

PLANNING & ZONING COMMISSION
March 29, 2012 – 7:00 P.M.

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

Present: Commission Member Newberry, Councilwoman Richmond, Mayor Drucker, Lon Stolarsky, Prosecutor, Planning Director Frankland, Secretary McConoughey

Absent: Commission Members Mazur and Bentley

Also Present: Fire Lieutenant Benedict, Assistant City Engineer Welch, Councilwoman Meany

The following items remained on the Inactive Agenda:

- A. Requests from Wolf Family Trust and Larry Coven, for consideration of allowing medical and dental occupancy in the I-2 Zoning District
- B. **Willow Street – PP# 956-39-056 – Robert Kucinic – Front yard setback variance**
- C. Request from Davis Development Group, John Siragusa, Asset Management and Christine Burkholder, Kids Country, to modify the permitted uses in the C-5 Zoning District
- D. **SW Corner of Miles Road and Neptune Drive – PP#'s 951-04-016, 951-05-001, 002, 003, 004 and 005 – Randy Kertesz – various setback variance and plan for subdivision**

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.)

Vice Chairwoman Richmond presided.

NEW:

2. **7476 Liberty Road – Alan Prietz – total area variance, various setback variances, accumulative side yard variance, height variance, sq ft area variance and variance to construct a structure on G-1 zoned land:** Councilwoman Richmond said this item will be tabled since only 3 members are present and Mayor Drucker will be abstaining.

4. **ECHO Solon, LLC – (Solar Center redevelopment) PP#'s 954-34-001, 002, 003, 004, 005, 020, 021, 022 – Lot split/consolidation and various side yard parking setbacks:** Councilwoman Richmond said a public hearing is scheduled.

Mr. Frankland said an additional variance for the south side of Parcel D has been identified.

Mr. Stolarsky said the notification sent to adjacent property owners indicated additional variances may be identified and considered during the scheduled meeting.

5. **28400 Miles Road – Brainard Miles Retail Development, LLC – site plan review** for proposed picnic and pet area: Mayor Drucker said she has concerns and will discuss them during the meeting.

Councilwoman Richmond explained two Commission members are absent and applicants may request their application be tabled until the next meeting.

Mr. Stolarsky clarified a majority of the members in attendance is necessary for passage of a motion. Therefore, two of the three members present must be in favor of the motion for it to pass.

PENDING:

6. **Thornbury Subdivision – Forest City Land Group – Phase 7 and 8 dedication plat:** Mrs. Welch said the Engineering Department has received no new material.

The Commission discussed placing this item back on the Inactive Agenda or removing it from the agenda.

Mrs. Welch said Forest City Land Group made an agreement with the Army Corp of Engineers which placed deed restrictions on a portion of the property and the **Homeowners' Association has concerns regarding some of the language and has not yet signed the paperwork causing the delay.** Mrs. Welch advised that this item should at least remain on the Inactive Agenda.

Mr. Newberry said by keeping this item on the Active Agenda, it will impress upon Forest City Land Group the importance of completing the dedication and forwarding the necessary paperwork to the Engineering Department.

Councilwoman Richmond said this item will be tabled.

COUNCIL REFERRAL:

7. **Proposed amendment to permit Pet Stores within the C-2 (Restricted Commercial) Zoning District:** Councilwoman Richmond said a public hearing should be scheduled.

Mr. Frankland said there are 2 minor alterations to review.

Mr. Brian Fabo, representing Solon Square Shopping Center was present. He is proposing a small outdoor seating area for the Oasis Frozen Yogurt store which is located on the north side of the former D.O. Summers building. Mr. Frankland

displayed a site plan and indicated the area where they are proposing to place 4 tables and install some shrubbery. In the future, the applicant might return to request approval of expanded plans.

Mr. Frankland believed this item could be presented as a minor alteration. The Commission discussed the types of tables and chairs to be used.

Mr. Fabo proposed mounting the tables to the concrete. He advised they have minimal space and will not be able to move the tables inside when the store is closed.

Mayor Drucker suggested using the type of table with attached seating, either chairs or benches. This suggestion was favored by the Commission and Mr. Fabo.

Mr. Frankland said the following conditions can be placed upon the approval; the tables will be bolted to the concrete, nothing can be moved into the ADA access sidewalk area and a limitation will be placed on the time period for the approval.

