

SOLON PLANNING & ZONING COMMISSION
April 26, 2022 – 7:30 P.M.

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

Present: Commission Members Greenspan, Newberry, Sutton, Councilman Bentley, Mayor Kraus, Assistant Law Director Stolarsky, Director of Planning Holloway, Secretary Letourneau

Absent: None

Also Present: Fire Lieutenant Eisenhuth, Project Engineer Bennett

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. Agenda topics may not have been discussed in order; however, they have been placed in order for the convenience of this record.)

Councilman Bentley presided.

Councilman Bentley explained to the applicants the procedures that take place during the meeting when they present their applications. He also explained that if their application includes a memo from the Engineering Department, they will be asked to agree to the requirements of that memo prior to the Commission voting and before a permit is issued. Councilman Bentley also explained there are two times during the meeting where comments from the audience can be heard.

PENDING:

1. 28554 Miles Road - PP# 951-04-007 - Brainard Miles Retail Development LLC – lot split and variances: Mayor Kraus said he was unaware that part of the property located at 5045 Brainard Road is zoned residential and part of the property is zoned commercial.

Mr. David Smercina, the owner of the property at 5045 Brainard Road was present and said he would prefer to have all of the property zoned residential. He believes the multiple zoning on his property should not have been allowed to happen.

Mr. Stolarsky said the property rezoning involved Mr. Smercina's grandfather many years ago.

Mr. Newberry explained that the last Zoning Code update did not change boundaries and only changed the definitions. He noted this property has existed as a non-conforming use since it was built.

Mr. Smercina asked if his property could be rezoned to only residential.

Mr. Newberry said Mr. Smercina can apply to have his property rezoned to residential but must go through the required process.

Mayor Kraus referred to Section 1287.03 of the Zoning Code. He said the setbacks between commercial zoning and residential zoning are different and that Mr. Smercina's property could be affected depending on what might be built after the lot split.

3. 34205 Aurora Road – Steve Osgood, Square Foot Companies, LLC – various variances and site plan: Councilman Bentley said a bank proposes to build on the former Wildlife Garden site. He believes all of the reporting departments now have the information necessary to continue with this item.

NEW:

4. 31440 Cannon Road – Michael & Kareen Jogan – a fence height variance: Councilman Bentley said Mr. Jogan is requesting this fencing to prevent deer and other animals from ruining his gardens. He noted it is a very large piece of property.

The caucus ended at 7:16 P.M. and the meeting began at 7:30 P.M.

CHANGES TO THE AGENDA:

There were no changes to the agenda.

COMMENTS FROM THE AUDIENCE REGARDING AGENDA ITEMS:

There were no comments from the audience.

MINUTES:

Motion by Mr. Newberry, seconded by Ms. Sutton to approve the minutes of the April 11, 2022 meeting as presented.

Roll Call: Aye: Bentley, Greenspan, Kraus, Newberry, Sutton

Nay: None

Motion Carried

PENDING:

1. 28554 Miles Road - PP# 951-04-007 - Brainard Miles Retail Development LLC
PCPC-2022-239 - Ward 5
 - Lot split
 - 15' side yard setback variance
 - Variance to allow parking lot with no principle use

A public hearing was scheduled.

Councilman Bentley opened the public hearing and asked for comments from the public.

Mr. Jordan Berns, legal counsel for the applicant, was present representing the applicant. Mr. Berns displayed the plat and explained the request to split the parcel into one 11.14 acres, which is the largely developed portion of the property, and a 1.57 acre parcel at the corner of Miles and Brainard Roads. Mr. Berns explained the lot split request is a result of inquiries in leasing or developing the property to build upon. He advised the property is currently part of the main portion of the shopping center property which inhibits the ability to mortgage the property and finance the construction of a building. He said the lot split will not affect the zoning which is zoned C-3. Mr. Berns indicated the applicant's desire to develop the corner property and explained the need for the variances that will result from the lot split, if approved.

