

PLANNING & ZONING COMMISSION
April 26, 2011 – 7:00 P.M.

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

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

Absent: Councilwoman Richmond

Also Present: Fire Lieutenant Benedict, City Engineer Busch (meeting only), Chief Building Official Boshane

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
- D. Requests from Wolf Family Trust and Larry Coven, for consideration of allowing medical and dental occupancy in the I-2 Zoning District

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. 31999, 32111 & 32333 Aurora Road – PP#'s 953-36-003, 953-37-002, 953-37-005 – Coto, LLC & DBG Group – lot split and consolidation and various setback variances: A public hearing is scheduled.

NEW:

- 2. 34310 Aurora Road – Huntington Bank/Giant Eagle – sign location variance and number of wall signs variance: Mr. Mazur said although a letter from Giant Eagle has been received indicating their authorization for Huntington Bank to proceed, a letter from the landlord is also necessary.

Mr. Newberry said there is no indication that the property owner is aware of the variance request.

- 3. 6554 Solon Boulevard – PP#'s 954-05-210 and 954-05-211 – Angela Beadnell – lot consolidation: A public hearing is scheduled. Mr. Frankland said he will present the application.

4. 6585 Liberty Road – Alex and Julie Spirikaitis – front yard setback variance: Mr. Mazur said the Engineering Department has not received a permit from the Army Corp of Engineers. Therefore, it is recommended the application be tabled.

Mr. Mazur visited the site and met with the adjacent neighbor who has expressed concerns. He will recommend the garage be built on the opposite side which will relocate it away from the neighbor's family room and will also eliminate a substantial amount of driveway pavement. In addition, the opposite neighbor's driveway and garage are located on the same side which will assist with creating less disruption.

5. 6692 SOM Center Road – PP#'s 954-08-133 and 954-08-134 – Linda Johnson – lot consolidation: A public hearing is scheduled. Mr. Frankland will present the application.

Mr. Frankland said he has three minor alterations to present and briefly described them.

The caucus ended at 7:13 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.

APPROVAL OF MINUTES:

Motion by Mr. Newberry, seconded by Mr. Bentley to approve the minutes of the April 12, 2011 meeting as presented.

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

Nay: None

Motion Carried

PENDING:

1. 31999, 32111 & 32333 Aurora Road – PP#'s 953-36-003, 953-37-002 and 953-37-005 – Coto, LLC & DBG Group 016-2011
 - Lot split & consolidation
 - 5' side yard parking lot setback variance (east side lot line) – Parcel A
 - 5' side yard parking lot setback variance (west side lot line) – Parcel B
 - 5' side yard parking lot and street access drive setback variance (east side lot line) – Parcel B
 - 5' side yard parking lot and street access drive setback variance (west side lot line) – Parcel C

Mr. Victor Cohn, Member/Manager of Coto LLC and Manager, DBG Group, was present.

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.

Mr. Frankland displayed an aerial photograph indicating the current property lines of the three parcels. He said there are currently no rational boundary lines and the lines cross the building and the parking lot. Mr. Frankland displayed a site plan indicating the proposed new property lines for each building. He said three lots will be created, totaling 8.15 acres and due to parking lot setbacks, the listed variances are required.

Mr. Newberry recalled that when this project was first developed, the Ohio Building Code did not address buildings crossing parcel lines and the variances were allowed. However, the Code has since changed and if the applicant wishes to modify the buildings, they are required to build a fire separation along the parcel line to prevent fires from spreading from one building to another. He believes this is the reason for the consolidation/split at this time.

Motion by Mr. Newberry, seconded by Mayor Drucker to approve the lot split and consolidation for PP#'s 953-36-003, 953-37-002 and 953-37-005.

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

Motion Carried

Mr. Mazur said the next four variances are necessary for the parking lots since the lots are split.

Motion by Mr. Mazur, seconded by Mayor Drucker to approve a 5' side yard parking lot setback variance for the east side lot line of Parcel A.

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

Motion Carried

Motion by Mayor Drucker, seconded by Mr. Newberry to approve a 5' side yard parking lot setback variance for the west side lot line of Parcel B.

