

**SOLON PLANNING & ZONING COMMISSION
JANUARY 23, 2018 – 7:00 P.M.**

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

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

Absent: None

Also Present: Fire Inspector Eisenhuth, Director of IT Gibbs, Assistant City Engineer Welch, Councilman Zelwin, Assistant Clerk of Council Buller

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.

The Commission Members briefly reviewed the agenda items.

The caucus ended at 7:10 P.M. and the meeting began at 7:30 P.M.

The visiting Boy Scout Troop led the Pledge of Allegiance.

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 Mayor Kraus to approve the minutes of the January 9, 2018 meeting as presented.

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

Nay: None

Motion Carried

NEW:

1. 6874 Highland Drive – PP#'s 955-33-069 & 955-33-070 – Donald Sovey
 - Re-approval of lot consolidation (expired on 11-7-17) 003-2018 3

Motion by Mr. Mazur, seconded by Mr. Newberry to schedule a Public Hearing on February 13, 2018 to consider re-approval of lot consolidation of PP#'s 955-33-069 & 955-33-070.

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

Motion Carried

2. 33000 Solon Road – City of Solon 004-2018 6
▪ Telecommunication tower antenna and equipment modifications

A public hearing was scheduled. Mr. Bentley opened the Public Hearing and invited comments.

Mr. Gibbs is requesting to remove eight stand-off legs located at 240, 210, 190, 170, 135 and 85 feet from the existing antenna attached to the Police Department building. He stated four antennas (two private company antennas and one city-owned antenna) would be added at 240, 209, 190 and 90 feet. Mr. Gibbs noted GPD's structural engineers have approved this modification and an interference study is in process.

Mr. Bentley inquired about the net gain or loss of antennas. Mr. Gibbs stated there would be less equipment on the tower. He explained older radio UHF's were being replaced with high band ISP antennas to provide band-width at various frequencies.

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

Councilman Pelunis asked if the Law Department reviewed the site lease agreement. Mr. Stolarsky was not certain if Mr. Lobe reviewed the agreement, however he reviewed it and it appears acceptable. Councilman Pelunis asked if lease agreement proposals were required to be bid. Mr. Gibbs stated a preliminary discussion with the Law Director was pending, but this is an economic development tool with in-kind services being traded with Agile Networks at an amount of approximately \$6,500 so bids were not necessary. Councilman Pelunis asked if the eight percent revenue share had been negotiated. Mr. Gibbs stated eight percent was initially brought to the contract and a final review will disclose further negotiation.

Mayor Kraus asked if this would enable connection to the MARCS radio system. Mr. Gibbs stated Agile Networks is the provider of the MARCS backbone so it would not change radio communication and would provide redundant internet connection resulting in stronger connections. Mr. Gibbs stated this would provide internet services to businesses; allow connection to the Arthur Road pool location and improve cellular coverage at the Recreation Center.

Motion by Mr. Newberry, seconded by Mr. Mazur to approve telecommunication tower antenna and equipment modifications contingent upon an acceptable interference report.

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

Motion Carried

3. Willow Street – PP# 956-39-047 – Lingjun Jiang 005-2018 1
- Variance to permit a residence to be constructed on an unimproved/unaccepted street

Mr. Michael Ju, 12000 Edgewater Drive, Apt. 1006, Lakewood, was present representing his wife, the applicant. He presented pictures of the 1.38 acre property located 650 feet from the corner of Willow and Edith Streets. Mr. Ju noted Willow Street was gravel with two existing houses. Mr. Ju stated the lot was 300 feet deep by 200 feet wide and 150 feet by 200 feet would be utilized for a single family house with the driveway along the northern edge of the property. He advised wetlands along the front of the property were delineated rated at 0.3 acres in November.

Mr. Ju stated the 50 foot width of Willow Street presented a problem in regard to the Zoning Code requirement for a street width of 60 feet. He stated the property owners on the street were not interested in selling the ten feet that is required for the width but noted the street was drivable and wide enough for a pick-up truck to turn around.

