

SOLON PLANNING & ZONING COMMISSION
May 24, 2016 – 7:17 P.M.

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

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

Absent: Mayor Drucker

Also Present: Fire Inspector Eisenhuth, Assistant City Engineer Welch

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 Bentley presided.

PENDING:

1. Off of Aurora Road (500' east of Signature Drive) – Breezethrough, Inc. – Dennis Oranski – PP#'s 956-38-021, 956-38-022, 956-38-023, 956-38-024, 956-38-025, 956-38-026 and 956-38-027 – lot consolidation and various variances: Mr. Stolarsky said he will explain his efforts to get the information he requested from Mr. Oranski during the meeting.

Councilman Pelunis questioned if the Commission should wait until all the members are present before taking action on this item.

Mr. Bentley said as the Mayor is not present, any of the applicants can request their items be tabled.

Mr. Frankland said the Mayor expressed to him that she would not vote to approve the application and action should not be delayed due to her absence.

It was the consensus of the Commission members to take action regarding the application during the meeting.

2. 34200 Lakeview Drive – Chris and Laura Seelig – accessory structure location variance and accessory structure side yard setback variance: Mr. Bentley said information was received from the Homeowners Association.

Mr. Frankland advised that Mr. Seelig said he could not attend tonight's meeting. He noted, however, if the Commission continues to table this item, the planting season will have ended.

Mr. Frankland said the Commission's position is that full screening from the Kish residence to the north for all four seasons and full screening from Lakeview Drive and Ledgebrook Drive is necessary. Although the Commission does not have a landscape plan, a letter from the Homeowners Association has been submitted approving the landscaping concept Mr. Seelig explained in a May 22nd email to the City which was sufficient for the Association and for Mr. and Mrs. Kish.

Councilman Pelunis would prefer Mr. Seelig be present to agree to the contingencies.

Mr. Mazur said Mr. Seelig stated in his email that he would agree to his proposal of May 22nd but not the total recommendation of the City's landscape architect.

Mr. Frankland said the Homeowners Association and Mr. and Mrs. Kish support Mr. Seelig's proposal. He said the Commission can still approve the application with the contingencies listed in the May 22nd email from Mr. Seelig to the City and per the May 24th email from the Homeowners Association.

Mr. Frankland said this became an issue because of a concern from Mr. and Mrs. Kish and the Homeowners Association. They are now satisfied with the solution that Mr. Seelig has submitted. In addition, a contingency should be added that the plantings are required to be installed by June 15th.

NEW:

4. 33600 Inwood Road – Solon Board of Education – site plan for lighting alteration: Mr. Mazur said information from the Engineering Department indicates additional review of this item might be necessary as some of the poles are in the right-of-way.

Mrs. Welch said the applicant has determined they will not replace the lights which are located in the right-of-way.

Mr. Frankland said he believes the applicant has decided only the light bulbs will be replaced on the poles located in the right-of-way.

Mr. Matt Priebe, representing the applicant, said nothing will be done to the poles that currently exist in the right-of-way.

Mr. Frankland said there are no longer any issues with this application.

COUNCIL REFERRALS:

7. Request from Reno G Properties, LLC to rezone property located at 31835-31935 Aurora Road/Old South Miles Road to I-3 Industrial Auto Service Zoning: Mr. Bentley said the public hearing will be opened and anyone wishing to speak about this proposal may do so at that time. As it has been on the Commission's agenda for a while, it will likely be referred back to the Council.

Attorney Anthony Coyne was present representing Swagelok. He said he will speak during the meeting regarding their objection to the rezoning.

Mr. Darren Guerrini was present and said he brought photos from *Google Earth* of the property as it appeared prior to his purchase of the property. He noted the outside of the property was filled with drum barrels, pallets and other debris and was basically used for storage. It was maintained like that for many years, however, since he purchased the property, it is much cleaner and better maintained.