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

Motion Carried

Motion by Mr. Newberry, seconded by Mr. Bentley to approve a 5' side yard parking lot and street access drive setback variance for the east side lot line of Parcel B.

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

Motion Carried

Motion by Mr. Bentley, seconded by Mr. Mazur to approve the 5' side yard parking lot and street access drive setback variance for the west side lot line for Parcel C contingent upon receipt of a cross access agreement.

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

Motion Carried

Mr. Mazur confirmed with Mr. Frankland that the City is in receipt of a cross access agreement for the properties. Mr. Cohn acknowledged he is aware of the agreement.

NEW:

2. 34310 Aurora Road – Huntington Bank/Giant Eagle 022-2011
- Sign location variance
 - Number of wall signs variance

Mr. David Detar, Sign Erectors, was present. He explained he is not the applicant, however, he is a representative for the applicant. Mr. Detar said, if necessary, he will get the additional letter signed by the landlord.

Mr. Mazur asked Mr. Lobe if the letter signed by Giant Eagle was sufficient.

Mr. Detar displayed a rendering of the proposed sign as it would appear on the Giant Eagle building. He indicated the proposed location of the sign.

Mayor Drucker said she was alarmed when the application was received to locate a Huntington Bank inside of the Giant Eagle and found it discerning because of the proposed Giant Eagle project. She does not understand how this will work into the future plans of re-developing the shopping center.

Mr. Mazur objected to comments made in the letter from Sign Erectors, Inc., stating the City's current Code does not address signage issues relative to locating a store within another business. Mr. Mazur clarified the City's code stipulates that the sign must be in the portion of the building where the business is located; and in this case, it is not.

Mr. Mazur said although the Council requires a complete package to review, in an effort to avoid delaying the project, he recommended the Commission consider the application with the contingency that a letter is obtained from Solar Partners Ltd., authorizing the sign. However, if the letter is not received before the May 2nd Council meeting, this item will be tabled.

Mr. Lobe would prefer an original letter authorizing the signage, signed by the landlord and the tenant in a form satisfactory to the Planning Director, prior to the next meeting. He would prefer the signatures from both on one document, however, two separate documents are acceptable.

Motion by Mr. Mazur, seconded by Mr. Newberry to approve a sign location variance for 34310 Aurora Road, for the Huntington Bank, contingent upon receipt of letters from the tenant and the landlord approving the sign variance.

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

Motion Carried

Motion by Mr. Bentley, seconded by Mr. Newberry to approve the number of walls signs to permit 2 additional signs (one is on the wall of the building and one is for the night deposit box).

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

3. 6554 Solon Boulevard – PP#'s 954-05-210 and 954-05-211 - 023-2011
Angela Beadnell
- Lot consolidation

Mr. Frankland displayed an aerial view of the property and explained combining the two lots will prevent the property line from running through the center of the house and will place the storage building on the property line. This will create one .34 acre lot.

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.

Motion by Mayor Drucker, seconded by Mr. Newberry to approve the lot consolidation for PP#'s 954-05-210 and 954-05-211, 6554 Solon Boulevard.

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

Motion Carried

4. 6585 Liberty Road – Alex and Julie Spirikaitis 024-2011
- Front yard setback variance

The applicants were not present and Mr. Mazur said the Engineering Department has not yet received the permit from the Army Corp of Engineers. Therefore, this item will be tabled.

Mr. Mazur said the adjacent neighbor to the south of the property has expressed concerns regarding the location of the driveway and the garage since it will be located approximately 40' behind their property. He would like the applicant to consider relocating the garage and driveway to the other side of the house. Mr. Mazur believes this will assist with privacy issues and will eliminate a large amount of impervious surface since it will not be necessary for the driveway to be as long. In addition, he would like to see significant screening installed to prevent light spillage onto the adjacent property.

Mr. Busch said he will meet with the applicants to discuss setting the house elevations and to view the site to determine potential drainage issues.

Mr. Mazur said Councilwoman Richmond would also like the applicant to consider installing the garage and driveway on the opposite side.

Motion by Mr. Mazur, seconded Mr. Newberry to table consideration of Item 4.

