aluminum panel to match the brick in the two areas proposed because of a change in wall height.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis

Nay: None

Motion Carried

Motion by Mayor Drucker, seconded by Mr. Mazur to approve an equipment screening variance for the main mechanical roof units based on views other than from Aurora Road with the contingency that the applicant will return to the Planning Commission for screening variances for any other equipment and contingent upon the mechanical roof units being painted the same color as the brand wall.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis

Nay: None

Motion Carried

5. 30255 Cannon Road – Asiye Erdilek 023-2014 5
 - 44.7 ft. front yard setback variance

Mr. John Reeves, Project Manager, Payne & Payne Custom Builders, was present representing the applicant. He displayed a site plan indicating the proposed location of the new home and a water easement location. Mr. Reeves said the variance is necessary in order to give the applicant a better situated driveway. He does not believe this would look out of place for the area.

Mr. Mazur believes this is an appropriate request based on the parcel.

Mr. Newberry agreed with Mr. Mazur and said this variance will assist in keeping an open frontage.

Motion by Mr. Mazur, seconded by Mr. Bentley to approve a 44.7 ft. front yard setback variance.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

6. 5825 Dodsworth Lane – William & Melissa Holler 024-2014 4
▪ 108 sq ft maximum total accessory pavement variance

Mr. Bill Holler was present. He displayed a site plan and explained that the driveway is steep and the proposal is to extend the driveway to permit a safe turnaround.

Councilman Pelunis said concern was expressed earlier by Mr. Holler's neighbor regarding the report from McSteen & Associates Engineers & Surveyors that was submitted with the application. Because the survey was prepared for mortgage lending and underwriting purposes and is not a boundary survey, the neighbor questioned the actual property lines.

Mr. Stolarsky said there is no requirement in the Code and it has never been the Commission's practice to require a full survey in such residential matters.

Mr. Newberry has worked with McSteen & Associates in the past and said they are well recognized and a competent engineering survey firm. He suggested that Mr. Holler's contractor install markers for ease of determining boundary lines which may help appease the neighbor's concerns.

Motion by Mr. Bentley, seconded by Mr. Newberry to approve a 108 sq ft maximum total accessory pavement variance with the contingency that the applicant will enter into a license agreement with the City regarding the portion of the driveway located within the sanitary sewer easement.

Mr. Busch said the agreement is necessary because the driveway is located over a sanitary sewer easement and this will put the burden of responsibility on the home owner if any portion of the driveway located within the easement should need to be replaced.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

7. 28300 Miles Road, Unit C – Brainard Miles Retail 026-2014 5
Development, LLC
▪ Re-approval of site plan for drive-thru (Subway)

Motion by Mr. Newberry, seconded by Mr. Bentley to refer Item 7 to the Safety and Public Properties Committee.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

8. 28200 Miles Road, Unit G – Brainard Miles Retail Development, LLC 027-2014 5
- Re-approval of site plan for drive-thru (Regal Cleaners)

Motion by Mr. Bentley, seconded by Mr. Mazur to refer Item 8 to the Safety and Public Properties Committee.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

COUNCIL REFERRAL:

9. **PUBLIC HEARING** - Proposed Temporary Event Ordinance 019-2014

A public hearing was scheduled and Councilman Pelunis opened the public hearing and asked for comments.

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

Mr. Mazur said he would like to see a modification made to the frequency of the issuance of a temporary event permit as it pertains to seasonal *Farmer's Markets* since this event can only be held during the summer months. He suggested Mr. Frankland could add a section that would make *Farmer's Markets* an exception to the requirements section of the proposed Temporary Event Permit Ordinance.

Mayor Drucker said it is her understanding that the Temporary Event Permit Ordinance was to be associated with an existing business or organization already in the City. She said a *Farmer's Market* would be a new, temporary business and she feels this would be considered a completely different category. Mayor Drucker said allowing a temporary business to come in and set up in an area for a brief period of time takes away from the City's permanent businesses that are paying taxes. She said temporary businesses have been permitted in the past and some of them have resulted in the City having to clean up what is left behind. The City stopped allowing temporary businesses because they were unsuccessful and caused problems. She believes that these are two completely different issues.

Mr. Frankland agreed with Mayor Drucker and said the Temporary Event Permit Ordinance is to address issues related to promotional events sponsored by local permanent businesses. They have been approved in the past with the enforcement of setbacks and review by the safety forces and with the knowledge of what it is they will be doing and for how many days. Mr. Frankland said the proposed ordinance would solidify this procedure.

Mr. Frankland said in the past, he was asked about permitting a *Farmer's Market* on park property. As park property is considered public property, it is not subject to the zoning ordinances and could potentially be permitted by the authority of Mayor Drucker.

Mr. Frankland said by permitting a *Farmer's Market* on commercial property, one issue that arises is places of assembly in commercial areas. The temporary businesses might bring in business but then use the parking spaces designated for permanent businesses. He said it is a better approach to have these types of markets on public property. Mr. Frankland said most communities which permit *Farmer's Markets* allow them to take place on public property.