Mr. Frankland said a preliminary development agreement is currently being reviewed, however, the item can still be forwarded to the Council for their review during this process. In addition, letters of approval from the other surrounding properties who wish to be included in the rezoning in the areas identified in the Master Plan are on file with the Clerk's office, with the exception of the Swagelok properties.

The caucus ended at 7:29 P.M. and the meeting began at 7:30 P.M.

Mr. Bentley presided.

Mr. Bentley advised only 4 of the 5 Commission members are in attendance, therefore, 3 of the members would have to vote in the affirmative for an item to be approved. If an applicant would prefer to wait for a full Commission to be present, they can request their item be tabled.

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. Mazur, seconded by Councilman Pelunis to approve the minutes of the May 10, 2016 meeting.

Roll Call: Aye: Mazur, Newberry, Pelunis

Nay: None

Abstain: Bentley

Motion Carried

PENDING:

1. Off of Aurora Road (500' east of Signature Drive) – 011-2016 1
Breezethrough, Inc. - Dennis Oranski - PP#'s 956-38-021,
956-38-022, 956-38-023, 956-38-024, 956-38-025, 956-38-026
and 956-38-027
 - Lot consolidation
 - 75' lot width at building line variance

- 135' front yard setback variance
- Not parallel to the street variance

Mr. Oranski was not present.

Mr. Stolarsky said he made several attempts to communicate with Mr. Oranski regarding the circumstances of the sale of two contiguous parcels which would have otherwise been required in the proposed consolidation. Although a response was received from Mr. Oranski, Mr. Stolarsky said he did not receive the information he requested in regard to the sale of the two parcels being questioned. Mr. Stolarsky said the circumstances, based on timing, values and relationships, suggests that the parcels were being held in trust and it was not an arm's length transaction.

Councilman Pelunis agreed with Mr. Stolarsky and said the letter dated May 16, 2016 from Mr. Oranski did not answer any of the previously asked questions. He said copies of specific paperwork pertaining to the sale and transfer of the parcels in question were requested but never received and the parcels are currently owned by the father-in-law of Mr. Oranski's daughter. Councilman Pelunis said the letter basically contains sections of the City's Code which he feels were ignored. He does not feel this application should be approved as it is currently proposed.

Mr. Newberry questioned if the Commission's concerns are due to the fact that the lots in question are sub-standard and were somehow separated from a lot which might otherwise make it more conforming rather than increasing the need for the additional variances.

Mr. Stolarsky said the inclusion of the two lots in question would have made the application more conforming to the Code. He explained that the City's code requirement to combine non-conforming lots under common ownership is important when an application is received which requires significant variances such as Mr. Oranski's application. Mr. Stolarsky explained that the focus of his inquiries to Mr. Oranski centered on the previous owner of the two lots in question and not the current owner. He did not receive any of the documentation he requested with regard to real estate listings, transaction statements, or the indication that there was a monetary exchange which leads him to believe this might have been a straw purchase. Mr. Stolarsky said Mr. Oranski purchased the seven parcels listed on the application for consolidation shortly after the sale of the two parcels in question.

Mr. Newberry said it is his understanding that there are three parcels with frontage on Aurora Road, which if combined, would still be non-conforming, however, would be more in compliance with the Code.

Mr. Stolarsky said if the two parcels in question were included in the proposed consolidation, it would reduce the variances or possibly eliminate some of them.

Mr. Frankland explained if the two parcels in question located on Aurora Road were included in the consolidation, it would increase the lot frontage. The current proposal creates a flag lot which requires a substantial setback from Aurora Road.

However, if the two parcels were included in the consolidation, the setback would comply with the Code and a setback variance would not be required.

Mr. Newberry questioned whether the consolidation would create a conforming lot if all of the parcels owned by Mr. Oranski were combined. He also questioned if the house was placed in the same location as currently requested, would the lot have the frontage necessary to be a conforming lot.

Mr. Frankland said if the two lots in question were included in the consolidation there would be a total of nine lots, each lot is a sub-standard lot which are required by Code to be combined, therefore, creating a more conforming lot. He said variances would not be required and the position of the house would meet the setbacks specified in the Zoning Code.