Mr. David Smercina, 5045 Brainard Road, explained the shopping center property abuts residential property and noted when the shopping center was originally approved, restrictions were placed on approval. He referred to Section 1287.03(c)6 relating to hours of operation for property abutting residential zoning districts and Section 1287.07(c) which refers to restrictions of lighting on the property. Mr. Smercina advised if the lot split is allowed, the restrictions will not apply to the proposed corner lot. Mr. Smercina questioned what the use will be for the property. He said his property has split zoning of residential and commercial and noted commercial zoning is of no use to him. He indicated his desire to change his commercial zoning to residential. Mr. Smercina questioned the need for the requested variances when the two zoning code sections he mentioned prior are not being considered.

Councilwoman Meany, Ward 5 Representative, was present and indicated her support for the concerned residents of her ward. Mr. Smercina's property is partly zoned commercial, therefore, the setbacks are identified as commercial rather than residential. She indicated Mr. Smercina's main concern is if the new building will be a restaurant with a drive-through, as Mr. Smercina's property will be directly affected. She advised when the shopping center was initially approved, she believes drive-throughs were not permitted. She spoke of issues in the past involving the abutting residents and the shopping center property. Councilwoman Meany asked how the setbacks would be determined.

Mr. Stolarsky indicated the required setbacks are based on Mr. Smercina's commercial property abutting the shopping center property. He added that the applicant's request does not affect zoning on his property or the Smercina property.

Councilwoman Meany asked if a restaurant with drive-through is built, will it affect the setback distance. Mr. Stolarsky said the contiguous portion of Mr. Smercina's property that is zoned commercial is affected. Mr. Stolarsky advised Mr. Smercina can apply to the City to rezone his commercial property to residential.

Councilwoman Meany believes considering past issues between the properties, the goal is to satisfy both Mr. Smercina and the applicant.

Mr. Berns responded to Councilwoman Meany indicating there is not an impending tenant or sale of the property. He clarified to effectively market the property to a prospective tenant who may want to build to suit, it is necessary to split the lot. He said it will not affect the current zoning of the property or adjacent property. He understands Mr. Smercina's concerns of zoning provisions that impact property adjacent to commercial zoned property, however, the impact exists regardless of the lot split. He reiterated the lot split is to enable effective marketing of the property for development subject to Code requirements.

Councilwoman Meany referred to a letter from the applicant dated April 18, 2022 indicating there are interested parties who desire to construct a building on the lot. She noted the applicant obtained a release from the mortgage company.

Mr. Berns said those are requests and the applicant cannot respond to the requests without the lot split approval.

Mr. Smercina disagrees with Mr. Berns' comments that the lot split will not change anything. He believes the two sections of the code he mentioned prior regarding hours of operation and overflow lighting would change since the new parcel would not be touching residential property and the two code sections would not apply to the parcel. He said a possible drive-through restaurant would not follow the two code requirements because of the lot split. He believes a lot split is not necessary until a proposal has been received.

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

Councilman Bentley said the lot split is what is before the Commission at this time and indicated his support for the lot split and variances. He is confident lighting will not be permitted to overflow onto residential property.

Mayor Kraus explained because Mr. Smercina's abutting property is zoned commercial, he does not have the protection of residentially zoned setbacks. The procedure for Mr. Smercina to rezone his commercial property to residential was discussed which would involve the process and approval by the Planning Commission and Council and submission to the Board of Elections 90 days before the election. It was determined the deadline for the November 2022 ballot could not be met and that the rezoning would have to go on the May 2023 ballot.

Mr. Greenspan suggested approving the lot split with the contingency to treat Mr. Smercina's property as if it were residential.

Mr. Newberry recalled a similar approval when the shopping center was considered.

Mayor Kraus agreed with adding the contingency. Mr. Stolarsky said the Council may add conditions.

Ms. Sutton appreciates the opportunity for development but would like protection for the residents. She supports a contingency.