Mr. Mazur asked what the logic is behind permitting the event no more than four times per year.

Mr. Frankland said the number could be greater than four if it was decided events should be held more than four times per year. He said there should be a consistency to the granting of the permits and if too much discretion was given, there could be problems with other vendors who were not granted as much time.

Mr. Stolarsky said it is also important to note that within the proposed ordinance under the definition of a temporary event, it is stated that the event is considered to be incidental to the principal use of the property.

Mr. Mazur said the logic makes sense and he agreed with Mayor Drucker as he had not considered the *Farmer's Market* to be an independent business. However, he would ask the Commission to consider extending the frequency of an event from four times per year to possibly six times per year.

Mr. Newberry suggested keeping the frequency to four times per year and if a business comes along and requests an event every other month, then it might be possible to grant the request through a variance procedure or possibly reconsideration will be given to change the Code.

Mayor Drucker said the ordinance was drafted based on past experiences. Previous event requests have generally only been for one day.

Mr. Frankland feels the flexibility is already built into the proposed ordinance as thus far there have been no event requests for longer than one day.

Councilman Pelunis is comfortable with the proposed ordinance and the current recommendation of four times per year for the frequency of an event.

Motion by Mr. Newberry, seconded by Mayor Drucker to forward this item to the Council with the recommendation of approving the Temporary Event Permit Ordinance as presented.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

10. **PUBLIC HEARING** (continued) – Proposed Zoning Code Amendment - Comprehensive Revision of Permitted Uses – the public may comment upon any portion during the continued public hearings 108-2013

The public hearing was continued and Councilman Pelunis asked for comments.

There were no comments from the public, therefore, Councilman Pelunis advised the public hearing will be closed for this evening but will be continued at the next meeting.

Mr. Frankland said over the course of the last three meetings, the entire amendment was reviewed. However, some items were questioned by the Commission and it was determined that additional input would be given to them prior to the final proposed amendment being forwarded to the Council for their review. Therefore, he has produced a list of items that were questioned during the review process for further discussion.

1. Should commercial contractors be explicitly permitted in I-1 and I-2 Industrial Districts? Mr. Frankland said currently in the prohibited use section of the I-2 district, all types of contractors are prohibited. Some contractors should not be allowed because of the types of materials that are brought in such as gravel and slag and the maintenance issues these products can leave behind. These types of uses may not be considered suitable for the type of industrial zoning classifications and districts that are in Solon.

However, Mr. Frankland said, there are other types of contractors, for example, electrical and plumbing contractors that are considered clean businesses. In his opinion, he feels it would make sense to permit these types of contractors in the I-1 and I-2 Industrial District. He suggested the original proposal be modified to include this. Mr. Frankland said this could be subject to a prohibition against the dispatching of heavy commercial vehicles and/or construction equipment and subject to the compliance of the fleet vehicle storage with minimum on-site parking regulations. Therefore, if there is an electrical contractor with a fleet of company vans located on-site, the parking spaces for those vans is deducted from the required parking spaces for the building since it is actually considered as storage space.

Mr. Frankland said the Code can be written whereby contractors of gravel and slag would not be permitted.

Mr. Frankland said he received a letter from a major property owner on Naiman Parkway requesting the City consider this for the I-1 district.

Mr. Newberry believes this is a good idea but is concerned about the language and defining heavy commercial vehicles and/or construction equipment.

Mr. Frankland said it will be a challenge to determine the appropriate language but he is trying to get a consensus from the Commission if they wish to move forward with this change. He said there are definitions of various types of vehicles in the

Ohio Revised Code that will offer the best source for identifying the types of permitted vehicles.

Mayor Drucker asked Mr. Frankland if these issues being presented for consideration are only to receive the Commission's feedback and confirmation to move forward so he can then get more information and details to bring back to the Commission.

Mr. Frankland said he is requesting feedback and confirmation that the Commission wants him to incorporate certain issues into the Code.

It was the consensus of the Commission to have Mr. Frankland move forward with Item 1.

2. Should hotels/motels be explicitly prohibited in C-2, C-3, C-3-A and C-6 Commercial Zoning Districts? Mr. Frankland said this item is more of a technicality. He said currently hotels and motels are permitted in C-4 and C-5 Districts in order to serve Route 422 and the industrial areas adjacent to Enterprise Parkway. Mr. Frankland asked the Commission if they feel hotels and motels should be permitted in other commercial areas; such as, the area of Solon Square Shopping Center.

Mayor Drucker questioned the zoning district of the parcel located across the street from Enterprise Parkway on Aurora Road and Mr. Frankland said it is considered Industrial Zoning.

Mayor Drucker said that parcel has been vacant for a long time and although there are issues with the land, she recalls that there has been interest from some hotel chains to build on it. Therefore, under the current proposal, a hotel would be prohibited in this area. She asked Mr. Frankland how this might be addressed, if necessary, in the future.