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

Motion Carried

5. 6692 SOM Center Road – PP#'s 954-08-133 and 954-08-134 - 025-2011
Linda Johnson
- Lot consolidation

Mr. Frankland displayed an aerial view of the property and explained combining the two lots will prevent the property line from running through the center of the house and will place the storage building on the property line. This will create one .31 acre lot.

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.

Motion by Mayor Drucker, seconded by Mr. Bentley to approve the lot consolidation for PP#'s 954-08-133 and 954-08-134, 6692 SOM Center Road.

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

Motion Carried

Motion by Mr. Mazur, seconded by Mr. Newberry to adjourn as the Planning Commission and convene as the Board of Zoning Appeals.

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

Motion Carried

APPEAL TO THE BOARD OF ZONING APPEALS:

6. Appeal to the decision of the Chief Building Official filed by Douglas Fouts on behalf of Timothy Trump in regard to 6620 Cummings Drive.

Mr. Mazur said this appeal is in regard to the decision of the Chief Building Official relating to a landscape/restoration plan.

Mr. Frankland said the Building Department issued documentation regarding the excessive removal of trees and requested a tree restoration plan be prepared. A plan was submitted by Mr. Trump for 14 hemlock trees on a mound. The plan was considered a landscape plan, not a restoration plan and was rejected by the Chief Building Official. The Chief Building Official notified Mr. Trump that the plan was rejected, that logs on the property needed to be removed and that certain drainage issues must be addressed.

Mr. Frankland said the City's landscape architect submitted a tree restoration plan for the applicant because Mr. Trump seemed unclear about the restoration plan. The submitted restoration plan was an attempt to replace the trees to reflect the remaining woods on either side of the property located at 6620 Cummings Drive. A

subsequent meeting was held with Mr. Trump and it was determined an alternative plan would be submitted to the City. However, the following day, March 15, 2011, Mr. Trump's attorney, Mr. Fouts, filed the appeal to the Board of Zoning Appeals.

Mr. Frankland said prior to the appeal, Mr. Trump submitted a new landscape plan which showed 24 trees added to the site. However, this plan was also rejected by the Chief Building Official and deemed a landscape plan and not a restoration plan.

Mr. Lobe explained litigation is pending with Cuyahoga County between Timothy Trump and one of the neighbors adjacent to 6620 Cummings Court, Mr. Mitchell Leventhal and Ms. Sherry Besman for many of the same issues that the City of Solon is experiencing. Although the City is not a defendant in the litigation, it has been involved and cooperated with both sides to provide documents. In addition, City representatives have been issued subpoenas. The two items that affect the City are the tree clearing line and the clearing of the tree stumps in the rear of the property.

Mr. Lobe emphasized the time lines established by the Chief Building Official in his letter, in other written notifications, and during meetings with Mr. Trump were an attempt to schedule a tree restoration plan and begin planting, especially at the tree clearing line. The requested plans were not submitted on time.

Mr. Lobe said it is the Board of Zoning Appeal's job to determine if the trees were removed in violation of Section 1488.05 of the Code. He said Mr. Fouts will present additional information with reasons as to why the trees were cut down.

Mr. Boshane, Chief Building Official, City of Solon, was present and explained the outline given by Mr. Frankland accurately describes the events as they occurred within the Building Department. He said Mr. Leventhal and Ms. Besman contacted the Building Department regarding the tree removal. A representative from the Building Department viewed the site and determined the trees had been cut beyond the allowed footage. The inspector who originally reviewed the plans retired in November, 2010; however, he approved the submitted plan in October, 2010. The plan was drawn to scale with 30' around the house to be cleared while leaving as many trees as possible beyond that. Mr. Boshane said the actual range of tree removal was 100' to 130' around the house and some of the stumps still remain on the property. He said a violation letter was issued and the Building Department has been trying to work with the Trumps to reach a solution to the unresolved issues.

Mr. Lobe determined the speakers/witnesses should be sworn in and proceeded to do so. They were: Sherry Besman, Attorney Lear, Mitchell Leventhal and Timothy Trump.

Dr. Mitchell Leventhal, 6630 Cummings Court, the adjacent neighbor to 6620 Cummings Court was present. He believes the ordinances of the City should be adhered to and that Mr. Timothy Trump should be held accountable for his actions.