Mr. Stolarsky said the lot split approval could carry a condition that Mr. Smercina's property be treated as residentially zoned.

Mr. Berns said he is not in a position to agree. He understood the hours of operation restriction that is of concern are for a drive-through and not hours of operation general. Mayor Kraus said it is for a drive-through. Mr. Berns asked if the Commission is referring to the language that refers to a limitation on the hours of operation of a drive-through service facility for any site adjacent to any residential zoning district.

After further discussion, it was determined the contingency would state the entire Smercina property to the south would be treated as contiguous property in a residential zoning district for all purposes.

Mr. Newberry referred to the Planning Department memo that included the recommendation of a one-year sunset clause on approval, which he found appropriate. He referred to the Engineering Department memo with further requirements.

Mr. Berns said the hope is to be back with a development plan within a year and that the variances will not be necessary or be modified to reflect the development plan. He did not object to a one-year limitation with a requirement to return in a year to revisit the variances.

Mr. Stolarsky asked if the easement will be executed in terms of repair and maintenance of the property which would be a condition to approval. Mr. Berns said yes, that the applicant was asked to provide a cross access agreement to allow the continuation of traffic to travel the entire area and the sharing of parking and driveways.

Motion by Mr. Newberry, seconded by Ms. Sutton to approve the lot split for PP# 951-04-007 contingent upon requirements in the Engineering Department memo of April 6, 2022, including the easement agreement requirement and a proper lot split plat is filed.

Roll Call: Aye: Bentley, Greenspan, Kraus, Newberry, Sutton

Nay: None

Motion Carried

Motion by Mr. Greenspan, seconded by Ms. Sutton to approve a 15' side yard setback variance contingent upon a sunset clause of one year and that the contiguous property to the south will be treated for all purposes as residential property.

Roll Call: Aye: Bentley, Greenspan, Kraus, Newberry, Sutton

Nay: None

Motion Carried

Motion by Mayor Kraus, seconded by Ms. Sutton to approve a variance to allow a parking lot with no principle use.

Roll Call: Aye: Bentley, Greenspan, Kraus, Newberry, Sutton

Nay: None

Motion Carried

2. 6150 SOM Center Road - PP#'s 952-17-043 & 952-17-041 - Chick-fil-A, Inc.
PCPC-2022-248 - Ward 6
 - Lot consolidation

A public hearing was scheduled.

Councilman Bentley opened the public hearing and asked for comments.

Mr. Allan Wiley, GBC Design, was present representing the applicant. Mr. Wiley displayed the plat and explained the request to consolidate the main Chick-fil-A parcel and the parcel Chick-fil-A recently purchased from the City.

Councilman Bentley asked Mr. Wiley if he received the April 6, 2022 memo from the Engineering Department and if he agrees to its requirements. Mr. Wiley said yes.

Councilman Bentley thanked the applicant for completing the process.

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

Motion by Ms. Sutton, seconded by Mr. Greenspan to approve the lot consolidation of PP#'s 952-17-043 & 952-17-041 located at 6150 SOM Center Road.

Roll Call: Aye: Bentley, Greenspan, Kraus, Newberry, Sutton

Nay: None

Motion Carried

3. 34205 Aurora Road - Steve Osgood, Square Foot Companies, LLC
PCPC-2022-249 - Ward 6
 - 15' side yard setback variance
 - 6' parking setback variance
 - 10' parking aisle width variance
 - 5 parking space minimum number of parking spaces variance
 - Site plan

Mr. Robert Sullivan, Nelson Architecture, 19333 Van Aken Boulevard, Shaker Heights, was present representing the applicant. Mr. Sullivan displayed a site plan and said he believes the requests of the Engineering Department memo have been satisfied.

Councilman Bentley expressed appreciation for the efforts in resolving issues.

Motion by Mayor Kraus, seconded by Mr. Newberry to approve a 15' side yard setback variance.

Roll Call: Aye: Bentley, Greenspan, Kraus, Newberry, Sutton

Nay: None

Motion Carried

Motion by Mr. Newberry, seconded by Ms. Sutton to approve a 6' parking setback variance.