Mr. Ju stated utilities were in place at the two neighboring houses but would need to be added on their lot. They plan to use solar energy with electricity and noted installing a gas line would be cost prohibitive.

Mr. Ju stated paving Willow Street up to their property with an asphalt layer would not be aesthetically pleasing to the neighbors. He added the neighboring property owners were unwilling to sign a petition to pave the street.

In response to Mr. Stolarsky's question, Mr. Ju said the property was purchased January 2, 2018. Mr. Stolarsky asked if Mr. Ju investigated the buildability of the property prior to January. Mr. Ju advised he was told by the previous owners, Michael and Thomas Dawes, it was properly paved and utilities were installed. He stated it was listed as a contingency in the contract. Mr. Stolarsky asked if they had met with city officials prior to purchasing this property and Mr. Ju said they had. Mr. Stolarsky asked if the city officials advised them of potential problems regarding the lack of improvement on the street. Mr. Ju stated yes. Mr. Ju noted he also spoke with Councilman Magill in regards to this purchase.

Councilman Pelunis asked if the contract with the seller specifically stated it was buildable with all utilities established. Mr. Ju said yes, the sellers advised him it was. Councilman Pelunis asked if this property was purchased through a realtor. Mr. Ju stated yes. Councilman Pelunis stated due diligence is necessary prior to purchasing property. He stated the issue is Willow Street must be built to city specifications with storm and sanitary sewers along with compliance with the storm water management plan. Councilman Pelunis said the Fire Department memo indicates access is required for equipment to turn around, if necessary. Mr. Ju stated a 35 foot turn-around can be established on Cunningham Street (a paper street owned by the city). Ms. Welch stated sanitary sewers are installed along Willow Street; however, this property's lateral is located near the wetlands area meaning a tie-in would be placed in a different location. She stated homes that are not connected to storm sewers empty the storm water onto the land; however, storm water management is required for development of this area. Ms. Welch said there are water lines and hydrants on Willow Street.

Mr. Ju stated they are in compliance with the Zoning Code requirement of a one acre minimum on this street. Two houses currently exist and he believes they should also be allowed to build.

Mr. Newberry opposed granting a variance. He stated he does not want to place an undue burden on the applicant, but he has voiced similar opposition to semi or unimproved streets in the past because he believes the city should develop in an orderly manner. Mr. Newberry advised he would, however, approve of a variance allowing the street to be improved at 50 feet versus 60 feet.

Mr. Ju believes allowing his family to build would attract other prospective buyers. Mr. Newberry stated the Code is not devised in that manner and the 2012 revisions clarify the requirements for unimproved streets.

Mr. Bentley stated he would try to work successfully with this application.

Mr. Mazur stated he is not in support of a piece-meal development of this street or other unimproved streets. He noted there are no guarantees that additional houses would not be built which would create wear and tear on an unimproved street. Mr. Mazur stated the best option would be to petition and garner 60 percent of the property owners to request street improvement. Councilman Pelunis agreed with Mr. Mazur and Mr. Newberry. He stated even though commitments in writing were made by the seller, due diligence realizing property owner responsibilities must be accomplished with respect to viewing the code and other areas regarding this unimproved street and knowing whether or not something is buildable.

Mr. Stolarsky asked Mr. Frankland to detail the nature of the meetings prior to the purchase. Mr. Frankland stated meetings were held prior to the purchase of the property and administrative work sessions with Planning Department planners, Fire and Engineering Department personnel present. He stated Section 1248.08 was explained by the Engineering Department in detail regarding the requirement for improved streets to city specifications and the types of utilities that the Engineering Department would require. Mr. Frankland stated some of the streets history was also detailed. He stated the Planning and Engineering Departments hold at least 20 meetings a year on Willow Street lots alone explaining the building difficulties. Mr. Stolarsky asked if the issue of a variance was discussed and did anyone make any promises with regard to the expectations of those variances being granted. Mr. Frankland stated no, the indication was the City was never aware of a variance ever having been granted in the City's history.