In response to Mayor Drucker's question, Fire Lieutenant Benedict said even with the tables bolted down, there is adequate room for the Fire Department to maneuver in that area, if necessary. He compared it to the addition of bollards to protect against vehicles from entering the area.

Councilwoman Richmond has no objections to the proposal but requested the area be well maintained and kept free from trash and the tables and chairs be cleaned regularly.

Mr. Frankland asked the Commission if they agreed this item could be considered as a minor alteration.

The Commission determined the item could be presented as a minor alteration by Mr. Frankland and advised Mr. Fabo did not have to stay for the meeting.

Mr. Newberry said he does not object to it being presented as a minor alteration as it is a temporary use for one season.

The caucus ended at 7:19 P.M. and the meeting convened at 7:30 P.M.

Councilwoman Richmond presided.

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 Mayor Drucker, seconded by Mr. Newberry to approve the minutes of the February 28, 2012 meeting as presented.

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

Motion Carried

Motion by Mr. Newberry, seconded by Mayor Drucker to approve the minutes of the March 13, 2012 meeting as presented.

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

Motion Carried

NEW:

1. **33631 Aurora Road – Solon Square, LLC for AT&T** 023-2012
- Number of wall signs variance (to permit 2)
 - 25 sq. ft. sign area variance

Mr. Don Castle, Sign Vision, representing AT&T was present and displayed a picture of the building on Aurora Road. He explained that there is an existing sign on the front of the store which faces the parking lot. However, this building is on a corner lot in the shopping center and the proposal is to add a second sign on the south side of the building facing Aurora Road, where most of the traffic is located. Mr. Castle indicated a depiction of the proposed sign on the picture displayed, noting it is larger than allowed by the Code for better visibility and it will match the signage on the front of the building.

Mr. Newberry believes there was a sign on this elevation when D.O. Summers occupied the building. The request is to upgrade the sign board with a new sign but one that is larger than normally permitted.

Councilwoman Richmond has no objections to the request for a second sign but has concerns with the sign area variance and asked why it was necessary to have it larger than the Code permitted.

Mr. Castle said for visibility purposes and it appeared more symmetrical on the building side.

Councilwoman Richmond is concerned that approval of the sign area variance will set a precedent for other businesses on Aurora Road who have been able to maintain their signage within the permitted guidelines.

Mayor Drucker has no objections to the sign area variance but asked Mr. Frankland if the former D.O. Summers sign was within the permitted guidelines.

Mr. Frankland was uncertain, however, believed the D.O. Summers sign would have pre-dated the Zoning Code of 2005.

Mr. Newberry recalled the D.O. Summers sign covered most of the south side of the building and he believes it was over one foot tall. Therefore, under the current Code, a sign area variance would have also been necessary.

In response to Mr. Newberry's question, Mr. Castle said the other sign is on the front of the building and there is no under canopy sign.

Mr. Newberry believes based on the image presented in the rendering, he does not feel the size is out of character or proportion to the sign board. He will not object to the area variance.

Councilwoman Richmond asked if Mr. Castle had any pictures of what the sign would look like on the building without the sign area variance and if it would look out of character with the existing sign on the front of the building.

Mr. Castle did not have a rendering of the signage within the allowed guidelines but said the sign proposed is the same size as the sign on the front of the building.

Councilwoman Richmond will not object to the sign area variance since the lettering is the same as the signage on the front of the building.

Motion by Mayor Drucker, seconded by Mr. Newberry to approve the number of wall signs variance (to permit 2).

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

Motion Carried

2. 7476 Liberty Road – Alan Prietz

024-2012

- 725' sq. ft. total area variance (accessory structure)
- 15' rear yard setback variance – east side of property line
- 15' rear yard setback variance – west side of property line
- 20' side yard setback variance – north side of property line
- 20' side yard setback variance – south side of property line
- 24.5' accumulative side yard variance
- 3' height variance
- 1,100 sq. ft. area variance
- variance to construct a structure on G-1 zoned land

Mayor Drucker will abstain from this item.

Councilwoman Richmond said since only three members are in attendance this evening and one of them must abstain, this item will have to be tabled.

Motion by Mr. Newberry, seconded by Councilwoman Richmond to table consideration of Item 2.