Mr. Frankland said the parcel has a stream that runs through it. He explained, assuming there were no issues with the parcel, historically a good proposal for a hotel that meets the City's design standards would be presented to the Planning Commission and the Council for placement on the ballot for rezoning to be determined by the electorate. Mr. Frankland said currently hotels are not permitted in the industrial zoning so it would still need to be re-zoned.

Mr. Mazur said the Marc's Shopping Center is in the C-6 district. He asked Mr. Frankland what he thought about permitting hotels in this area.

Mr. Frankland said at this time, he is recommending hotels not be permitted in the C-6 district. He said the Master Plan is recommending a different zoning for this area than what currently exists. Mr. Frankland said the Master Plan recommends this area become a PUD (Planned Unit Development). If this area was re-zoned to a PUD, a hotel would be permitted.

It was the consensus of the Commission to have Mr. Frankland move forward with Item 2.

3. Should "Places of Worship" be explicitly prohibited in Commercial Zoning Districts? Mr. Frankland said the policy of the City is that "Places of Worship" are not allowed in Commercial Zoning Districts, however, they are allowed in residential areas and approximately 75 percent of the other zoning areas in the City. He explained the reason that they are not allowed in the Commercial Zoning District is because when there is a large place of assembly then parking tends to spread out into the adjacent retail areas and harms the retail properties business. Mr. Frankland said since this has been a policy in the City and the interpretation given by Law Directors over the years, he believes it should be added to the ordinance that they are not permitted in the Commercial Zoning District.

Councilman Pelunis agreed with Mr. Frankland. He said since there are so many other areas in the city where "Places of Worship" are permitted, he feels that from an economic development standpoint, the Commercial District is where tax revenue is generated. It is his belief that the Commercial Zoning District should be reserved for businesses.

It was the consensus of the Commission to have Mr. Frankland move forward with Item 3.

4. Should ambulance companies be permitted in I-2 Industrial Manufacturing Districts? Councilman Pelunis said when Mr. Frankland went through the amendment previously, he questioned the amount of vehicles that might be entering and exiting, the speed of the vehicles and lights and noise from sirens from private ambulance companies.

Mr. Frankland wanted the Commission's feedback regarding this type of service and potential noise in an office area. He said there was some discussion by Commission members when this item was previously discussed, but no definite direction. He said the proposed amendment explicitly prohibits private ambulance companies within industrial areas. Mr. Frankland said private ambulance companies have located in the industrial area without permits in the past and complaints were received so steps were taken to have them removed.

Mr. Newberry believes if a private ambulance company wished to locate to Solon, they would want to have warehouse space to house the ambulances, however he would also have concerns regarding noise. He is not as concerned about speed issues as he believes ambulance drivers are very cautious. He will support this amendment.

Although Councilman Pelunis does not wish to discourage businesses from coming to Solon, he does feel that some have negative, secondary effects as demonstrated by past complaints. Therefore, he will support the recommendation to prohibit ambulance companies in this district.

It was the consensus of the Commission to have Mr. Frankland move forward with Item 4.

5. Should “business services, including duplicating and printing” be returned as an explicitly permitted use in C-1 (Historic Business) Zoning Districts? Mr. Frankland said this is the area west of SOM Center Road, along Bainbridge Road up to the Kruse Drive/Bainbridge Road intersection and portions of Solon Road. He said, currently, business services, including duplicating and printing, are an explicitly permitted use in the C-1 district. Mr. Frankland said the proposed amendment he previously reviewed listed this as a prohibited use. It was pointed out that there is already one duplicating and printing business located within the Historic District which has been there for many years. Mr. Frankland said the reason he removed this type of business in the proposed amendment was because it can be considered a broad business with printing and publishing and there is the possibility of this being a very large business. However, based on the building sizes in the Historic District, this type of business would be limited to a small operation. Therefore, he does not object to having this type of business remain in the Historic Business Zoning District.

Councilman Pelunis believes it should remain as a permitted use and believes there have been no negative reports or complaints regarding the small printing company that currently is located in the Historic District.

Mr. Mazur asked if a tailoring and alteration business would be permitted in the Historic District.

Mr. Frankland said tailoring and alterations would be considered a commercial service which is considered a permitted use.

Mr. Mazur said with regard to laundry and/or dry cleaning businesses, there was discussion about permitting strictly drop-off and pick-up locations but not a drive-thru. The proposed amendment prohibits laundry and dry-cleaning shops and is not clearly defined.

Councilman Pelunis believes the prohibition of this type of service was related to having a dry cleaning plant.

Mr. Frankland said he took a broad approach for permitted uses in this area, however, if the Commission would prefer to see areas where drop-off and pick-up services can be provided, that can be permitted. He explained that the philosophy of the district is small shops like specialty food shops or a small printing shop where you can have cards printed. Mr. Frankland said a dry cleaning business might be a more intense operation, however, he is unfamiliar with their operation.