Motion by Mr. Newberry, seconded by Mr. Mazur to approve a lot consolidation for PP#'s 956-38-021, 956-38-022, 956-38-023, 956-38-024, 956-38-025, 956-38-026 and 956-38-027.

Roll Call: Aye: None

Nay: Bentley, Mazur, Newberry, Pelunis

Motion Failed

Motion by Mr. Mazur, seconded by Mr. Newberry to approve a 75' lot width at building line variance.

Roll Call: Aye: None

Nay: Bentley, Mazur, Newberry, Pelunis

Motion Failed

Motion by Mr. Bentley, seconded by Mr. Mazur to approve a 135' front yard setback variance.

Roll Call: Aye: None

Nay: Bentley, Mazur, Newberry, Pelunis

Motion Failed

Motion by Councilman Pelunis, seconded by Mr. Newberry to approve a not parallel to the street variance.

Roll Call: Aye: None

Nay: Bentley, Mazur, Newberry, Pelunis

Motion Failed

Mr. Stolarsky said the Clerk will notify Mr. Oranski of his right to appeal this decision to the Council.

2. 34200 Lakeview Drive – Chris & Laura Seelig

029-2016

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- Accessory structure location variance
- 5' accessory structure side yard setback variance

Councilman Pelunis said based on the email received from the President of the Homeowners Association, it appears the matter has been resolved. The email indicated the approval of the Homeowners Association and the approval of Mr. and Mrs. Kish, the homeowners located across the street. He recommended the motion include the terms agreed upon by the parties and agreed to by the applicant as directed by Mr. Frankland.

Mr. Frankland said items to be included in the motion are; an email from Chris Seelig dated May 22, 2016, addressed to the City indicating he will provide landscaping in the yard to accomplish the goals the City's landscape architect suggested. Although a specific plan was not submitted, Mr. Seelig's email stated he will provide a variety of trees that will accomplish the goal. Also to be included in the motion is an email from the homeowners association president, Fred Koneval, received on May 24th indicating their agreement to Mr. Seelig's email of May 22nd and their support of the concept indicated in that email. In addition, four seasons (100%) screening of the shed from the Kish residence at 34195 Lakeview Drive and 100% screening from view of the intersection of Lakeview Drive and Ledgebrook Lane will be provided.

Mr. Mazur viewed the area and based on what Mr. Seelig stated in his email regarding the screening, he believes his plan will screen the shed. He feels the Homeowners Association will ensure the trees are planted in the correct location. The motion should also include that the shed be painted the same color as the home. Mr. Mazur will support the application with the compromise as he believes it accomplishes the goal set by the Planning Commission. However, the applicant installed the shed without City approval and will be assessed a penalty.

Mr. Frankland said the planting is to be completed by June 15th and should be included in the motion.

Councilman Pelunis will also support the application because the Homeowners Association and Mr. and Mrs. Kish are supporting it.

Mr. Bentley also agreed to support the application.

Motion by Mr. Mazur, seconded by Councilman Pelunis to approve an accessory structure location variance.

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

Motion Carried

Motion by Councilman Pelunis, seconded by Mr. Mazur to approve a 5' accessory structure side yard setback variance with the following contingencies:

- Approval is in accordance with Mr. Seelig's, May 22nd email outlining his plan for screening the shed
- The email from Fred Koneval, President of the HOA, dated May 24th accepting Mr. Seelig's plan for screening as outlined in his email of May 22nd and stating that Mr. and Mrs. Kish are also accepting the plan
- The four season screening of the shed from the Kish residence at 34195 Lakeview Drive and from view of the intersection of Lakeview Drive and Ledgebrook Lane
- The shed will be painted the same color as the house
- The planting will take place by June 15, 2016

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

Motion Carried

Mr. Mazur said while it is unusual to approve variances when the applicant is not present, the applicant has indicated his approval in writing. He said Mr. Seelig or a representative should attend the Council meeting on June 6th to accept the contingencies placed in the motion.

