

**PLANNING & ZONING COMMISSION**  
**February 22, 2011 – 7:15 P.M.**

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

Present: Commission Members Bentley, Mazur, Newberry, Councilwoman Richmond, Mayor Drucker, Law Director Lobe, Planning Director Frankland, Secretary McConoughey

Absent: None

Also Present: Fire Lieutenant Benedict, Public Works Commissioner Stanek

The following items remained on the Inactive Agenda:

- A. Thornbury Subdivision – Forest City Land Group – Dedication Plat for phases 7 and 8
- B. 34050 Aurora Road – BP America – Number of signs variance (to permit 16)
- C. Hawthorne Estates Subdivision – TransCon Builders

**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 Mazur presided.

**PENDING:**

- 1. 33325 Bainbridge Road – Richard Alaimo/Tom Steinbauer/Frank Bonsignore – variances, site plan approval and cross access agreement: A request to table was received from the applicant.

**NEW:**

- 2. PP# 952-04-027 - Briar Lake Homeowners Association – side yard setback variances and site plan for utility building: Mr. Frankland said an additional 50' side yard setback variance on the east side of Lot A has been identified. Therefore, there are a total of 3 variances and a site plan to review.
- 3. 38700 Aurora Road – PP#'s 955-37-111 and 955-37-112 – Jim and Pam Shikner: It is necessary to schedule a public hearing for re-approval of a lot consolidation.
- 4. 5916 Glasgow Lane – PP#'s 955-03-085 and 955-03-086 – Ray and Janet Tartabini: It is necessary to schedule a public hearing for a lot consolidation.

**COUNCIL REFERRAL:**

5. Proposed rental occupancy registration program: A public hearing is scheduled to review a revised rental occupancy ordinance.

Mr. Frankland said he has one minor alteration to present.

The Commission discussed the possibility of cancelling the meeting scheduled for March 29<sup>th</sup> since there have been no new applications received.

The caucus ended at 7:25 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:**

There were no comments from the audience.

**PENDING:**

- |    |  |          |
|----|--|----------|
| 1. | 33325 Bainbridge Road – Richard Alaimo/Tom Steinbauer/<br>Frank Bonsignore   | 005-2011 |
|    | <ul style="list-style-type: none"><li>▪ 11 space total parking space variance</li><li>▪ 20' front yard setback variance</li><li>▪ Structure location variance (bocce ball court)</li><li>▪ Fence location variance</li><li>▪ Cross access agreement</li><li>▪ Site plan for outdoor patio, bocce ball court, building alterations, fence and lighting fixtures</li></ul> |          |

A request was received from the applicant to table this item.

Motion by Mr. Mazur, seconded by Mayor Drucker to table consideration of Item 1.

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

Nay: None

Motion Carried

**NEW:**

- |    |  |          |
|----|--|----------|
| 2. | PP# 952-04-027 – Briar Lake Homeowners Association   | 006-2011 |
|    | <ul style="list-style-type: none"><li>▪ 50' side yard setback variance (west side of Lot A)</li><li>▪ 22' side yard setback variance (east side of Lot A)</li><li>▪ Site plan for utility building</li></ul> |          |

Mr. Mazur said during the Caucus, Mr. Frankland identified a 50' side yard setback variance on the east side of Lot A.

Mr. Frankland displayed a site plan of the property and indicated the lake area. He said the Ohio Department of Natural Resources required the dam be reconstructed and a spillway to be installed. Mr. Frankland indicated the location, which is at the extreme southeast end of the lake, where a 10' x 20' building will be constructed to house the mechanical equipment necessary to operate the gate for the spillway. He said a landscape plan was submitted and approved by the adjacent property owners.

In response to Mr. Mazur's question, Mr. Frankland indicated the location of the landscape screening. Mr. Stanek said the landscape plan is considered part of the entire reconstruction contract.

Mr. Frankland reviewed the required variances. He said if the parcels are consolidated in the future, two of the variances will be eliminated.

Mr. Adam Fair, 5846 Briarhill Drive, and Mr. Tim Singer, 5880 Briarhill Drive, were present and are members of the dam committee. In response to Mr. Mazur's question, Mr. Fair said they are not opposed to consolidating the parcels if the Commission deems it necessary.

