AVON PLANNING COMMISSION REGULAR MEETING MINUTES 4-20-16

MINUTES OF THE PUBLIC HEARINGS HELD ON WEDNESDAY, APRIL 20, 2016 IN COUNCIL CHAMBERS OF CITY HALL

The meeting was opened by Chairman Carolyn Witherspoon at 7:00p.m

REZONING OF THE BARELKA PROPERTY, 36460 CHESTER ROAD FROM C-1 TO R-3. The public hearing was opened by Chairman Carolyn Witherspoon at 7:00P.M. Mike Bramhall of Bramhall Engineering explains that he has spoken with the law firm that represents the Homeowners Association for Pin Oak there are a lot of questions and misinformation. After speaking with the owners of the property they would like to table this item for one month. Currently the property is C-1 and they are looking to rezone to allow R-3 as well. The Barelka's are not in a big rush to get this through and Mr. Bramhall says he would be willing to meet with the Homeowners Association to answer any questions. Mr. Bramhall show the map of what it currently is zoned and what the proposed zoning would be and there are no plans for a gas station. Mr. Bramhall says next month they will be coming back with the R-3 overlay to provide more flexibility. The C-1 is the neighborhood commercial business and the parcel is 1.2 acres in size. Mr. Bramhall continues to say the current R-3 regulation requires a larger per floor footprint that existed in the past along with an attached garage and it would not be conducive to low income housing that is a concern to the residents.

Carol Yondo, 1404 Ledgewood asks if condos need to be built there, that is fine but how big would they be and would they be multifamily like down further on Chester. Mr. Bramhall says that the current number would be what is allowed by code and they do not know what that is. This is for the rezoning and they would have to come back with any proposed plans and it would not be what is down the road, they are more on the line of the ones to the west of the parcel.

Joann Batcha, 1467 Ledgewood wants to know how to find more information out about the R-3 zoning and what the stipulations are. Ms. Fechter says she can get that to her and it is also on the website. Mayor Jensen says Ms. Fechter could also give what her requirements are to show comparison. Ms. Batcha says she is aware of what her property is and just wants to know what the current status is for R-3 to make sure she knows what they can get. There being no further questions or comments, Chairman Witherspoon closes the public hearing at 7:12P.M.

AMEND SPECIAL USE PERMIT COSTCO, 35804 DETROIT ROAD TO INCLUDE THE CANOPY EXPANSION AND ADDITION OF FUELING DISPENSERS. The public hearing was opened by Chairman Carolyn Witherspoon at 7:12P.M. Angelo Bologna is representing Costco and they are requesting to add four dispensers to help with the flow of traffic. As most know Costco is membership only and it will not increase the number of people, it will help with traffic. There being no further questions or comments, Chairman Witherspoon closes the public hearing at 7:13P.M.

AMEND SPECIAL USE PERMIT ALL PRO FREIGHT STADIUM TO INCLUDE THE AWNING AND OUTDOOR BAR. The public hearing was opened by Chairman Carolyn Witherspoon at 7:13P.M. There being no one present in the audience, Chairman Witherspoon closed the public hearing at 7:13P.M.

AMEND SPECIAL USE PERMIT AVON 25 REAL ESTATE, LLC TO INCLUDE THE ROSE PARKWAY EXTENSION AND A PORTION OF AVON COMMERCE PARKWAY. The public hearing was opened by Chairman Carolyn Witherspoon at 7:14P.M. There being no one present in the audience, Chairman Witherspoon closed the public hearing at 7:14P.M.

SPECIAL USE PERMIT FOR BERNIE KNOBLE TO INCLUDE ROADSIDE PRODUCE STAND AT 4451 CASE RD. Ms. Fechter informs Chairman Witherspoon that she will be requesting this item be deleted from the agenda and there is no need for Public Hearing.