Dr. Leventhal displayed the topography plan that was submitted to the City and Mr. Lobe designated it "Exhibit 1." Dr. Leventhal noted that Timothy Trump's name is

listed on the topography plan as the builder. He expressed concern that only three trees were indicated on the topography plan and then displayed an aerial view of the property that showed a heavily wooded area. He believes it was Mr. Trump's intention to not indicate the heavily wooded area on the topography plan. Dr. Leventhal said he has records which are pending with the county litigation indicating the builder of record, Mr. McShane, informed Mr. Trump that he was not permitted to remove any trees beyond the clearing line. Dr. Leventhal said Mr. Trump was responsible for the tree removal on his property.

Dr. Leventhal distributed photo booklets to the Board members.

Dr. Leventhal believes the removal of the trees has caused extensive water damage to his property. He displayed photographs of Mr. Trump's property devoid of trees and photographs of his property indicating areas that are flooded. Dr. Leventhal believes no drainage plan was submitted to the City because according to Mr. Trump's topography plan, the trees never existed. Dr. Leventhal said the water drains into his yard and, if left standing, will attract insects and disease. He expressed concern for his daughter's health and said she is particularly susceptible to this type of problem.

Dr. Leventhal said he was compelled to file a legal suit against Mr. Trump as he believes Mr. Trump feels, as the owner of the land, he has the right to do whatever he wants to the land. He presented this to Sherry Besman, Mr. Leventhal's wife, in a negative and rude manner when she attempted to speak to him about it.

Dr. Leventhal said it was never Mr. Trump's land to do whatever he wanted to. The land was purchased subject to restrictions, covenants and the laws and ordinances of Solon. He said the violations continued after the City cited Mr. Trump. Dr. Leventhal displayed a photograph depicting trash burning in a can which he said was in Mr. Trump's yard in violation of the City's ordinances during a windy day. In addition, a silt fence was never constructed and logs have been left on the property. Dr. Leventhal also displayed a photograph showing Mr. Trump has blocked their driveway with his truck on numerous occasions.

Dr. Leventhal said Mr. Trump's comments, which he considered threatening, prompted him to install an \$11,000 security camera system around his home to secure his family. Dr. Leventhal stated he also placed locks on his iron gates and had iron shutters installed on his windows.

Dr. Leventhal urged the Board to reject the appeal and believes Mr. Trump is attempting to negotiate the City's Code. He prefers to give Mr. Trump the opportunity to take responsibility for his actions and restore the property to its original form.

Dr. Leventhal submitted a report with findings and recommendations prepared by Mr. Robert Shea, Architect/Engineer, who conducted a survey of the property located at 6620 Cummings Court. Dr. Leventhal believes there were as many as 300 trees removed and that the reforestation plan prepared by the City's landscape

architect requiring Mr. Trump to plant 172 trees, will not replace all the trees that were removed.

Mr. Lobe said speakers/witnesses should comment on facts, not arguments.

The photo booklets previously distributed by Dr. Leventhal were labeled, Exhibit 2 and the Planning Commission packet of information was marked Exhibit 3. Mr. Robert Shea's report was marked as Exhibit 4 and the documents submitted by Attorney Fouts were listed as Exhibits 5 through 10.

Ms. Sherry Besman, 6630 Cummings Court, was present and reviewed serious medical conditions affecting her daughter and explained her concerns regarding standing and stagnant water so close to her home.

Ms. Besman displayed a site plan and explained how she calculated the number of trees that were removed to be 592 trees. She, therefore, believes the City is being very lenient when proposing the replacement of 172 trees.

Mr. Douglas Fouts, Attorney, and Mr. Timothy Trump, 7012 Kingswood Drive, were present to provide information regarding their appeal.

Mr. Mazur explained the decision of the Board will be final and there are no others forms of appeal.

Mr. Frankland said the Board is considering administrative actions regarding completed plans which were submitted and rejected.

Mr. Lobe said both plans have been rejected and will be considered by the Board of Appeals.

Since the current plan has been rejected, Mr. Fouts questioned if the Board will have the ability to modify, reject or overturn the administrative decision.

Mr. Frankland said both plans have been rejected, therefore, he believes the most recent plan supersedes the first one and will be the one considered by the Board.