Mr. Mazur said although the variances would be unnecessary if the lots are consolidated, the Commission will consider the variances at this time to allow the construction to proceed expeditiously. He believes it would be beneficial and easier to manage the property if the parcels were consolidated in the future.

Mr. Mazur said he understands that the generator will only be operated as-needed and the decibel level will not be an issue.

Mr. Stanek confirmed that was correct.

Mr. Bentley said he spoke with an adjacent neighbor to the project who told him about an additional section of the project called a bladder.

Mr. Singer said a pneumatic bladder is included in the project and is part of the function of the spillway gate.

Mr. Bentley said he explained the location of the new structure to the neighbor who indicated no objection.

Motion by Mayor Drucker, seconded by Councilwoman Richmond to approve a 50' side yard setback variance for the west side of Lot A.

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

Nay: None

Motion Carried

Motion by Councilwoman Richmond, seconded by Mr. Newberry to approve a 22' side yard setback variance for the east side of Lot A.

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

Motion by Mr. Mazur, seconded by Mr. Bentley to approve a 50' side yard setback variance for the east side of Lot A.

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

Motion by Mr. Newberry, seconded by Mr. Bentley to approve the site plan for the utility building.

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

3. 38700 Aurora Road – PP#'s 955-37-111 and 955-37-112 007-2011  
Jim and Pam Shikner  
▪ Re-approval of lot consolidation

Motion by Mr. Mazur, seconded by Councilwoman Richmond to schedule a public hearing for the re-approval of a lot consolidation on March 15, 2011.

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

4. 5916 Glasgow Lane – PP#'s 955-03-085 and 955-03-086 008-2011  
Ray and Janet Tartabini  
▪ Lot consolidation

Motion by Mr. Newberry, seconded by Mr. Bentley to schedule a public hearing for a lot consolidation on March 15, 2011.

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

COUNCIL REFERRAL:

5. Proposed Rental Occupancy Registration Program (revised rental occupancy ordinance)

A public hearing was scheduled.

Mr. Mazur opened the public hearing and asked for comments.

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

Mayor Drucker clarified comments made regarding Councilman Pelunis' memo on this subject. She said Councilman Pelunis supports both registration and inspections, but he believes there are different issues between apartments and single-family homes. Therefore, if registration and inspections are approved, items such as; shared hallways, shared laundry rooms, etc. need to be taken into consideration.

Mr. Mazur recommended registration occur every three years rather than every five years.

Mayor Drucker does not object to three years and believes every five years is too long between registrations. She believes it should be done on a regular basis due to the turnover in rentals properties.

Councilwoman Richmond said she will not support the legislation in its revised format. Although she has actively supported the need for rental legislation in the City of Solon, she does not believe anything will be accomplished without the inspections. She has seen the degradation in the community and in the property values for those who unfortunately live next door to an owner and/or landlord who does not upkeep their rental property.

Councilwoman Richmond said she has been criticized for supporting a racist policy, however, she does not believe this is a racist policy. She said the prior legislation which included inspections does not target minority groups. It targets people who do not take care of their property who are impacting the safety of residents or impacting property values. She feels now is the time to act because if it is allowed to continue, the City will become a less desirable location. Councilwoman Richmond believes it is necessary to protect residents who have made their homes their largest investment. She said it will be more difficult to rectify the problem once the community starts to decline. Councilwoman Richmond believes the legislation without the inspection will not solve the problem and she will not support it.

Mr. Newberry said although he appreciates Councilwoman Richmond's opinion, he believes it is an error to imply that this legislation does nothing. Although it does not encompass everything that might be desired for a rental property registration and inspection ordinance, he feels the legislation will get the process started.

Mr. Newberry said although the rental occupancy legislation has been under consideration for approximately one year, no progress has been made. The legislation was reviewed by the Planning Commission and referred back to the Council, however, no decision has been made and he feels there was just too much information in the original legislation. He believes small sections at a time should be organized and implemented with the first step being the registration to determine who is renting which property and the inspection process should be added gradually. He does not agree that the revised legislation is useless.