Mr. Bentley suggested the applicant request the issue be tabled and work towards a solution with the City.

Councilman Pelunis stated granting this variance would require a practical difficulty with the burden of proof on the applicant. He stated the code is very specific and it is not in the Commission's legal ability to negotiate unimproved streets buildability. He stated the applicant's option is to acquire 60 percent of the Willow Street property owners or construct the street to the City's specifications at his expense. While

Councilman Pelunis understands what Mr. Bentley is trying to accomplish, he does not want to spend more time with additional meetings when the outcome will be the same.

Mr. Ju asked if he fulfilled requirements one through seven, would a 50 foot variance be granted. Mr. Frankland clarified the 60 foot requirement was for the right-of-way but the 50 foot right-of-way was grandfathered. Ms. Welch stated the standard street pavement width is 26 feet. Mr. Frankland stated the street would require a 26 foot width.

Mr. Ju asked if paving to the southern edge of the property is required or if the paving could end in the middle. Mr. Frankland stated pavement would be required across the entire frontage of the lot; however, the property owner to the north acquired a variance to pave and run utilities to the driveway.

Mr. Ju inquired why the code was written to prohibit the building of a house on this lot. Mr. Newberry stated the code previously stated that a lot had to front on an improved street and in 2012 "improved" was clearly defined. Mr. Ju was of the opinion the City did not want people to live on this street. Mr. Newberry stated the City supports purchasers to live there; however, the street needs to be built to the City's specifications. Mr. Ju stated the only block prohibiting him from building and living on this lot is the City's zoning code. Mr. Newberry agreed.

Mr. Newberry believes the gravel on the road was placed there by Willow Street homeowner Mr. Lippert. He suggested a scenario where heavy vehicles traversed on this street and caused it to deteriorate over time, holding Mr. Ju liable to complete repairs to avoid a lawsuit from Mr. Lippert.

Mr. Stolarsky stated more than aesthetics are involved, the Commission has pointed out engineering reasons why an improved street is preferable or necessary and the Fire Department's memo raises concerns over accessibility. He added cost is not a practical difficulty for necessitating a variance. Councilman Pelunis explained the Ohio Supreme Court specifies certain requirements necessary to grant a variance based on a practical difficulty. Mr. Newberry added evidence would need to be shown that the code is prejudice for a particular reason unique to Mr. Ju's property or the property he is acquiring.

Mr. Mazur felt the only option was to secure 60 percent of the property owners to petition the City for street improvements. Mr. Stolarsky added if the 60 percent was acquired, a variance would not be needed. Ms. Welch stated if the 60 percent were acquired to petition the City to pave the street, funds would still need to be budgeted which would take time. Mr. Ju inquired how long it could take. Ms. Welch stated she was not certain of the timeframe but they could discuss it further. Councilman Pelunis recalled a petition for sidewalks which took approximately one year.

Motion by Mr. Newberry, seconded by Mayor Kraus to table consideration of Item 3.

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

Nay: Pelunis

Motion Carried

4. 30500 Bainbridge Road – Stouffer Corporation

- Lot consolidation PP#'s 951-30-007, 008, 009, 010, 011, 012, 006-2018 6

- 013 and 014 (951-30-007 through 951-30-014)
- Variance to not install curbing
- Site plan – parking lot modifications and lighting

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

Mr. Aaron Nelson, Nestle USA, 30003 Bainbridge Road, represented the applicant. He stated a full repaving of the south and west lot would be completed and a smokers hut would be relocated. Mr. Nelson stated a sidewalk from the building to the newly installed city sidewalk would be constructed. He is proposing to consolidate the lots into one. Mr. Nelson stated the variance to not install curbing pertained to the parking lot.