Roll Call: Aye: Bentley, Greenspan, Kraus, Newberry, Sutton

Nay: None

Motion Carried

Motion by Mr. Greenspan, seconded by Mayor Kraus to approve a 10' parking aisle width variance contingent upon requirements in the Engineering Department memo dated April 21, 2022 and Fire Department memos.

In regard to two memos from the Fire Department, Mr. Sullivan said one memo agreed to the plan and Mr. Newberry said the other memo referred to comments from the traffic engineer. Mr. Sullivan explained a wide entry is still available for rescue vehicles as needed.

Roll Call: Aye: Bentley, Greenspan, Kraus, Newberry, Sutton
Nay: None Motion Carried

Motion by Ms. Sutton, seconded by Councilman Bentley to approve a 5 parking space minimum number of parking spaces variance.

Roll Call: Aye: Bentley, Greenspan, Kraus, Newberry, Sutton
Nay: None Motion Carried

Motion by Councilman Bentley, seconded by Ms. Sutton to approve the site plan contingent upon compliance with the requirements in the Planning Department memo dated April 21, 2022.

Roll Call: Aye: Bentley, Greenspan, Kraus, Newberry, Sutton
Nay: None Motion Carried

NEW:

4. 31440 Cannon Road - Michael & Dareen Jogan
PCPC-2022-250 - Ward 5
 - 5' fence height variance

Mr. Michael Jogan was present and explained the request to install an eight-foot fence to protect his garden from deer. He displayed a site plan and aerial drawing and indicated the location of the fence.

Councilman Bentley believes the fence will not be visible from surrounding properties.

Motion by Mr. Newberry, seconded by Ms. Sutton to approve a 5' fence height variance.

Roll Call: Aye: Bentley, Greenspan, Kraus, Newberry, Sutton
Nay: None Motion Carried

5. 33629 Aurora Road - Jersey Mike's Subs - Mid America Management
PCPC-2022-251 - Ward 6
 - 2.29 sq ft sign area variance

Mr. Andrew Sample, 2687 Rockland Road, Shaker Heights, was present representing the applicant and explained the request to install a sign that is two square feet larger than the Code requirement. A drawing was displayed of the sign

and Mr. Sample said the extra two feet accommodates the background design as displayed.

Motion by Ms. Sutton, seconded by Mayor Kraus to approve the 2.29 sq ft sign area variance.

Roll Call: Aye: Bentley, Greenspan, Kraus, Newberry, Sutton
Nay: None

Motion Carried

6. 29375 West Woodall Road - Joseph Spidalieri
PCPC-2022-252 - Ward 5
- Accessory structure location variance

Mr. Joseph Spidalieri was present and explained the request to install a second air conditioning unit to accommodate a proposed addition on the west side of the home. He indicated the location of the proposed unit on the plan and noted the neighbor's air conditioner is also located on the west side.

Motion by Mr. Greenspan, seconded by Mr. Newberry to approve an accessory structure location variance.

Roll Call: Aye: Bentley, Greenspan, Kraus, Newberry, Sutton
Nay: None

Motion Carried

COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.

COMMENTS FROM THE COMMISSION:

Mr. Holloway said the City's Master Plan is currently under review by the Master Plan Committee who has now met twice.

Mr. Newberry offered Ms. Federman of the Planning Department and Solon Times reporter, Sue Reid, best wishes on their future endeavors.

Councilman Bentley spoke of the recent loss of his mother-in-law.

Mayor Kraus is pleased with the solution for Mr. Smercina's property.

Mayor Kraus offered his condolences to Councilman Bentley and his family.

Motion by Ms. Sutton, seconded by Mr. Newberry to adjourn the meeting at 8:26 P.M.

Roll Call: Aye: Bentley, Greenspan, Kraus, Newberry, Sutton
Nay: None

Motion Carried

Chairman

Secretary