Roll Call: Aye: Newberry, Richmond
Nay: None
Abstain: Drucker

Motion Carried

3. SOM Center and Aurora Roads - Solar Center Ltd & Percap Realty, Ltd – PP#s 954-29-026, 954-29-027, 954-29-034, and 954-29-043 025-2012
- Lot split/consolidation
 - 15' building side yard setback variance – north property line*
 - 15' building side yard setback variance – south property line*
 - 15' parking side yard setback variance – north property line *
 - 15' parking side yard setback variance – south property line *
- * These variances will be eliminated upon final approval of the ECHO lot split/consolidation

A public hearing was scheduled and Councilwoman Richmond opened the public hearing and asked for comments.

Mr. Dave Mitchell, Counsel to Solar Center and Percap Realty, was present. He explained that a revised plat should have been submitted correcting some of the parcel numbers that were incorrect on the original version (it was determined the plat had not been received). In addition, a "z" indicating a lot consolidation has been deleted which was inappropriately marked but does not affect the proposed lot split/consolidation.

Mayor Drucker asked if this item could still be voted on if the revision had not been viewed by members of the Commission.

Mr. Stolarsky said a motion can be made with the contingency that a revised plat be provided in a timely fashion prior to consideration by the Council with the representation that it is not a material change.

Mr. Mitchell displayed a copy of the revised plat indicating the parcels that were incorrectly labeled and where the consolidation was incorrectly identified.

Mr. Stolarsky requested Mr. Mitchell state for the record that the revised plat does not change the configuration of the parcels for the purpose of the lot split/consolidation or the proposed variances.

Mr. Mitchell said all of the legal descriptions and the perimeter remain the same.

Mr. Mitchell said revised plans for distribution to the Council will be delivered to the Clerk's office tomorrow morning.

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

Motion by Mr. Newberry, seconded by Mayor Drucker to approve the lot split/consolidation for PP#'s 954-29-026, 954-29-027, 954-29-034 and 954-29-043.

Roll Call: Aye: Drucker, Newberry, Richmond

Nay: None

Motion Carried

Motion by Mayor Drucker, seconded by Councilwoman Richmond to approve a 15' building side yard setback variance for the north property line.

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

Motion Carried

Motion by Councilwoman Richmond, seconded by Mr. Newberry to approve a 15' building side yard setback variance for the south property line.

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

Motion Carried

Motion by Mr. Newberry, seconded by Councilwoman Richmond to approve a 15' parking side yard setback variance for the north property line.

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

Motion Carried

Motion by Mayor Drucker, seconded by Mr. Newberry to approve a 15' parking side yard setback variance for the south property line.

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

Motion Carried

4. ECHO Solon, LLC – (Solar Center redevelopment) 028-2012
PP#'s 954-34-001, 002, 003, 004, 005, 020, 021, 022
- Lot split/consolidation
 - 15' side yard parking setback variance – Parcel "A"
 - 15' side yard parking setback variance – Parcel "B"
 - 15' side yard parking setback variance – Parcel "C"
 - 15' side yard parking setback variance – Parcel "D"
- (this variance was identified during the meeting)

A public hearing was scheduled and Councilwoman Richmond opened the public hearing and asked for comments.

Mr. Bill Boron, Atwell, representing ECHO Solon, LLC for the Solar Center redevelopment was present. He displayed a site plan indicating the 4 parcels that will be created upon the lot split/consolidation.

- Parcel A – The Giant Eagle and its parking
- Parcel B – The entry road and the GetGo
- Parcel C – The remaining new retail and the existing center
- Parcel D – A future out lot for the project

Mr. Newberry clarified Parcel D is the property next to but not part of the Dairy Queen.

Mr. Frankland said it is understood that upon approval of these variances, the variances approved for the Item No. 3 will no longer be necessary.

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

Motion by Mayor Drucker, seconded by Councilwoman Richmond to approve the lot split/consolidation for PP#'s 954-34-001, 954-34-002, 954-34-003, 954-34-004, 954-34-005, 954-34-020, 954-34-021 and 954-34-022.

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

Motion Carried

Motion by Mr. Newberry, seconded by Mayor Drucker to approve a 15' side yard parking setback variance for Parcel A.

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

Motion Carried

Motion by Councilwoman Richmond, seconded by Mr. Newberry to approve a 15' side yard parking setback variance for Parcel B.

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

Motion Carried

Motion by Mayor Drucker, seconded by Councilwoman Richmond to approve a 15' side yard parking setback variance for Parcel C.

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

Motion Carried

Motion by Mr. Newberry, seconded by Councilwoman Richmond to approve a 15' side yard parking setback variance for Parcel D.