Councilman Pelunis noted the Fire Department requested a fire hydrant be moved. Mr. Nelson concurred and stated the hydrant will be relocated to the northwest corner.

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

Motion by Mayor Kraus, seconded by Mr. Mazur to approve a lot consolidation of PP#'s 951-30-007, 008, 009, 010, 011, 012, 013 and 014.

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

Motion Carried

Motion by Mr. Mazur, seconded by Mr. Newberry to approve a variance to not install curbing.

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

Motion Carried

Motion by Mr. Newberry, seconded by Councilman Pelunis to approve the site plan for parking lot modifications and lighting.

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

Motion Carried

5. 6140 SOM Center Road – Rosina's Restaurant/Chef Art Pour
Restaurant Group

007-2018 6

- 19' side yard setback variance
- Site plan – new outdoor patio

Mr. Rick Seigfried, RSA Architects, LLC, represented the applicant along with Mr. Chris Kalinyak, Chef Art Pour Restaurant Group. Mr. Seigfried presented plans to remove the drive across the front of the building and transform it into a patio with two bocce ball courts. He clarified the drawing submitted failed to acknowledge existing pavement on the former Panini's lot stating it is not their intent to remove or alter that property.

Mr. Seigfried stated the patio with approximately 40 seats would have a pergola and string lighting.

Mr. Mazur complimented the ingenious fencing that incorporates the bollards into the design. Mr. Seigfried agreed.

Mr. Newberry inquired how the new patio would tie into the adjoining property's existing driveway and parking lot. Mr. Seigfried stated it is their intent to install the ODOT type six curbing one foot off the property line as required by the Engineering Department. He stated it is uncertain what the neighboring property is doing. Mr. Mazur stated, for the record, the traffic flow will be adjusted and there has been no communication from the adjoining property. Mr. Seigfried stated it was their understanding the former Panini site owners want the Kruse Drive access removed and Chef Art Pour Restaurant Group has no objection to that.

Mr. Seigfried noted due to a decrease of the inside seating, a tap-in fee is not required. Ms. Welch stated credit will be given to the existing seating and patio seating is prorated at a lesser rate.

Mayor Kraus finds this to be a great addition.

Motion by Mr. Mazur, seconded by Mr. Newberry to approve a 19' side yard setback variance.

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

Motion Carried

Motion by Mr. Newberry, seconded by Mr. Mazur to approve a site plan for a new outdoor patio.

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

Motion Carried

Mr. Mazur complimented Mr. Chris Kalinyak on his fine architecturally creative work. Councilman Pelunis agreed and added Mr. Kalinyak is a Solon graduate.

6. 6801 Cochran Road – Crown Castle/AT&T 008-2018 7
 ▪ Telecommunication tower antenna and equipment modifications

A public hearing was scheduled. Mr. Bentley opened the Public Hearing and invited comments.

Ms. Amanda Rok, 2000 Corporate Drive, Canonsburg, Pennsylvania, represented the applicant. She stated three antennas and six radio heads would be replaced and three antennas and six radio heads would be installed at 150 feet.

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

Motion by Mr. Mazur, seconded by Mayor Kraus to approve telecommunication tower antenna and equipment modifications.

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

Motion Carried

COUNCIL REFERRAL:

7. Consideration of notification procedures for variances and lot consolidations

Councilman Zelwin stated he has recommended this Commission review notification procedures. He stated the current procedure is to notify the adjacent property owners. Councilman Zelwin said there have been some complaints regarding this procedure from Ward 3 residents. He stated other cities use radius based notifications and encouraged the Commission to investigate that option. Additionally, he requested the Commission consider using certified mail notifications in conjunction with the regular mail along with the possibility of email notifications.