SPECIAL USE PERMIT FOR THERESA KNOBLE TO INCLUDE A ROADSIDE PRODUCE STAND AT 2970 MOON RD. The public hearing was opened by Chairman Carolyn Witherspoon at 7:14P.M. Theresa Knoble, 2970 Moon Road says that the stand on Moon Road has been there since 2014 and before that Mrs. Knoble says she came in to get a Special Uses Permit and was awarded one, signed by the zoning enforcement officer in 2013. She continues to say she has been told it was a mistake and she needs to get a special uses permit in which regulations can be imposed on the stand, so the stand can't function the way it needs to function or has functioned without issue since 2013. Mrs. Knoble continues to say she was told before this meeting if they remove their application for the Detroit Road stand they would go ahead and remove this permit from the agenda saying they do not want the Detroit Road stand. Mrs. Knoble says then they turn around and said they cannot approve the Moon Road stand and apply for the Detroit Road because of legality, but if you remove the permit for Detroit Road then they can remove Moon Road from the agenda that it is fine to operate the way it has since 2013. Mrs. Knoble says that since she got a building permit for Special Uses that she filed in 2013 and signed by Mr. Schneider, it says Special Uses and she applied the correct codes she does not think she should be subject to a whole bunch of restrictions on the Moon Road property.

Larry Coleman, 2980 Moon Road, right next to the stand says that he loves the stand and it would like to see it continued the way it is. He thinks it's great for the community to be able to stop there and there have never been any issues. Mr. Coleman says it's very well taken care of and whatever the other issues are, he lives next door and has no problems.

Joan Beetler, 3990 Nagel asks if Mrs. Knoble grows her own vegetable and Mrs. Knoble response yes they do and Ms. Beetler asks on that property and asks how many acres she has. Mrs. Knoble says yes they do and they have an acre. Ms. Beetler asks about Detroit Road and Ms. Fechter says that's the next item and Mrs. Knoble says they intend on growing there. Mrs. Beetler says again, you grow on that, one acre, more than 50 percent of what you sell in the stand. Mrs. Knoble says yes.

Skip Conant, 34390 Detroit Road says he thinks that all these farm stands belong in an agricultural district. Mr. Conant continues to say we have stuff now that "ag districts" are part of the City, that Council approves them every four to five years and they belong there or in commercial zone parcels.

Mr. Gasior adds that an "AG district" has a minimum ten acre requirement. Mr. Conant adds or they need to have $3,000 worth of income.

Mike Kerace, 4432 Case Road asks what's the difference between a Special Use Permit and the one that's already on the book 848 and why doesn't it fall under the 848? Mr. Gasior says they will probably get into this more but 848 has effectively been repealed as a 1952 ordinance. A large rumble comes from the crowd and someone says but it's still in the books. Mr. Gasior says it's still in the codification, correct, but since that time in 2001 or 1966 when the City adopted a Planning and Zoning code and created zoning districts that identified certain districts as residential, commercial, office, and industrial, those sections for the Planning and Zoning Code superseded 848. Mr. Gasior says 848 is a division and is interrupted by Mr. Kerace saying a road side stand. Mr. Gasior says it's about farm products and their ability to sell them and that was adopted prior to the zoning code. Our Zoning Code now supersedes that and will check with the codifier to find out why it was not removed. Someone from the audience again, says it's still on the books. Mr. Gasior continues to say the codifier puts the code together for the convenience of the general public and the actual laws passed by City Council are the actual true representation of what the laws in the City are. The fact that the codifier has it there is unfortunate because it does create some confusion but the fact of the matter is when the Zoning code was adopted and the City added certain types of operation to commercial and residential districts, the determination was made to supersede 848. Mr. Gasior says it unfortunate it's still in there and should be removed by the codifier. Chairman Witherspoon talks to the

audience saying if someone has something to say, they need to come up to the microphone and give their name and address.