Mr. Mazur said he could see one of the historic homes being utilized for that purpose and he does not believe it should be excluded from the Historic District.

Mr. Frankland said for clarification purposes, it is his understanding that the Commission would like to have drop-off and pick-up dry cleaning locations approved but not a dry cleaning plant.

Councilman Pelunis has no issue with a drop-off and pick-up type of business, however, there are neighbors bordering the Historic District and he does not believe any of the buildings would have the size necessary to house a dry cleaning operation and he believes chemical fumes would cause issues.

Mr. Frankland said he will re-word Item 5 to include drop-off and pick-up operations but no plant-type operations.

Mr. Mazur asked about the possibility of bed and breakfast accommodations in the Historic District.

Mr. Frankland said by permitting bed and breakfast accommodations, hotels would also be permitted. However, he understands the attractiveness of bed and breakfast accommodations for the Historic District once it becomes the type of walking area that is intended. Mr. Frankland said when the City approved this area as the Historic District, residential became prohibited within the district. Mr. Frankland asked Mr. Stolarsky if a bed and breakfast facility can be permitted in a district where residential use is not permitted.

Mr. Stolarsky said the legality as it pertains to the defensibility or the rational basis and constitutionality is questionable.

Mr. Frankland said this would not be an unreasonable request as he has been approached in the past about it and typically bed and breakfast accommodations can be found in Historic Districts. It is not unusual to turn older homes into these types of accommodations.

Mr. Newberry would like Mr. Frankland to review the possibility of distinguishing between bed and breakfast facilities and residential accommodations.

Councilman Pelunis does not believe bed and breakfast accommodations belong in the Historic District especially since the Master Plan recommended retail businesses and restaurants.

Mr. Frankland said one argument in support of bed and breakfast accommodations would be if they are not permitted in the Historic District, then they will not be permitted anywhere in the City. He feels this area will need additional review and discussion as he is unsure if an argument can be made that every classification of use must be permitted in the City and it would make a more comprehensive ordinance.

6. What parameters should be established to regulate agricultural animals? Direction on the following questions will assist the Planning Department in preparing an ordinance for the Commission's consideration:

Councilman Pelunis said the Commission needs to determine what type of animals should be regulated which means what should be allowed as permitted uses and as non-permitted uses. One of his concerns with regard to animals is an enforcement issue. For example, if certain animals are allowed in some areas how will it be enforced as to how many animals are kept which will make it difficult to create an enforceable ordinance.

- A. Should the keeping of animals be regulated by:
1. Specific type (i.e., chickens, rabbits, ducks, etc.);
 2. Size limits (i.e., 30 inch +- at shoulder);
 3. or, only by lot size, setbacks and maximum number of animals per acre?

Mr. Frankland said this might be considered a difficult question but there are only four basic items to discuss when talking about agricultural animals. He said if the use had no impact on any property then this would not matter. However, agricultural animals can have an impact on property, therefore, it is necessary to create an ordinance that will protect everybody. The items to consider are; noise, odors, housing aesthetics; coops, stables, etc., (it is important to note that accessory buildings are already permitted on properties and housing for animals will mean additional accessory buildings to properties) and the last item is sanitation and safety.

Mr. Frankland said the Commission can determine parameters based on a specific list of animal types, which would be the safest method or it could be determined on the size of animals, which is not considered a safe method, or it could be regulated based on lot size and setbacks and maximum number of animals per acre.

Councilman Pelunis asked if it could also be regulated by the amount of noise an animal makes.

Mr. Frankland said this is where having a list would be important since some agricultural animals are vocal by nature, such as, turkeys. He said some people might find their noise annoying, especially in a non-country setting. Mr. Frankland said roosters are also very noisy and guinea fowl are probably the noisiest of all. He said hens make small noises unless there is a predator in the area which will cause them to give an alarm call that can be very noisy.

Mr. Frankland said any animal in distress will make noise so it must be determined as to how safe and protective the noise issue is. He feels this can be achieved by listing specific types of animals permitted.

Councilman Pelunis feels a list should be created as it will also let residents know what animals are permitted and those which are prohibited in the area. Additionally, where the animals can be kept as well as some general health, safety and welfare guidelines should be created. Councilman Pelunis feels the number of animals permitted per lot size should also be determined based on the situation.

Mr. Frankland said there are some large properties located in the City so it must be determined what the range of animals for larger properties will be. This can be achieved with a combination of specific animal types based on minimum lot sizes and possibly permitting larger animals on larger properties.

- B. Should coops and stables be allowed *in addition to* the currently permitted one (1) storage building, gazebo, or greenhouse per lot, or should they merely be added as another option on the exclusive list?
- C. Should coops and stables be subject to minimum aesthetic standards and workmanlike manner ordinances?