Mr. Fouts said contrary to previous statements, when Mr. Trump was presented with the lot improvement plan, he was not advised by his builder, Mr. McShane, that the clearing line was 30' and was told verbally by Mr. McShane that he was approved to clear the lot and cut down the trees. Mr. Fouts said Mr. Trump did not have the plan in front of him at the time.

Mr. Fouts said Mr. Trump is part owner of a company called Machine Dynamics which installs and engineers heavy machinery equipment. Mr. Fouts said as part of his business, Mr. Trump does landscaping for business and residential customers. Mr. Fouts clarified it was Mr. Trump's responsibility to remove the trees and grade the lot and Mr. McShane is the builder constructing the house. Mr. Fouts addressed earlier statements and clarified that Mr. Trump is not the builder. He said Mr. Trump did not intentionally go beyond the 30' tree clearing line.

Mr. Fouts said at a meeting on March 14, 2011 with City officials, they were presented with the City landscape architect's plan and recommendation for the first time. He said they had concerns with the methodology that was used to determine his evaluation by sampling a representative section of woods on the Leventhal/Besman property and not on the Trump property.

Mr. Fouts displayed a GIS photo of the property taken before construction began which indicated areas of the Trump property that were fairly barren. He then showed a second GIS photo from the City's website showing the Trump property in greater detail indicating the bare spots located in the woods. Mr. Fouts believes the bare spots were not taken into consideration when the City's landscape architect prepared his report.

Mr. Fouts said Mr. Trump also had safety concerns for the home based on the 30' tree clearing line. Mr. Fouts displayed a photo of a tree approximately 30' to 40' tall that recently fell on the property. Therefore, if the tree clearing line remained at 30', the tree might have hit the rear of the home or his 9-year old son who will eventually be playing in the backyard.

Mr. Fouts said he was informed that another tree fell yesterday in the neighbor's yard on the other side of the Trump's house. Mr. Trump said the tree that fell was 50' to 60' tall. Mr. Trump said the neighbor was very lucky because the tree fell in the center of the rear yard of the house which is a U-shape and it did not hit the house.

Mr. Fouts requested the tree sample Mr. Trump submitted to the Planning Department be displayed.

Mr. Frankland said it is a section of a tree on the property that was bug infested and Mr. Lobe requested the tree sample be provided.

At Mr. Lobe's request, Mr. Fouts numbered his exhibits.

Mr. Fouts displayed the topography drawing and said contrary to previous comments made by the neighbor indicating tree removal on the Trump property caused pools of standing water on his property, the drawing indicates the water flows downhill, not uphill.

Mr. Fouts said his client will testify he only cut down approximately 75 trees. He said Mr. Trump has been working with trees in different capacities for many years and considers himself an expert. He believed it was necessary to cut the trees down in order to ensure the safety of his family and home. Mr. Trump said his father cut the piece of tree which was infested with ants and stored it in his basement.

Mr. Fouts displayed the piece of wood and indicated the ants, however, he was unsure if they were dead or alive. Therefore, many of the trees removed by Mr.

Trump were already dead, dying, bug infested and some had water damage from standing water on his property.

Mr. Trump said he removed approximately 75 trees and the evidence is still on his property. He said he did not remove over 500 trees on the property which was previously stated. He admits to removing trees beyond the clearing line which was due to a miscommunication between himself and the builder. The builder referred to it as a mechanical line and he was eventually made aware that it was the tree clearing line by the Chief Building Official. He said since that time, he has attempted to cooperate with the City, which included having a plan prepared by TLC Landscaping in Solon.

Mr. Fouts said it has been suggested that because the lot improvement plan only depicts a few trees, there was an attempt to mislead the City into thinking there were only a few trees on the lot. Mr. Trump said the lot improvement plan was intended to depict the house location and not determine any tree clearing on the property.

Mr. Lobe explained procedurally, he will be requesting two distinct votes from the Board of Zoning Appeals. The first will be to determine if Mr. Trump violated Section 1488.02 of the Code relating to "clearing or altering grade of undeveloped land..." He said it appears that Mr. Trump has admitted to clearing the land without the permission of the Chief Building Official, although he believes there were mitigating circumstances.