Mayor Drucker said the Planning Commission forwarded the entire legislation to the Council with a few suggestions but no solid recommendations. She, therefore, agreed with Mr. Newberry that there was too much information for all parties to consider. Mayor Drucker said she supports the need for inspections, however, she sensed the Council's hesitancy and feels the current legislation will at least begin the process. She said this is a controversial issue and will take time to implement. However, the legislation in its current format will initiate the process, which is better than no process at all. She will support the revised registration legislation

and if the Council determines that inspections should be added in the future, she will support that as well.

Mr. Bentley said he believes most would agree that homes are a person's largest investment and it is incumbent upon the Planning Commission to help protect that investment by getting the process started. He said the initial registration program might not be the perfect solution, but it is a start. Mr. Bentley believes the inspection process is an important function of the legislation but not viable at this time. He believes it is necessary to determine initial legislation which can be amended in the future.

Councilwoman Richmond said she has been a long time proponent of the rental legislation and has been adamant in her belief that it is time to have a program in place. She resented any implication that her statements are being made for political advantage. She believes the City needs this legislation to protect residents but would not approve legislation protecting landlords. Councilwoman Richmond said she feels the time to initiate inspections is now and will not support the legislation in its current form.

Mr. Mazur asked Councilwoman Richmond to reconsider her position on the current legislation. He believes this is a positive first step toward achieving what she believes is appropriate legislation. Mr. Mazur said he hopes to forward this legislation to the Council with a majority vote from the Planning Commission where it is unanimously agreed that the process has to have a starting point.

Mr. Mazur believed when the initial legislation was originally prepared, it would start small and expand as necessary. He recalled a comment made during a Council meeting indicating there are enough existing ordinances to ensure rental properties are maintained. He believes having a list of all rental properties on file, will provide the Building Department with a better opportunity to determine if there are sufficient ordinances in place to ensure rental properties in the City are maintained. Mr. Mazur said it would be unfortunate to have spent all this time considering this issue without approving some form of legislation. At this time, he is not a proponent of the inspection process but would be willing to reconsider if the registration process is insufficient to achieve compliance with the ordinance. Mr. Mazur said the program could be reviewed in 12 to 18 months but he believes this legislation is an appropriate first step.

Mayor Drucker said she was under the impression that Council would consider more of a systematic approach to exterior maintenance and zoning code violations and issues would be reviewed on a regular basis rather than waiting to receive complaints. Therefore, she believes Council would be supportive of a stronger exterior maintenance program in conjunction with the registration program as a starting point.

Mr. Mazur will recommend registration occur every three years for rental properties and referred to the issue brought up by Councilman Pelunis regarding the appeal process.

Mr. Frankland said the appeal process refers to Section 1404.06 in the Building Code in which an appeal can be made for any administrative decision. This appeal process is also part of the Zoning Code and should be found in any code. He said the reason for this appeal process is to avoid going to court unless it becomes absolutely necessary. Mr. Frankland said there is always a chance for human error in decisions and people should be able to plead their case before the Planning Commission, acting as the Board of Building Code Appeals. He said this is standard ordinance language. Mr. Frankland said the penalty is the same as the Building Code and Zoning Code, which is a misdemeanor of the second degree.

Mr. Lobe agreed with Mr. Frankland and said, in addition, there might be some occasion to have an informal hearing prior to the formal hearing where details can be determined and sometimes rectified.

Mr. Mazur said the proposed registration period for this year would be from September 1<sup>st</sup> to December 31<sup>st</sup> and become effective January, 2012 for a period of 3 years.

Mayor Drucker said she will support the legislation in its current format in order to begin the process, however, she believes the registration process should occur on a yearly basis.

Mr. Mazur questioned if the Commission members felt there has been adequate review of this item or if they preferred to table it for further consideration.

Mayor Drucker said this might be the first time residents are aware of the changes made to the proposed legislation and feels it would be appropriate to table the item to give residents an opportunity to express their opinions at the next meeting.