Mr. Frankland recommended that a choice be given to have a storage building, a gazebo, a greenhouse or a chicken coop, which essentially will be a storage building that can be modified to serve as a chicken coop. It is important to note that many people may be looking to free-range and move their birds and some of those structures are designed to be lightweight and made of PVC pipe and, therefore, not as aesthetic or of the structure quality that the City has become accustomed to. However, he believes there are ways to deal with structure issues and it should be added to the list.

Councilman Pelunis asked if keeping the structure a certain amount of feet from property lines could be added to the ordinance. He is concerned since, especially in Ward 2, the properties are not very large.

Mr. Frankland agreed and said there should be a minimum setback established. In addition, any building serving as a chicken coop that has feed in it will also be more attractive to rodents and flies.

Mr. Newberry said this is an argument for restricting the number of animals based on area.

Councilman Pelunis asked if runoff from a chicken coop would be considered an environmental concern.

Mr. Frankland does not believe there are any specific requirements but a concern is that chickens are supposed to be moved to different areas and when kept in one area for a long time, parasites can build up in the soil and harm the birds. However, most yards in a suburban environment will probably not accommodate this type of moving around and waste can accumulate in the soil. Mr. Frankland said this will not normally create any odor except possibly during a very humid, wet day. He said these types of sanitation issues will need to be addressed in the ordinance. However, he does not know of any specific regulations regarding runoff from a chicken coop.

- D. Should there be an absolute minimum lot size for the keeping of animals?

Mr. Frankland definitely feels there should be an absolute minimum lot size for the keeping of animals. He said the smallest lots in the City are on the ABC streets and are about 9,000 sq ft. Upon review of the City of Cleveland ordinance, 11 animals are permitted on an approximately 9,000 sq ft lot and up to 30 animals on an average, approximate ½ acre lot. Mr. Frankland does not believe these numbers would be appropriate for Solon. He said although the City of Cleveland ordinance has much information to learn from, he feels this is too many animals for the lot sizes.

- E. Should there be an absolute minimum set-back from adjacent residences or property lines?

It was the consensus of the Commission that there should be minimum set-backs from adjacent residences or property lines.

- F. Should exceptions be made to allow unrestricted agriculture on large properties (10ac+), subject to minimum setbacks?

Mr. Frankland said, for example, should pigs be allowed on properties 10ac+. He is aware of property owners that own properties larger than 10 acres that are concerned about having this exemption.

- G. Should notoriously loud or dangerous animals be specifically banned (i.e., roosters, gobblers, geese, guinea fowl, ostriches, buffalo, bulls, etc.)?

Mr. Frankland said this can be accomplished with the creation of a list. It was the consensus of the Commission to have a list created. Mr. Frankland said he will put together a list for further review by the Commission.

7. Should fast food restaurants be allowed in areas zoned C-6? (The vicinity of Marcs/Sears and St. Vincent's/Solon Medical Campus)

Mr. Frankland said this district should be expanded to include casual and sit-down restaurants. He explained that fast food restaurants are typically restaurants where orders are placed off of a menu board, have disposable silverware and orders are done through drive-thru service and carry-out, which is a substantial part of the business. Mr. Frankland said a sit-down restaurant is defined in the Code as a restaurant where there are plates and silverware and orders are taken from a menu and are sometimes referred to as white-table restaurants. A casual restaurant is in-between a fast food and a sit-down restaurant, such as, Chipotle or Panera. It does not typically have a drive-thru and may or may not include disposable plates but typically dining would take place inside the restaurant as well as a substantial amount of take-out dining.

He said the C-6 District has existed for 50+ years as a quasi-industrial district and the commercial uses that are on the properties are not actually permitted on the properties. Therefore, he feels the commercial uses that are currently on the properties continue to be considered legal to the district. He said there are no

restaurants currently located in this district but if this is expanded to include fast food restaurants, then ultimately the outparcels will become filled with fast food restaurants and businesses such as banks will disappear.

Councilman Pelunis asked if this is considered a good use for the property from a planning perspective.

Mr. Frankland said viable use of the property while limiting traffic is considered the best use for the property. The Master Plan is recommending this area become a Planned Unit Development so this area could be set up entirely different if it is redeveloped to allow for fast food restaurants and sit-down restaurants. It would be similar to Hudson's "First and Main" and Westlake's "Crocker Park." He would anticipate something on a much smaller scale than was attempted a few years ago. Therefore, the question he poses is should everything currently located in the C-6 district be considered legal (permitted) or should the uses be expanded and become a full C-3 district (Solon Square).

Councilman Pelunis questioned the effect on redevelopment in this area if the zoning is changed.

Mr. Frankland said changing the C-6 to almost the equivalent of C-3 zoning would be a matter of fairness. It would probably not be the best thing for the City as that would be keeping it as it is and having to request variances, which the City controls, in order to add the types of buildings discussed. The proposal is to make it fair for the current property owners by allowing the businesses, acknowledging that they are legitimate permitted retail uses. He said by not adding the restaurant use, it is considered a compromise by saying all of the uses located there are now legal and there is no longer worry about non-conformity and businesses leaving then having to replace them. Mr. Frankland believes the business owners would be pleased that their businesses were no longer considered non-conforming.