The second issue is related to whether the Board of Zoning Appeals approves of the final determination made by the Chief Building Official as it pertains to the property.

Mr. Fouts said since there is pending litigation, he will decline the public stipulation. He believes the facts have been stated and are self-explanatory.

Mr. Mazur questioned the Exhibit "A" drawing in Mr. Frankland's information regarding the tree cutting line. The drawing indicates it is a "tree topo only" and it is okay to proceed and is initialed "LP."

Mr. Frankland explained the initials are those of Leroy Peoples, the retired inspector from the Building Department. The drawing is an official public document which is attached to the building permit.

Mr. Mazur said this drawing would have been available to the property owner.

Mr. Fouts said they are not implying that the topo was unavailable, but are saying they did not have it in front of them at the time the clearing took place.

Mr. Mazur said Ward 3 Councilwoman Richmond submitted a letter which summarized her concerns and stated she does not support the landscape plan that Mr. Trump submitted to the City. She said she will not support any landscape plan related to the property. It is her position that Mr. Trump should be required to

submit an acceptable restoration plan. Mr. Lobe said the letter will be marked Exhibit 11.

Mr. Bentley asked Mr. Trump when the house will be ready to occupy. Mr. Trump said May 6th is the scheduled moving date. Mr. Bentley asked about the occupancy permit process.

Mr. Boshane said the house is proceeding to completion in accordance with City approvals. However, the site is the unresolved issue and, therefore, upon approval of the Engineering Department, a temporary occupancy permit can be issued upon completion of final inspections which will allow the Trumps to occupy the house.

Mr. Bentley said he realizes mistakes can happen, however, he viewed the site and believes it is very barren. However, he said mistakes also need to be rectified and the Board requires an appropriate restoration plan which has yet to be received. He asked if the Board could approve the City's landscape architect's plan.

Mr. Mazur said since this is an appeal to a plan that was already submitted by the applicant and denied by the Chief Building Official, it is the only item being considered. If the Board determines the plan is insufficient, it can reject it and recommend a more substantial plan.

Mr. Lobe said the plan submitted by the City's landscape architect was an attempt to assist the applicant with a better understanding and a guide for what is required and would be considered acceptable.

Mr. Mazur said he viewed the property as well and although the removal was not as devastating as he anticipated, it is barren. He believes the applicant did violate the Code and it is now necessary to determine how to correct the violation. Mr. Mazur said the replacement of 500 trees is excessive and the plan to replace only 24 trees is insufficient.

Mr. Mazur said Mr. Trump has publicly stated he removed approximately 75 trees and has submitted a plan from TLC Landscaping. Mr. Mazur said he is unsure if TLC Landscaping are qualified arborists and believes it is important to have the appropriate plantings as well as consideration of the soil and the disturbed area resulting from the use of heavy equipment, examined by the most qualified representative. In addition, time is of the essence to take advantage of the growing season and to prevent any further damage to adjacent properties.

Mayor Drucker believes it is an unfortunate circumstance when there is feuding between neighbors. She said she appreciated Mr. Trump's honesty in his admission that he made a mistake and cleared the trees beyond the tree clearing line. However, there has been a violation of the Code and it must now be determined how to correct the mistake.

Mayor Drucker said although she understands a restoration plan is necessary, not a landscape plan, she is not comfortable with the Board determining how many trees have to be replaced, since it is uncertain as to how many were removed.

Mr. Lobe said the issue before the Board is that the applicant has not yet submitted a plan which the Chief Building Official determined to be adequate and appropriate.

Mr. Mazur said if the appeal is rejected, he hopes Mr. Trump will submit a plan that is prepared by a professional who is accustomed to preparing restoration plans since he has already submitted two minimal plans which have been rejected.

Mayor Drucker agreed that an appropriate and more comprehensive plan is necessary but feels the Trumps can choose who they want to create a plan provided it is accepted by the Chief Building Official. It has been determined that a restoration plan, not a landscape plan is what is necessary and it is the Trumps' decision to determine who will complete the restoration plan.

Mr. Fouts said it was the City's landscape architect who recommended TLC Landscaping to the Trumps.