Motion by Mr. Mazur, seconded by Mayor Drucker to table consideration of Item 5.  
Roll Call: Aye: Bentley, Drucker, Mazur, Newberry, Richmond  
Nay: None

Motion Carried

MINOR ALTERATIONS FROM THE PLANNING DEPARTMENT:

1. Nestle – 30500 Bainbridge Road

Mr. Frankland displayed a site plan and indicated the location where the applicant would like to install stairs in the rear of the building to access the roof. He said it would not be visible from the road or to the eastern property. Mr. Frankland displayed a rendering of how the stairs will look. He said there are no variances associated with the request.

Mr. Mazur asked how access to the stairs would be prohibited.

Mr. Frankland said if this is an issue, he can inform the applicant that the Planning Commission requested limited access to the stairs. If the applicant feels this is an issue, Mr. Frankland said he will return at the next meeting for further discussion.

Mr. Mazur believes it is necessary to prevent youngsters and unauthorized personnel from gaining access to the roof and feels there should be something to prevent access.

Mr. Frankland will speak to the applicant and believes there will be some type of locking mechanism included.

Mr. Mazur requested feedback from the Commission regarding cancelling the March 29th meeting.

Mr. Newberry expressed concern about cancelling the March 29<sup>th</sup> meeting due to unfinished business that might occur at the March 15<sup>th</sup> meeting or residents who might miss an opportunity to receive a commitment regarding a project in early April.

Mr. Mazur believes by publishing the cancellation of the meeting so far in advance, it will give potential applicants the opportunity to submit for the meeting on March 15<sup>th</sup> or the first meeting in April.

Motion by Mr. Mazur, seconded by Mr. Bentley to cancel the March 29<sup>th</sup> Planning Commission Meeting.

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

Motion Carried

Mr. Mazur requested that the applicants for the Swirl wine bar, Item 1, be informed of the cancellation. He said an email was received from them indicating they will be prepared to address the Commission for the March 15<sup>th</sup> meeting.

#### COMMENTS FROM THE COMMISSION:

Councilwoman Richmond reminded everyone that there will be an exhibition opening at the Solon Center for the Arts on Friday, February 25<sup>th</sup> from 6:00 P.M. to 7:30 P.M., entitled, "Documenting Light" by photographer, Alice Merkel.

Mr. Newberry apologized to Councilwoman Richmond for any comments which may have offended her. He said the rental occupancy issue is controversial and raises strong emotions for all concerned. He anticipates additional discussion at the next meeting and at the Council meeting before the outcome of this item is determined. Mr. Newberry believes it is important for this program to get started in some manner.

Mr. Newberry wished all of the Solon High School athletes competing in State events the best of luck.

#### COMMENTS FROM THE AUDIENCE:

Mrs. Marilyn Matia, 33715 Redbridge Lane, was present and spoke regarding Item 5. She believes Solon is lacking in some policies and stressed the urgency for the passage of legislation that would initiate the registration of rental properties.



Mrs. Matia said she was formerly in the real estate business and said a priority should be a point of sale inspection for the transfer of house titles. She believes there should be an inspection every two years for the exterior of all properties to confirm set standards are being adhered to and to ensure there are no safety violations. In addition, she is aware of other communities that have end-of-lease inspections and feels this would be a benefit for rental units.

Mrs. Matia discussed rental standards and the importance of safety measures. Mrs. Matia said it is important to maintain the health and safety of anyone living in a rental unit and it is important to have specific categories for the inspection process.

Mr. Adam Waldbaum, 34800 Bridle Trail Lane, spoke regarding Item 5. He does not believe the proposed rental legislation is a racial issue and feels inspections for residential units should be conducted every year. Mr. Waldbaum said a rental unit should be treated as a business and any other business is required to adhere to regulations. He believes most landlords would be more than willing to work with the City. Mr. Waldbaum said it is important to come to terms with a decision on this issue and believes now is the time to start some type of program. He recommended determining what other local communities have successfully instituted.

Mr. Chris Bryant, 33860 Country View Lane, spoke regarding Item 5. He believes some type of program needs to be started and feels it is very important for additions to be made to the program as it is deemed necessary. However, he believes the program should only be initiated if it is actively administered and reviewed.