Mayor Drucker said with the success of Solon Village, it would be beneficial for other areas to be re-developed and the C-6 area is one of those locations that could have a great impact on the City if re-developed. She does not want to see a fast food restaurant permitted just to occupy an empty parcel as she would prefer to see the entire area re-developed which is the City's goal.

Mr. Frankland said the impetus to re-development in this area is to permit fast food restaurants that have expressed interest in coming to this area. The rationale for not permitting them under the current zoning is because this is a high traffic area, which is always a concern in this area. Mr. Frankland said the trip generations that will be caused by having the fast food restaurants in this area will only make the traffic situation worse. He explained that if a re-development takes place with a PUD, it can have a layout in a manner that will have the least impact possible but still allowing the PUD to proceed. Mr. Frankland said there is a planning and a health and safety rationale by saying that fast food restaurants would not be permitted at this time but the City will make the existing businesses legal.

Mr. Mazur prefers to keep fast food restaurants out of this area at this time.

Mr. Newberry agreed with Mr. Mazur.

Councilman Pelunis feels that if fast food restaurants are permitted, it should be as part of a complete overall plan.

8. Should the Law department be consulted to determine if a supportable legal distinction can be made to permit antique stores (or consignment shops) in commercial zoning districts while prohibiting other business models dealing in the resale of goods such as pawn shops and thrift stores?

Councilman Pelunis said previous review of this area prohibited pawn shops, thrift stores and stores that re-sell greater than a certain percentage of used goods within the commercial area. He said it is now up to the Commission to determine if consignment or antique shops should be permitted although some of those shops masquerade as pawn shops and thrift stores.

Mr. Frankland feels it will be difficult to distinguish between the businesses and if the resale of older goods are permitted but the sale of newer goods is not permitted, he is unsure if a legal distinction can be made specifically for antique shops.

Mr. Stolarsky said research can be conducted regarding antique shops to insert legally defensible language within the ordinance.

Mr. Mazur believes that consignment shops should not be considered the same as a thrift store.

It was the consensus of the Commission that Mr. Stolarsky would review the issue with regard to its legality, if challenged.

9. Should Research and Development (R&D) be added as a permitted use in the I-1 (Warehousing and Assembling) District?

Councilman Pelunis said he believes that R&D should be a permitted use in the I-1 district as he feels this type of business will bring jobs and people to the City and will be great for economic development.

Mr. Frankland said R&D is typically a clean business and there are other ordinances which protect the City from dangerous activities or activities that generate odor. He said it was agreed that R&D be permitted in the O-2 office district where the former Parkview Federal building is located. Therefore, since it is allowed in the office district and the I-2 district, it should probably be permitted in the I-1 district.

Councilman Pelunis said by permitting R&D in the I-1 district, it may be possible to re-purpose some of the current properties for this use.

Mr. Frankland said R&D facilities are often technical in nature which are generally high paying jobs and he believes this is a good economic decision for the City.

It was the consensus of the Commission to permit R&D within the I-1 district.

10. Should the I-2 district "prohibited use" section be reproduced in the I-1 section for the purpose of consistency between zoning districts?

Mr. Frankland said one of the purposes for re-writing this section of the Code is to try to create consistent wording between similar districts. He said in the I-2 District which is the majority of the industrial zoning within the City, there is a specific list of prohibited uses consisting of landscaping businesses, commercial contractors, ambulance companies, automotive repair and commercial storage. This will not be reproduced in the I-1 District and the rationale at that time was that I-1 zoning (Enterprise Parkway) was prepared in cooperation with planners and attorneys that asked the City to work with them on a new zoning classification to create this district. Mr. Frankland feels there is no reason why the prohibited uses in the I-2 District cannot be adapted for use within the I-1 District as he also believes this is important for legal reasons as arguments could be made by an attorney comparing prohibited uses within the districts.

COMMITTEE REFERRAL:

11. Consideration of Zoning Code requirements for swimming pool fences 020-2014

Motion by Councilman Pelunis, seconded by Mayor Drucker to table consideration of Item 11.

Mr. Mazur asked why this item will be tabled. Mayor Drucker said there seemed to be a consensus in Caucus based on the internet research.

Mr. Frankland said there is no way to categorize fences as to whether they are scalable. He believes the only solution is to have the safety forces make the decision on each application as to what type of fence is scalable. Based on variation of different types of fencing, it is difficult to determine what is scalable.

Mr. Frankland said he could prepare a preliminary ordinance for discussion to determine a solution.