Mr. Newberry said although Mr. Trump said he removed approximately 75 trees, the hundreds of small trees and undergrowth that was removed by the heavy equipment to get to the larger trees also needs to be considered. He is concerned by the amount of water that appears to be in the rear yard of the neighbor's property, although considering the amount of current rainfall, he is not surprised. Mr. Newberry said based on the topography shown on the lot improvement plan, it indicates the adjacent Levanthol/Besman property is at a higher elevation than the Trump property and falls off severely toward the northernmost boundary.

Mr. Newberry stressed how important it is to plant the appropriate vegetation for the area and said items in the first plan submitted would not have survived the first growing season. He said the second plan submitted was an improvement but also included the house footprint, a deck and planted grass. He feels if this information had been included on the original lot improvement plan, the tree clearing line would have been adjusted accordingly. Mr. Newberry believes the second plan submitted was not acceptable as a reforestation plan and was a more elaborate landscape plan. Therefore, he agrees with the Chief Building Official's decision to deny the plan.

Mr. Newberry did not agree with the equipment used for clearing the property. He feels based on the condition of the property, the equipment did more damage than was necessary. In addition, if the appropriate equipment had been used, it would have been able to drag the trees out and there would not be the issue of the remaining logs on the property needing to be removed.

Motion by Mr. Mazur, seconded by Mayor Drucker to indicate agreement that Mr. Timothy Trump did, in fact, violate Section 1488 of the codified ordinance of the City of Solon.

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

Motion Carried

Motion by Mr. Mazur, seconded by Mr. Newberry to approve Mr. Timothy Trump's appeal in regard to the decision of the Chief Building Official for property located at 6620 Cummings Court.

Roll Call: Aye: None

Nay: Bentley, Drucker, Mazur, Newberry

Motion Failed

Mr. Mazur said the appeal has been denied by the Board of Zoning Appeals.

Motion by Mr. Mazur, seconded by Mr. Bentley to adjourn as the Board of Zoning Appeals at 9:15 P.M. and reconvene as the Planning Commission.

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

Nay: None

Motion Carried

Mr. Mazur said correspondence has been received from TransCon's legal counsel regarding Inactive Agenda Item C. It was requested the issue remain on the Planning Commission's Inactive Agenda. Mr. Mazur recommended the item remain on the Inactive Agenda for 90 days.

Motion by Mr. Mazur, seconded by Mayor Drucker to allow Inactive Agenda Item C, Hawthorne Estates/TransCon Builders to remain on the Inactive Agenda for an additional 90 days.

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

Nay: None

Motion Carried

MINOR ALTERATIONS FROM THE PLANNING DEPARTMENT:

1. 5260 Naiman Parkway – Cardinal Health

Mr. Frankland displayed an aerial view of the property and indicated where a proposed generator would be installed in the front of the building. He said generators are permitted in the front of the building providing it meets the required 75' setback, and this request is for a 95' setback. Mr. Frankland explained a fence was proposed to surround it, however, a fence in the front yard would require a variance. The applicant said they will install the generator without the fence to avoid the need for a variance. Mr. Frankland advised the generator will be 95' from the road and the topography of the property will screen the generator.

Mr. Mazur said during the Caucus, Lieutenant Benedict said there are no issues providing the generator is surrounded by bollards or curbing for safety purposes.

Mr. Frankland said he will inform the applicant of the requirements.

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

2. 6199 SOM Center Road – Carter Lumber (rear southern building)

Mr. Frankland explained this storage building in the rear of the property experienced storm damage in the past. He displayed an aerial view indicating the two front buildings and the storage building. Mr. Frankland said the applicant

proposes to replace the damaged siding, install man doors, add skylights, and paint the building an earth tone white color to comply with the Code.

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

3. 29900 Solon Industrial Parkway - Swagelok

Mr. Frankland displayed an aerial view of the property and indicated the location where a man door is proposed.

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

COMMENTS FROM THE COMMISSION:

Mayor Drucker said the Council has scheduled a work session on Tuesday, May 3rd at 7:00 P.M. to discuss the proposed rental occupancy legislation and whether it should include registration and/or inspections. The work session will not be televised.

COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.

Motion by Mayor Drucker, seconded by Mr. Newberry to adjourn the meeting at 9:25 P.M.

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

Motion Carried

Chairman

Secretary