NEW:

3. 33800 Inwood Road – Solon Board of Education 034-2016 7
(Project address 6800 SOM Center Road)
PP#'s 954-12-005, 954-12-006, 954-12-007, 954-12-015,
954-12-028, 954-12-029, 954-12-030
▪ Lot consolidation

Motion by Mr. Mazur, seconded by Mr. Newberry to schedule a public hearing for a lot consolidation of PP#'s 954-12-005, 954-12-006, 954-12-007, 954-12-015, 954-12-028, 954-12-029, 954-12-030 for June 14th.

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

Motion Carried

4. 33600 Inwood Road – Solon Board of Education 035-2016 7
▪ Site plan – lighting alteration

Mr. Matt Priebe, Karpinski Engineering, was present representing the applicant. He displayed a site plan and explained the project is to replace lighting in the large west parking lot of the high school. Mr. Priebe said the existing high-pressure sodium luminaires will be replaced with pole mounted luminaires with LED cutoff type, 24' in height. He said there is a total of 31 existing pole mounted luminaires and 10 building mounted luminaires. Mr. Priebe said the new layout includes 15 pole mounted luminaires and 6 building mounted luminaires. He explained that the location of the poles will be revised to obtain the maximum light output of the luminaires while minimizing the spill light onto adjacent properties.

Mr. Priebe displayed the photometric plan and said the calculation illustrates there will be no spillover light onto the properties to the west closest to the property line. He displayed a plan indicating the current spillover light line and the proposed spillover light line. Mr. Priebe indicated the reduction in spillover light with the proposed plan and noted the proposal also meets the zoning requirements.

Mr. Priebe addressed the concern previously mentioned during the caucus regarding existing poles in the right-of-way. He said due to the timing of the project which is concurrent with a paving project, those luminaires will not be replaced and the existing luminaires will remain.

Motion by Councilman Pelunis, seconded by Mr. Mazur to recommend approval of the site plan for lighting alteration for 33600 Inwood Road.

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

Motion Carried

5. 34050 Solon Road – Titan Realty Group (Talmer Bank) 036-2016 4
▪ Site plan – wall sign

Mr. Dan Bertke, Archer Sign Corporation, was present representing the applicant. He explained the proposal is to utilize a sign that was removed from their previous location on Enterprise Parkway and install it at their new location on Solon Road. He explained that while it meets the linear square footage of the zoning code requirements, there was concern about the clearance between the window and the top of the wall.

Mr. Bertke said the business is located in the rear of the building and they would like to install the sign to make the drive-thru more visible.

Mr. Mazur has no issues with the sign.

Mr. Bentley said although it is a large sign for the location and will be situated close to the top of the roof line, it is in the rear of the building, therefore, he will support the proposal.

Mr. Newberry agreed with Mr. Bentley.

Motion by Mr. Mazur, seconded by Mr. Newberry to recommend approval of the site plan for a wall sign for 34050 Solon Road.

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

Motion Carried

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| 6. | 5320 Harper Road – Jeremy Clarke | 037-2016 | 5 |
| | <ul style="list-style-type: none"> ▪ 500 sq ft accessory pavement area variance ▪ 3' side yard accessory pavement setback variance ▪ Driveway material variance | | |

Mr. Jeremy Clarke was present. He said he previously received approval for variances in October of 2014 to install a garage. However, the garage was completed in November of 2015 and the variance for the gravel driveway had expired. Mr. Clarke mistakenly thought the variance was effective for a year once the project was completed and he only installed the gravel two months ago.

Mr. Clarke displayed a photograph of the driveway and garage addition. He indicated the gravel area and said the turnaround area is necessary to assist with exiting the driveway safely as the house is on the crest of a hill. He noted the area to the side of the garage where the variance has increased because he continued the gravel driveway instead of installing a sidewalk as was previously approved. Mr. Clarke said this area will be used for a trailer rather than keeping it in front of the house. Although he intended to install the driveway flush against the garage, the gas meter was moved to that location and he needs to maintain 1' to 3' of landscaping along the newly constructed garage.