Mr. Mazur said as he mentioned at the last meeting, the purpose of the fence is to prevent a toddler from accessing a pool. He believes the question is what height a pool fence should be and that a 5' fence will keep a toddler away from a pool. He said this height has been appropriate in the past and is the height in other communities.

Councilman Pelunis withdrew his motion to table and Mayor Drucker withdrew her second.

Motion by Mr. Mazur, seconded by Mr. Bentley to recommend to the Council to continue requiring 5' pool fence height as stipulated in the Codified Ordinances.

Mr. Frankland said the referral from the Council referred to scalability and the Assistant Law Director has concerns with the arbitrary review of what is scalable and what is not scalable.

Mr. Stolarsky is concerned with departments reviewing each fence application and prefers the Council make the determination.

Mayor Drucker explained when 3.5' and 4' fences were being approved, the Council determined to seek a recommendation for consistency. She said variance applications will always need to be considered on an individual basis and that is why the process exists.

Mr. Frankland agreed. He said any fence variance application for a smaller height fence is because a smaller height fence was in the area that pre-existed the zoning requirements. He asked the zoning inspector how many permits have been issued for fences since 2005, when the 5' fence height requirement was approved, and the answer is well over 100. He said the fences applied for pre-date the ordinance in which the property owner does not want a 5' fence for aesthetic reasons. He said the variance process corrects the problem.

Mayor Drucker said someone will scale a fence if they are determined. In regard to toddlers, she asked if there is a standard height.

Mr. Mazur said drowning is the predominant death of children under five years old. He said his research and the Consumer Safety Products Commission requires 48" height. National Drowning Prevention Alliance and Safety Kid USA recommend 60", which were the most recent. As a matter of safety, he believes the height should be 60".

Mr. Frankland said the research dates back to 2005 and the height requirement was the average of requirements involving 4', 5' and 6' heights. He said requests for 48" high fences are the exception and the majority of requests are for 5'.

Mr. Mazur said the recent 4' application that was approved by City Council was due to topography issues.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

MINOR ALTERATIONS FROM THE PLANNING DEPARTMENT:

1. 30003 Bainbridge Road – Nestle

Mr. Frankland displayed an aerial of the property and indicated the location where Nestle proposes to install the previously approved sidewalk at a 90 degree angle.

The Commission agreed no further review of this item was necessary.

2. 33655 Arthur Road – City of Solon (Municipal Pool)

Mr. Frankland displayed an aerial of the property and explained where the City requests to remove the deteriorating wall sections as indicated by Mr. Frankland to replace it with a 6' decorative metal fence. Mr. Frankland said this will bring the property more into compliance with the Code. He indicated where a fence may also be removed. Mr. Frankland was unsure if the request was approved by the Safety and Public Properties Committee.

Mayor Drucker said the improvement plan for the Arthur Road pool has been reviewed by the Safety and Public Properties Committee and has been through the budget process. She noted, however, the type of fence may need to be reviewed by the Safety and Public Properties Committee. She suggested that both the Committee and the Council see the details of the plan. If the Safety and Public Properties Committee has no objection, the Planning Commission agreed no further review is necessary unless there is some objection by the Committee.

This item will be referred to the Safety and Public Properties Committee for their next meeting.

3. 30700 Carter Street – Majestic Tool

Mr. Frankland displayed an aerial of the property and explained the request to replace an existing 10' x 10' overhead door with a 12' x 14' overhead door and add a concrete ramp. He said there are no conflicts with vehicle access and 24' aisle widths are maintained. The ramp will have a 4' high utility railing on each side.

The Commission agreed no further review of this item was necessary.

4. 34050 Aurora Road – 7-Eleven (BP)

Mr. Frankland displayed an aerial of the property and explained the request to replace some of the gas pumps. The Fire Department will need to approve the removal of the underground tanks and new lines under the canopies. He said there are 8 gasoline dispensers and one diesel dispenser. The request is to remove the diesel dispenser and replace it with dual gasoline/diesel pumps with the same equipment.

Mr. Frankland said the property owner was informed that the City supports the Master Plan for updates. He said, however, the request is so minor that there will be no required Master Plan updates.

The Commission agreed no further review of this item was necessary.

5. 32001 Cannon Road – Church of the Resurrection

Mr. Frankland displayed an aerial of the property and explained the request to move the previously approved lighting that shines on the fountain to the front with no material impact on the project.

The Commission agreed no further review of this item was necessary.

6. 31250 Aurora Road – American Bass

Mr. Frankland displayed an aerial of the property and explained the request for approval to use OSB board to mimic white blinds on four windows. The board is mounted on the windows and is not something that would normally be approved, however, the building next to it obscures the windows.

Councilman Pelunis asked if they are removable. Mr. Frankland said yes.

As there have been no complaints, the Commission agreed no further review of this item was necessary.

7. 6137 Kruse Drive – Jaguar/Land Rover

Mr. Frankland displayed an aerial of the property and indicated where two man doors were to be located. As built, there is one man door on the front of the building, which blends in with the building.