Mr. Bryant believes the most important aspects of the ordinance should be upkeep and maintenance. He said the registration process can also be used to assist the schools in identifying students who are Solon residents. He said currently a utility bill and I.D. will suffice when registering a student.

Mr. Bryant agreed with Mayor Drucker and feels registration should occur every year and possibly each time a change occurs in the renting of the unit. He believes landlords are choosing to purchase rentals in Solon because of the excellent school system.

Mr. Bryant does not believe this should be considered a "hot button" topic but should be considered as trying to maintain property values and ensure that the funds that residents are paying in taxes are supporting the community.

Mr. Mazur said the proposed legislation does require the landlord to notify and re-register new occupants.

Mr. Bryant asked how the program would be administered and who would be responsible for following up to ensure the landlord does notify the City. He asked what the landlord's incentive would be to make the notification.

Mr. Newberry said the landlord would be charged with a second degree misdemeanor if they do not make the proper notification.

Mr. Lobe said there are various means to determine if a landlord is following procedures. For example, if a person is being evicted, the courts are made aware of this and the City prosecutor would be able to determine if a landlord is properly registered.

Mr. Bryant said he is unclear as to who will be following up on landlords registering their rental units and those renting them.

Councilwoman Richmond said there is no way to check on the program unless there is an inspection process or there will not be any way to verify who is actually living at that address.

Mr. Bryant believes because there is currently no point-of-sale inspection, more landlords will purchase property for rental purposes since there is no registration program or responsibility on their part.

Councilwoman Richmond suggested Mr. Bryant review the original version of the rental legislation and the revised version posted on the City website and compare them.

Mr. Mazur said comments should be limited to what is before the Commission at this time, which is a rental registration program. The Commission has already reviewed and discussed the inspection program and it was determined that program would not be pursued at this time.

Mr. Bryant continued to ask how the City would enforce the registration program.

Mr. Mazur said the Commission is not debating the issue at this time but only interested in commentary. He believes Mr. Bryant has asked legitimate questions and Mr. Frankland will respond to them at the next meeting.

Mr. Mazur said these concerns and comments should have been made during the public hearing for this topic. He said Mr. Bryant can comment at the beginning of the next meeting during comments from the audience.

Mr. Newberry said there will be a public hearing scheduled when this item is reviewed by the Council where further comments can be made. He said reviewing the two proposed ordinances posted on the website might give Mr. Bryant the answers to many of the items he was questioning. Mr. Newberry said the ordinances are proposed and have not yet been perfected.

Mr. Mazur said tonight's review is for registration purposes, not inspection. That topic has already been discussed and it was not approved. Mr. Mazur explained the sequence of events as they related to the proposed rental legislation for Mr. Bryant's benefit.

Mr. Frankland said in 2009, the Council requested legislation be prepared to include full interior and exterior inspections for rental units. This was prepared based on national code requirements. The Council felt it was too intrusive and did not approve the legislation. Mr. Frankland said he was then directed to prepare legislation requiring only registration of rental units and this is what is before the Commission at this time. However, both proposed versions are posted on the City website for review.

Mr. Frankland feels it would be difficult to determine if a landlord is registering tenants appropriately.

Mr. Bryant believes because the McDonald's plan did not get approved and Issue 129 was defeated, developers might not be as quick to think they can locate to Solon without any restrictions. He believes without a required point-of-sale inspection, many of the vacant homes in the City may become rental properties for those wishing to take advantage of the number one school district in Cuyahoga County.

Mayor Drucker said there is never a perfect system, however, by cross referencing the school's information and tax information from the county, the hope is to create a system that will work efficiently to help the schools determine Solon residents.

Mr. Mazur said the first step in the process is to get the registration program started.

Mr. Mazur said the Master Plan Commission will be meeting for the second time this week on Thursday, February 24<sup>th</sup> at 6:00 P.M. at City Hall.

Mr. Mazur commended the Planning Department and the Economic Development Department for the 12-page 2010 year-end report which is very interesting. It contains interesting statistics and documentation of the City's accomplishments in 2010. He requested this information be posted to the City website.

Motion by Mr. Mazur, seconded by Mr. Newberry to adjourn the meeting at 8:45 P.M.

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

Motion Carried

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Chairman

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Secretary