Councilman Pelunis has no issues with the turnaround, however, he is concerned about the additional driveway on the side of the garage being utilized for the storage of a trailer and asked Mr. Frankland if this is permitted under the zoning code.

Mr. Clarke clarified it is not for permanent storage of the trailer but only during seasonal use.

Mr. Frankland said if the trailer is over 20 feet, it is considered a large vehicle and there would be screening and location requirements. However, if it is less than 20 feet, it is only required to be licensed.

Mr. Clarke said the trailer is 12 feet long and the additional driveway will be used to access the rear yard and for excess parking. He displayed a photograph of the driveway indicating by outline where pavement currently exists and where gravel exists.

In response to Mr. Mazur's question, Mr. Clarke said the concrete will be installed within the next 12 months. As he just installed the gravel base, it is his intention to install the concrete next spring or early next summer. Mr. Clarke said he needs to research how to address water runoff since he has had issues with ponding of water at the bottom of the driveway and intends to meet with the Engineering Department to determine how best to deal with water flow and drainage.

Mr. Bentley asked what the distance to the neighbor's property line would be if the proposal is approved.

Mr. Clarke displayed a photograph of the side of the garage and said he estimated it will be 15' or 20' from the property line.

Mr. Frankland said as reviewed by the City Planner, it was determined the driveway will be 7' from the property line. Therefore, a 3' side yard variance is necessary. If Mr. Clarke believes he will not need the variance and he will meet the zoning code requirement, the variance can be eliminated. However, if he is unable to meet the zoning code requirement, he will not have variance approval if the variance is withdrawn.

Mr. Newberry does not believe the variance for the 3' side yard setback variance should be withdrawn in case Mr. Clarke determines he needs it once he is ready to pave the driveway. If the variance is withdrawn and Mr. Clarke later determines he needs it, he will have to go through the application process again. Mr. Newberry said Mr. Clarke has already completed work without the proper approval.

Mr. Clarke said that is the reason he submitted the application because he received a letter regarding paving the driveway rather than maintaining the gravel.

Mr. Mazur clarified that the driveway material variance is for the gravel for only 12 months and is considered temporary. He asked Mr. Clarke if he intends to install concrete.

Mr. Clarke said he is requesting the 12-month gravel variance since he intends on paving the entire driveway, including repaving the existing paved portion, at the same time.

Mrs. Welch said driveway paving permits are issued in April, once the weather is appropriate for cement work. Therefore, Mr. Clarke would have only a short time frame to complete the concrete work before the variance expired.

Mr. Newberry said the previously approved proposal in 2014 included the addition of a walkway on the side of the garage leading to the rear yard. He asked Mr. Clarke if this was still included in the plan.

Mr. Clarke said the new proposal is for the additional driveway on the side of the garage but he does plan to install a sidewalk from the driveway to the rear of his property to connect to the deck he will be installing as he is no longer planning on installing a patio in the rear yard.

Mr. Newberry said he is uncomfortable with this proposal since Mr. Clarke did not complete the last proposal he received approval for and he would prefer to see the concrete installed sooner rather than grant a variance to permit gravel to remain for another year.

Mr. Clarke said he thought the original variance was a year from the time the project was completed. He called the Zoning Inspector as soon as he received the letter. Mr. Clarke said he applied for all of the necessary permits to install the garage and his lack of knowledge regarding the timing for the variance for the temporary gravel is his fault. He is still consulting with experts regarding the concrete work for the driveway. Mr. Clarke said he wants to ensure the water flow and drainage work is done correctly and it is taking time to research. He is unsure if he can get the task completed during the current weather-permitted timeframe.

Mr. Stolarsky said the variance is good for one year and if Mr. Clarke does not complete the project, he will be in violation and have penalties assessed.

Mr. Newberry asked if there is an outbuilding on the property and if a walkway to connect it is in the plan.