The Commission agreed no further review of this item was necessary.

8. 6865 Cochran Road – Kennametal

Mr. Frankland displayed an aerial of the property and explained the request to install a 550 gallon sulfuric acid tank on the exterior of the building for manufacturing processes. The tanks will be located in an existing fenced in area adjacent to the parking lot with an overflow area. The Fire Department had no objections.

The Commission agreed no further review of this item was necessary.

9. 30601 Carter Street – Cosmax

Mr. Frankland displayed an aerial of the property and explained the request to add dust collector equipment and four air conditioning units that will not be visible from the road or other property.

The Commission agreed no further review of this item was necessary.

10. 34310 Aurora road - Giant Eagle

Mr. Frankland displayed an aerial of the property and explained the Giant Eagle store was granted a variance for outdoor storage based on the Planning Commission's approval of seasonal displays. He said he met with management to determine a process. However, the new seasonal display has been assembled without the Commission's approval. Mr. Frankland said Giant Eagle will need direction on how the process will continue. He provided a drawing of the new display. Mr. Frankland asked if there are any objections to the display layout. He noted there should not be bulk storage, however, the firewood is still on display. Mr. Frankland said the seasonal displays were approved to add to the aesthetic character of the building. He noted two weeks ago, the zoning inspector prevented bags of mulch from being displayed.

Mr. Mazur said it looks like a selling area rather than a display. Mr. Bentley believes it is bulk storage.

Mr. Frankland said it was specifically stated that bulk storage, including firewood, would not be there. He said rather than enforcing removal this season, the City could convey that this will not be approved in the future and future plans must be submitted and approved per the terms agreed to as part of the variance prior to installation.

Mr. Newberry believes the firewood and a table are not part of an acceptable display.

Mr. Frankland added that other plazas in the City may question why Market District can have outdoor storage and they cannot.

Mr. Newberry said Market District needs to be notified to adhere to the site plan approval conditions.

The Commission agreed no further review of this item was necessary.

COMMENTS FROM THE COMMISSION:

Mayor Drucker announced on Saturday, April 19th, the Solon Italian Club will host their Annual Easter Egg Hunt at 10:00 A.M. at the Solon High School football field.

Mayor Drucker wished everyone Happy Passover and Happy Easter.

In turn, members of the Commission and the Administration wished everyone Happy Passover and Happy Easter.

COMMENTS FROM THE AUDIENCE:

Councilman Kotora explained there was some confusion regarding the driveway extension on Dodsworth Lane. He said there is conflicting information regarding a vegetative area in regard to the survey.

Ms. Bin said the survey is only for lending and underwriting purposes and any other use of the survey is unauthorized and the user assumes all risks. She said the company clearly states this map is not for boundary survey purpose.

Councilman Pelunis asked the distance between Ms. Bin's property and the applicant's property.

Ms. Bin displayed photos of both properties indicating vegetation in between the two driveways. She questioned who owns the vegetation between the driveways and is concerned that construction in the area may impact the vegetation. She is requesting a boundary survey to determine the property line and who owns the vegetation.

Mr. Stolarsky said the City does not order surveys or make determinations of property lines. He said she is free to order a survey at her cost or request the applicant to split the cost.

Mr. Newberry said the contractor will determine and flag the property.

Ms. Bin indicated the contractor works for the applicant.

Mr. Newberry said if Ms. Bin disputes the contractor's results, then Ms. Bin will need to pay for a survey. He said this is not a dispute the City can adjudicate.

Councilman Pelunis referred to the drawing and asked how the addition will negatively affect her.

Mr. Wang believes the drawing is not accurate based on the topography and he is asking them to provide a more formal determination of property lines.

Ms. Bin said an independent surveyor is the better choice.

Councilman Pelunis said there is an expansion of 5' at the back of the driveway and it appears to be a straight line, therefore, he does not believe it will affect the vegetation. He said the Commission cannot order an applicant to obtain a survey and based on the drawing provided, the addition is a significant amount of footage from the property line.

Mr. Wang said a drawing provided to him does not show the same details of the survey submitted by the applicant.

Councilman Pelunis again said the City will not order a survey and Ms. Bin may order a survey at her expense. He suggested she speak to her neighbor or her own legal counsel for permission to survey the neighboring property. He suggested she ask her neighbor to participate in the cost of the survey.

Ms. Bin asked the timeline for construction. Councilman Pelunis said the application will be heard at the April 21st Council meeting in which Ms. Bin may address the full City Council.

In reply to Ms. Bin's question regarding when construction may begin, Councilman Pelunis said it is unlikely construction will begin the day after the Council meeting as the applicant will need to apply for permits. He suggested she find out what the construction schedule will be and noted the variance is applicable for one year after approval.

Motion by Mr. Newberry, seconded by Mr. Bentley to adjourn the meeting at 10:00 P.M.

Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Pelunis
Nay: None

Motion Carried

Chairman

Secretary