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

Motion Carried

5. **28400 Miles Road – Brainard Miles Retail Development, LLC** 026-2012
▪ **Site plan review – proposed picnic and pet area**

Mr. Randy Kertesz was present and explained that last summer he noticed many people who live locally walking over to the center with their pets. This year, there are even more restaurants open and he does not want the pets on the patios. He, therefore, thought a picnic area with a fenced-in controlled pet area would be appropriate. Mr. Kertesz said there will be rules posted; such as, pets must be leashed and owners must clean up after their pets. There will be pet waste containers provided which will be maintained by personnel on site.

Mr. Kertesz explained that many of the tenants have requested outdoor seating areas. He would like to turn a large grassy area into the picnic area which will be well maintained. Mr. Kertesz is trying to create a friendly environment for patrons to walk around and stay longer to patronize the businesses.

Councilwoman Richmond asked what the purpose of the fenced-in area is if the dogs will be maintained on leashes.

Mr. Kertesz believed having the fenced-in area for pets might make it easier to contain their waste if owners took their dogs in that area, when necessary. He said that people walk their dogs all the time in that area and leave the mess there. He feels by having a designated location for owners to walk the dogs, it will help to control the mess. However, if the Commission doesn't approve of the fence, it is not necessary.

Councilwoman Richmond said she fails to see the utility of the fence if pets are already leashed. In addition, if a family wants to walk from store to store or go in a restaurant and eat, what becomes of the dog.

Mr. Kertesz said if a family is walking around, one member can go in and purchase the food and they can all sit at the picnic area together and eat.

Mr. Newberry asked what restrictions are in the Code for this type of use, especially on a temporary basis.

Mr. Frankland believes it would fall under an accessory use to the shopping center. He explained providing there are no kennel services, which are prohibited in this area, this would be considered as an accessory use which the Commission could approve or deny.

Mr. Kertesz said there are no plans for kennel services.

Mr. Newberry believes the potential for this type of use is more appropriate than the proposal made last year for the flower barn on the corner which he understood was not very successful.

Mr. Kertesz said the vendor did do well last year and wanted to return this year but was asked to go to one of their other locations.

In response to Councilwoman Richmond's question, Mr. Kertesz said the fence height will be approximately 4' high. He realizes some dogs could jump a 4' fence and that is why there will be a rule that all dogs must be leashed.

Mr. Stolarsky advised Mr. Kertesz that there are only 3 members present this evening, therefore, at least two affirmative votes are necessary for this item to move forward. However, he can also wait until the entire Commission is in attendance and table this item tonight.

Mr. Kertesz said it is his goal to have a picnic area for outside enjoyment ready for good weather. He also believed the fence would be a good idea to help keep pets contained and away from people who are not animal lovers.

Mayor Drucker said although the person who had the flower barn may have been successful and Mr. Kertesz received income from the rental, there was no benefit to the City or the schools for this temporary use.

Mayor Drucker said she is not fond of temporary uses because she does not feel it helps the City and she does not believe it really helped out the shopping center. She will not support a picnic area or a dog park near businesses or residences. Mayor Drucker said the City regularly approves requests for those who want outdoor patios.

Mr. Kertesz asked if pets were allowed on restaurant patios or outdoor seating.

Mr. Newberry said any place food is served commercially, pets are not allowed.

Mayor Drucker said the only exception would be with a service dog. She will not support any temporary uses for the shopping center.

Councilwoman Richmond said it is Mr. Kertesz's decision if he would like to have this item tabled or move forward with it tonight.

Mr. Kertesz understood that Councilwoman Richmond did not care for the fenced-in dog area. Therefore, he questioned if he removed the fence from the application, would Councilwoman Richmond support the application.

Councilwoman Richmond said she is still not in favor of the picnic area.

Mr. Kertesz said the picnic area is not a way for him to make additional revenue but it is a way for the tenants to gain revenue. He said this is an accommodation for his tenants and their patrons.

Mayor Drucker said, technically, this request involves more seating.

Mr. Frankland said it would become an Engineering Department issue because tap-in fees could be associated with additional seating.

Mayor Drucker said this is a commercial area and it is not a picnic area. Mayor Drucker said she has previously met with Mr. Kertesz and shared ideas with him to generate traffic and additional business. She said an anchor store is needed for the area. Mayor Drucker cannot support a picnic area in that area. She said the City has a park where animals are welcome and families can have a picnic.

Mr. Kertesz determined the item should be tabled this evening until more members are present.

Motion by Councilwoman Richmond, seconded by Mr. Newberry to table consideration of Item 5.