Mr. Clarke said he has a detached shed on the property and he has no intention of installing a walkway to it. He said his yard equipment is stored in the shed.

Motion by Mr. Mazur, seconded by Councilman Pelunis to approve a 500 sq ft accessory pavement area variance.

Mr. Bentley asked if the parking pad on the side of the garage is included in the 500 sq ft variance.

Mr. Clarke confirmed that the parking on the side of the garage is included in the 500 sq ft variance.

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

Motion Carried

Motion by Mr. Newberry, seconded by Councilman Pelunis to approve a 3' side yard accessory pavement setback variance.

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

Motion Carried

Motion by Mr. Mazur, seconded by Mr. Bentley to approve a driveway material variance.

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

Motion Carried

COUNCIL REFERRAL:

7. Request from Reno G Properties, LLC to rezone property located 025-2016 6 at 31835-31935 Aurora Road/Old South Miles Road to automotive zoning

A public hearing was scheduled and Mr. Bentley opened the public hearing and asked for comments.

Attorney Anthony Coyne was present, representing Swagelok and Crawford Fitting who oppose the proposed zoning change. The concern is the type of use intended for the proposed rezoning area as Swagelok owns property near this location. Mr. Coyne displayed an aerial view indicating property owned by Swagelok in three locations that would be affected by the zoning change. He said one of the properties is located directly across the street from Reno G Properties and is 4.7 acres in size and could potentially be developed.

Mr. Coyne said the concern with the zoning change after reviewing Mr. Frankland's report and the preliminary development agreement is that information is lacking. He said there is no formal development plan for the subject property, there is no formal development plan for the current Liberty Ford site that is City-approved and he believes there are legal complications. Mr. Coyne feels the proposal can be considered contract zoning or spot zoning since the attempt is to try to bind the two properties together which are not related and can be risky. He believes there is a spot zoning issue because the rezoning does not include all of the property with frontage on Aurora Road. Additionally, he understands that there are other property owners interested in being part of the rezoning but this has not yet been reviewed.

Mr. Coyne said Mr. Frankland's report indicates that this is a complicated rezoning issue because there is no amended redevelopment plan for the Commission or the Council to make an informed decision. He feels that properties should be specifically established under the rezoning and he does not feel that has been accomplished. While he feels worthwhile conditions can be made within a development agreement, the existing agreement is very preliminary. Mr. Coyne believes risks would be involved based on the proposed penalties in the development agreement as well as imposing a moratorium, which may not be legal in Ohio and requires compelling reasons.

Mr. Coyne believes more time is needed to review this request. He does believe it is a prudent step to maintain the vehicles inside with no outdoor storage. Mr. Coyne said zoning cannot be contingent upon the redevelopment of another property. He does not

believe this to be a legal condition and if another company moves into the location, separate from Liberty Ford, there could be a massive auto repair facility in the location.

Mr. Coyne does not think the rezoning is in the best long-term interest for the City and the matter should be tabled until further information is received and a site plan and fully developed agreement can be reviewed and approved. Mr. Coyne said they oppose the rezoning and would like to work with the City in the creation of the development agreement and other issues.

Mr. Mazur said the information received from Mr. Coyne noted that Swagelok may build another office building in the future. He asked Mr. Coyne where the building would be located.

Mr. Coyne referred to the aerial and indicated the parcel located across the street from Reno G Properties.

Mr. Newberry asked if an office building in that location would be appropriate for the existing zoning.

Mr. Coyne said the parcel is 4.7 acres and an office building would be appropriate for the zoning.

Mr. Newberry questioned the potential building of a 3 to 4 story office building in that location.

Mr. Coyne is concerned about other businesses that could enter the area upon approval of the rezoning and the potential redevelopment of Liberty Ford not moving forward. He said it would take time to change the zoning back to its original form and the City would have to permit those businesses because they were established during the new zoning.

Councilman Pelunis said any new businesses would be considered a non-conforming use in that zone if the zoning reverted to its original form.