Councilman Pelunis stated those are good points and he understands why this conversation is being held. He believes radius based notification would need consistency throughout the City and does not feel this is warranted. Councilman Pelunis cited radius based notification examples such as Market District and Liberty Hill (in proximity to the apartments), that would require hundreds of certified letters. He suggested authoring a procedure to codify using what is current procedure or perhaps more of abutting property but a radius based program would be too expensive and labor intensive for the Clerk's office. Councilman Pelunis stated email notification could be a secondary process but questioned its legality. He recalled larger projects where notification had been affixed to front doors via personal delivery by the contractor.

Councilman Pelunis stated certified letters are often not picked up. Mr. Stolarsky agreed and added the delivery time frame is short. Mrs. McConoughey gave an example of a recent certified mailing where half of the mailing was received and the other half was unaccounted for by the meeting time.

Councilman Pelunis stated it would be beneficial to institute a uniform system of notification and with larger projects, perhaps the burden be placed on the council representative to notify additional persons, where they deem appropriate. Councilman Zelwin agreed stating his ward is not the only ward to experience issues.

Mr. Mazur stated after viewing the Safety and Public Properties meeting, he was concerned members of the homeowners associations were not being properly identified to the city. He stated improved communication with the homeowners associations is not solely incumbent upon the city and stated the homeowners associations should make certain to provide the city the proper contact information. Councilman Pelunis stated the Clerk's office mails a letter annually to the homeowners associations' presidents for updated contact information but does not always receive updated information.

Mr. Mazur suggested possibly publishing notifications in the local newspapers. Mrs. McConoughey stated the newspapers' Tuesday morning deadline could make that difficult. Councilman Pelunis added agendas are posted on the city website. Mr. Mazur also suggested using an informational site called "Nextdoor". Mr. Newberry stated Nextdoor is a voluntary free membership site.

Councilman Pelunis stated the most practical and cost efficient procedure would be to allow the Clerk's office to follow the current procedure of notifying the adjacent, abutting and across the street homeowners and the individual council representative, when deemed necessary, may request the Clerk to notify additional homeowners.

Mr. Mazur stated some responsibility should lie with the citizens' awareness in their community. He stated information is available on the city's website and posted at various locations but it could be beneficial to post information on the Nextdoor site.

Councilman Zelwin was in agreement stating there are different processes and the current procedure may be the best way. He requested the Commission review options.

Mr. Newberry did not favor certified mail as the option, stating it is extraordinarily expensive for little return. He stated radius notification could be excessive. Councilman Pelunis stated the Commission should draft a uniform situation to codify. He believes, at a certain point, it is the council representative's judgment to go beyond the uniform procedure.

Mayor Kraus stated this is an opportunity to review and codify the current procedure. He stated circumstances could present where radius notification would be unnecessary. Mayor Kraus agreed certified mail could become expensive, with little return.

Councilman Pelunis inquired if the possibility exists to narrow down and use the "ready notify" system, which uses text notifications, in addition to the current procedure. He asked that this be researched for discussion at the next meeting.

Mr. Bentley concurred with the suggestions and is encouraged to continue this discussion.

Motion by Mr. Newberry, seconded by Mr. Mazur to refer Item 7 to the Planning Director, Law Director and Mayor for reporting to the Planning Commission at the earliest convenience.

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

Nay: None

Motion Carried

MINOR ALTERATIONS FROM THE PLANNING DEPARTMENT:

1. 31501 Solon Road – Zircoa Corporation

Mr. Frankland presented pictures and stated Zircoa Corporation is requesting to place a temporary (three to four months) tent or a car cover behind their building to house new equipment and protect the laborers from inclement weather.

Mr. Mazur asked if the Fire Department had any concerns. Mr. Eisenhuth stated there were no immediate concerns, but a closer look would take place during the permit review.

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

COMMENTS FROM THE COMMISSION:

Mayor Kraus thanked Councilman Zelwin for bringing the notification procedure up for discussion.

COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.

Motion by Mr. Newberry, seconded by Mr. Mazur to adjourn the meeting at 8:57 P.M.

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

Nay: None

Motion Carried

Chairman

Secretary