Kathy Kerace, 4432 Case Road asks does that mean the people that have been getting these permits and are adding these stands have been ok'd by Rick Schneider who is the zoning engineer, is he not brought up to par on what is right and what is not right before he is approving these before they are putting a lot of money and effort into this and then the City is saying you can't do it, take it down, pull it away, get rid of it? Mrs. Kerace continues to say people have had these stands for years and now your saying 848 is somewhere grouped into a bunch of red tape that even though he must have been using that evidentially. Mrs. Kerace says what are people supposed to think, that when people come to get permits for these things, do we have to back track and do our own research before we put money or effort or buy a piece of land. Mrs. Kerace says you are the people who are supposed to be telling us everything is ok and we're going by the book and yet we just find out it's not good. Mr. Gasior says, as I said, before it is unfortunate when you have a conflicting ordinance section of the code on the books and the Zoning Enforcement officer does the best job he can but again he's not a lawyer and it's a very difficult situation. Mr. Gasior says no one is trying to shut down any stands, all that is being required is the special use permit unless you have had your stand in operation prior to 2001.

Bernie Knoble, 4451 Case Road wants to make a point that Mr. Schneider isn't perfect, no one's perfect and all he is asking for is, you made a mistake, ok, but they should be compensated for that by fair treatment on how things are on Moon Road. Mr. Knoble continues saying, meaning no change and thinks that's fair. Mr. Knoble says he has been in this town for almost 30 years, farming most of that time and has done this for a long time and has never had any issues until this present time. Mr. Knoble says he just wants some consideration and does not want to be discriminated. Mr. Gasior says they will take up that issue in item number 15 on the agenda.

Theresa Knoble says she has a few more points to make and Mr. Gasior says this is just a public hearing section. Mrs. Knoble says when she came in to get the special uses permit she specifically wrote on the project description under Chapter 848.01 the sale of farm produce and 848.03 a special uses permit that Mr. Schneider had the opportunity at that point of signing this, that he read the code and for now, for him, to go and disregard 848 that its repealed. Mrs. Knoble reads 220.07 conflicting laws and says that does mean that the City wrote something in 2001 that you didn't say the road side stands overrule 848 that everything prior to 2001 gets thrown out the window. Mrs. Knoble continues to say as far as the Zoning Enforcement job description and reads a portion of the job description, referencing to 256 and reads ap portion of that, saying you can't just remove stuff without the city approval, just like when she looked up the special uses permit it had three references in 2013 and now you look at it today and one of those references are gone, but the code hasn't been updated since 1952. Mrs. Knoble says so now, how does she trust any code that is available to her is right or is going to disappear. Mrs. Knoble says she thinks that Rick, in his position has the ability to sign the permit and took his authority, as the zoning enforcement officer, with the training and he exercised his independent judgement and discretion and doesn't think she needs to file for Special Uses Permit for Detroit Road. Mrs. Knoble says she already applied for the Special Uses permit, paid the money and just because he says now, it was just a mistake and didn't know but then gave another one in 2015 for the Case Road. Mrs. Knoble continues to say that not only did he not know his job in 2013 but then in 2015 he signed another permit that she did exactly the same, citing 848 and she checked the box Special Use. If he didn't have the authority to sign a Special Use Permit than it should not be on his Zoning application for a permit. Mr. Gasior says the item will be discussed later on in the meeting and this is public hearing to allow the audience the time to come forward to express their concern and opinion pro or con on the granting the special use permit for Moon Road. Mr. Gasior says he thinks she had a good presentation but again she will have to opportunity to fully explain to the body in item number 15 why she believes a Special Use Permit should be granted and wants the audience to participate now. Mrs. Knoble asks then, where does her $150 fee go for the presentation. Ms. Fechter says

this is for the Moon Road. Mr. Gasior says again, this is asking for the audience to participate and Mrs. Knoble says she is not allowed to speak until after? Mr. Gasior says no, you can speak but the best opportunity to speak to get the action you are looking for is when it comes up on the agenda. There being no further questions or comments, Chairman Witherspoon closes the public hearing at 7:31P.M.

SPECIAL USE PERMIT FOR THERESA KNOBLE TO INCLUDE A ROADSIDE PRODUCE STAND AT 39160 DETROIT RD. The public hearing was opened by Chairman Carolyn Witherspoon at 7:31P.M. Mr. Gasior says this will item number 16 on the agenda and Chairman Witherspoon asks if there are any questions or comments from the applicant or the audience for 39160 Detroit Road.