Mr. Darren Guerrini, Reno G Properties, was present. He displayed an aerial view of the property as it appeared prior to his ownership indicating the drum barrels, pallets and other debris on the property. He noted where Liberty Ford vehicles would be located along Old South Miles Road to the side of the business and does not feel the view would be unacceptable to Swagelok especially when considering the previous view.

Mr. Stolarsky addressed comments made by Mr. Coyne and said the proposed rezoning, in theory, has been part of the City's Master Plan for this area. He respectfully disagreed with Mr. Coyne's contention that this could be considered spot zoning. Mr. Stolarsky said the proposed development agreement was given to Mr. Coyne and it was conveyed as being in the preliminary phase. He said the City would welcome Mr. Coyne's participation and input in the preparation of the development agreement.

Mr. Coyne said the lack of a development agreement and an official plan from Liberty Ford is concerning to him.

Mr. Stolarsky assured Mr. Coyne that by the time the City Council has finished their review of the proposal, a clear and legally binding development plan will be completed.

Mr. Coyne said he feels the Planning Commission should be reviewing the final legally binding development agreement before the proposal is sent to the Council for their review and the item should be tabled until the agreement is completed.

Mr. Frankland said while he respects Mr. Coyne's opinion, the arguments being discussed are of a legal nature. The City has legal experts who are reviewing the proposal as it pertains to redevelopment for the City and Mr. Coyne's interest is for his client and how the redevelopment will affect them and their viewing of vehicles. Mr. Frankland said while Mr. Coyne can make objections, it is the decision of the City's legal experts to determine the best binding development plan by carefully reviewing the proposal.

Councilman Pelunis said he has known Mr. Coyne for many years and is aware that he has been involved with the creation of other development agreements. He, therefore, understands that development agreements can be changed over time. Councilman Pelunis does not believe this is spot zoning as this change for the automotive district was recommended by the Master Plan Committee many years ago. He said the City will not move forward without a detailed development agreement approved by the City's legal experts.

Mr. Coyne is aware that this is a complicated issue. However, he believes the Planning Commission should have the final development agreement before it is forwarded to the Council for their review and the item should be tabled tonight. Mr. Coyne said as he understands the current information he has reviewed, vehicles will only be parked indoors. He is concerned how this will be enforced as Liberty Ford is a large establishment with many vehicles.

Councilman Pelunis said he also has concerns about enforcement issues regarding indoor storage of vehicles.

Mr. Frankland said the development agreement calls for the parking of the vehicles to be inside a building. If it is determined by the City's legal staff that it is too risky to continue with the proposal, then it will be conveyed to the Council.

Mr. Newberry said assuming this proposal is forwarded to the Council, the Council will also go through review procedures prior to placing it on the ballot. Once it proceeds to the ballot, it will consist of two sections. One of the sections will be, "shall we create this district" and the second section will be "what properties should be included in the district." Mr. Newberry said the two sections do not require a specific plan for development. The only requirement is that the City promotes the zoning use and the area conditions for the use.

Mr. Newberry said Reno G Properties is proposing the development that fits into the specifics of the Master Plan for this location. Providing the development agreement is approved, none of the conditions will put the City in jeopardy. Although site plans are important and he understands Mr. Coyne's concerns, there is time for a site plan to be developed before the item is placed on the November ballot.

Mr. Coyne is concerned about the possibility of the rezoning request being placed on the ballot without a finalized development agreement.

Mr. Stolarsky assured Mr. Coyne that unless the City is completely comfortable with the development agreement, the request will not be placed on the ballot.

Councilman Pelunis said as a member of the City Council, he would not support the request unless there was an approved development agreement.

Mr. Coyne said if this item is forwarded to the Council for review, he requests that he be able to participate in reviewing the development agreement and the site plan.

Mr. Stolarsky said this is the fourth public hearing held for this item and he appreciated the input from Mr. Coyne.