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

Motion Carried

5a. **6315 SOM Center Road – Solon Center for the Arts – preliminary** 029-2012
review of proposed new courtyard and patio improvements

Councilwoman Richmond said this item is not yet ready for review.

Mayor Drucker said this item will be submitted with a complete application in the near future and will be reviewed at that time.

Motion by Councilwoman Richmond, seconded by Mayor Drucker to remove this item from the agenda.

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

Motion Carried

PENDING:

6. Thornbury Subdivision – Forest City Land Group – tabled 11/29/05 pending Engineering approval and placed on Inactive Agenda – 2/28/12 placed on Active Agenda and tabled – NO NEW MATERIAL

- Phase 7 – Dedication plat
- Phase 8 – Dedication plat

Mrs. Welch said no new information has been received and she requested this item be tabled again.

Mr. Newberry requested the Engineering Department express the Commission's discomfort to the applicant at continuing to table this item for the lack of activity.

Motion by Mr. Newberry, seconded by Councilwoman Richmond to table consideration of Item 6.

Roll Call: Aye: Drucker, Newberry, Richmond

Nay: None

Motion Carried

COUNCIL REFERRAL:

7. Proposed amendment to permit Pet Stores within the C-2 (Restricted Commercial Zoning District)

Motion by Councilwoman Richmond, seconded by Mayor Drucker to schedule a public hearing for April 10, 2012.

Roll Call: Aye: Drucker, Newberry, Richmond

Nay: None

Motion Carried

MINOR ALTERATIONS FROM THE PLANNING DEPARTMENT:

1. 33629 Aurora Road (Solon Square Shopping Center) – Oasis Frozen Yogurt

Mr. Frankland displayed an aerial view of the shopping center and indicated the location of the yogurt store and where they are proposing to add 4 tables and chairs. He said during the caucus, it was determined and agreed upon by the **applicant's representative, that the tables will have chairs or benches attached to them and the unit will be bolted to the concrete and, thereby, cannot be moved into the sidewalk blocking ADA access.**

Mr. Frankland said other conditions that were agreed to are trash will be readily removed, the area will be well maintained and a time limit will be determined. He believes the appropriate time would be no later than November 1, 2012.

Mr. Newberry agreed with Mr. Frankland and believes this amount of time will give the store owner an opportunity to determine how successful this venture is and conclude if they will apply for a more permanent plan next year.

In response to Councilwoman Richmond's question, Mr. Frankland said the owner

will maintain the area for cleanliness and he will also have the Zoning Inspector check for cleanliness.

Mr. Stolarsky reiterated that the chairs or benches will be attached to the tables.

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

2. 28500 Miles Road - Joey's Restaurant (Shoppes of Solon North)

Mr. Frankland displayed an aerial view indicating the area where a temporary outdoor seating area was formerly approved in 2008 for Harvey's Bar-B-Q. This is a request from Joey's Restaurant, now in this location, to continue using this area for outdoor seating on an interim basis. It includes 3 tables which will be bolted to the concrete and the chairs will be removed in the evening.

Mr. Frankland said at the next Planning Commission meeting, Joey's Restaurant is submitting an application for a permanent patio area with decorative wrought iron fencing. If, for some reason, this is not approved, then he believes the applicant would want to maintain the interim seating for the summer. Therefore, a time limit should be placed on the interim patio of no later than November 1, 2012 with the conditions that it will be well maintained and kept clean of trash.

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

3. Corner of Aurora Road and Cochran Road

Mr. Frankland displayed an aerial view and said this is a proposal to place a generator on an existing pad where a previous generator was located. This will be located behind the 4-story office buildings. He displayed a picture of the proposed generator.

Mr. Frankland said the generator will be located adjacent to Springhill Suites and since it will be visible, evergreen screening should be required on the north, east and south sides of the generator.

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

COMMENTS FROM THE COMMISSION:

Mayor Drucker welcomed Mr. Stolarsky back to the Planning Commission and commended Councilwoman Richmond on running a very good meeting in her first endeavor acting as Chairperson.

In turn, members welcomed Mr. Stolarsky back to the Planning Commission and commended Councilwoman Richmond for a job well done.

Mr. Stolarsky thanked everyone for their kind words and said he is excited to be back.

COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.

Motion by Mayor Drucker, seconded by Mr. Newberry to adjourn the meeting at 8:28 P.M.

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

Motion Carried

Chairman

Secretary