Mr. Newberry said typically new zoning districts are introduced through a Master Plan Committee or a specific request from a land owner. He said requests were made by some of the land owners, which are included in the City's Master Plan, for automotive service. However, the City will determine which parcels will be included in the new zoning district whether or not the land owner is in agreement.

Mr. Mazur said the owners of Solon Auto Body and Emshoff Excavating, two of the parcels which could be included in the rezoning, have submitted their approval and would like to be included in the rezoning.

Mr. Guerrini feels that if there was no concern about the appearance of the property prior to his ownership, there should definitely be no concerns now from Swagelok.

As there were no further comments, Mr. Bentley closed the public hearing.

Mr. Bentley reiterated that other property owners have indicated their interest in being included in the rezoning and fully support the request. In addition, the rezoning could be amended to include a section of Old South Miles Road. Mr. Bentley said this item has been on the Planning Commission's agenda for almost three months and four public hearings have been held. He encouraged any property owners who might be involved in the rezoning to contact the City to express their opinions and input.

Mr. Mazur appreciated Mr. Coyne's comments and feels this item should be forwarded to the City Council for their review.

Mr. Newberry has no objections to the proposed written code change and feels it adheres to the format and sense of other recent amendments to the Code. He looks forward to the completion of a development agreement now that Liberty Ford and Reno G Properties have guidelines to incorporate. Mr. Newberry said the Council will also have time to review the proposed zoning change as the item must to be forwarded to the Board of Elections in early August.

Motion by Mr. Mazur, seconded by Mr. Newberry to recommend approval of the request from Reno G Properties and Liberty Ford to rezone property located at 31835-31935 Aurora Road/Old South Miles Road to I-3 Industrial Auto Service Zoning and place the issue on the November ballot and refer the request back to the Council for review.

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

Motion Carried

8. Request from Daniel Margheret to rezone property located at 5910 and 5900 Harper Road (northwest corner of Harper Rd. and Aurora Rd. intersection) from I-2 (Industrial Manufacturing) to O-2 (Office Park) 027-2016 5

A public hearing was scheduled and Mr. Bentley opened the public hearing and asked for comments. There were no comments, therefore, the public hearing was closed.

Motion by Councilman Pelunis, seconded by Mr. Newberry to recommend approval and forward the request from Daniel Margheret to rezone property located at 5910 and 5900 Harper Road (northwest corner of Harper Rd. and Aurora Rd. intersection) from I-2 (Industrial Manufacturing) to O-2 (Office Park) and place the issue on the November ballot and refer back to the Council for their review.

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

Motion Carried

9. Proposed amendment to remove commercial "Sports Training Facilities" as Industrial District permitted uses.

A public hearing was scheduled and Mr. Bentley opened the public hearing and asked for comments. There were no comments, therefore, the public hearing was closed.

Motion by Mr. Newberry, seconded by Mr. Bentley to recommend approval of the amendment to remove commercial "Sports Training Facilities" as Industrial District permitted uses and placement of the issue on the November ballot and refer to the Council for their review.

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

Motion Carried

MINOR ALTERATIONS FROM THE PLANNING DEPARTMENT:

1. 6200 Enterprise Parkway - Play Day Café

Mr. Frankland displayed an aerial view of the property indicating the side of the building where a drive-thru window is located which was previously approved and used by Macklin Event Center. The new tenant will not be using the drive-thru and the proposal is to remove the drive-thru window and brick it in using material to match the building.

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

2. 30003 Bainbridge Road – Nestlé

Mr. Frankland displayed a site plan and said previous approval was granted to Nestlé to install a cover over the new sidewalk. Nestlé no longer intends to install the cover over the new sidewalk.

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

COMMENTS FROM THE COMMISSION:

Mr. Newberry wished everyone a Happy Memorial Day weekend.

Mr. Bentley congratulated his son and his son’s entire class on their upcoming graduation on Thursday.

COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.

Motion by Mr. Mazur, seconded by Mr. Bentley to adjourn the meeting at 8:40 P.M.

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

Nay: None

Motion Carried

Chairman

Secretary