Joan Beetler, 3990 Nagle Road asks where the Detroit Road stand is going to be located at. Mrs. Knoble says on Detroit, by Case almost across from an old nursery. Ms. Beetler comments, you have acreage there. Mrs. Knoble says it only .27 of an acre. Ms. Beetler says you can't really grow much and asks if its zone agriculture. Mrs. Knoble says it's zoned residential. There being no further questions or comments, Chairman Witherspoon closes the public hearing at 7:33P.M.

AMEND SPECIAL USE PERMIT FOR VETERAN'S MEMORIAL PARK TO INCLUDE A FENCE AND ACCESS DRIVE IMPROVEMENTS. The public hearing was opened by Chairman Carolyn Witherspoon at 7:33P.M.

Diane Corrao, City of Avon Parks Director explains that it is a fence area that is 60'x80' off the back shed between fields one and two. Mrs. Corrao says the parks department has grown a little bit because of the acreage of the beautiful parks that we have so they needed to purchase a few more items like snow plows, trailers and trucks. They have run out of room at the Parks Department on Schwartz Road and this is to fence in and safely store some stuff away and to keep it secured and locked.

Don Urlich, 4243 Case Road says he lives next to where the proposed Road is going to be and his reason for coming is to let us know there is a water problem in that area. Mr. Urlich says it has increased over the last few years. Mr. Urlich says there is no place for any of the runoff water to go and says if they put the access road in the water problem must be addressed. He says he knows there is a drain tile back there as he has cleaned it himself. Mr. Urlich says there is a drain tile that runs under case road and goes to a modified catch basin on Evergreen and gives some overview of the area and drainage and tile sizes. Mr. Urlich says he wants to handle things now so it doesn't get worse and cost more to fix. He also says he has a lot of back ground and will share anything and everything he can if it will help. Mr. Urlich said a circus drain was put in his yard and it use to get cleaned and now it hasn't been. There being no further questions or comments, Chairman Witherspoon closes the public hearing at 7:36P.M.

Bob Simeanu 4149 Case has water in that area as well and is concerned with the roadway coming in will make it worse and would like to see where the road is going. Mr. Cummins puts up a map to show the location of the proposed road.

Joanna Julius, 4500 Case is not sure she understands the way this runs. Chairman Witherspoon says the public hearing is part of both and they both will be addressed in the agenda items too.

MINUTES OF THE REGULAR PLANNING COMMISSION MEETING HELD ON WEDNESDAY, MARCH 16, 2016 IN COUNCIL CHAMBERS OF CITY HALL

Present: Mary Berges; Bill Fitch; Bryan Jensen, Mayor; Jim Malloy; Carolyn Witherspoon; Ryan Cummins, City Engineer; Pam Fechter, Planning Coordinator; John Gasior, Law Director; Rick Schneider, Zoning Enforcement Officer; and Jill Clements, Secretary.

AVON PLANNING COMMISSION REGULAR MEETING MINUTES 4-20-16

MINUTES OF THE REGULAR MEETING-MARCH 16, 2016
A motion was made by Mr. Malloy, seconded by Mayor Jensen to dispense with the reading of the minutes of the Regular Meeting held on March 16, 2016, and to approve the said minutes as published. The vote was: "AYES" All. The Chair declared the motion passed.

CORRESPONDENCE
None

ADDITIONS/DELETIONS

A motion was made by Mr. Malloy, seconded by Mayor Jensen to delete item #6-Joann Kiger Barelka Revocable Living Trust at the request of the applicant. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to delete item #14-Bernie Knoble Special Use Permit at the request of the Planning Coordinator. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to amend the agenda as requested. The vote was: "AYES" All. The Chair declared the motion passed.

RUSH INN BAR & GRILLE-FIRST PRESENTATION-MINOR MODIFICATION
PL20160019
Ken Rush of the Rush Inn is requesting approval of the site plan to construct a 134 sq. ft. walk in cooler enclosure to be added in the rear of the building at 35840 Chester Road.

Ken Rush, 4221 Queen Gate, explains that this is a simple modification that currently there is a cooler for food and beer and they would like to add a small addition so there can be coolers for just beer and just food to improve their menus. Ms. Fechter says they are doing some interior work but that is handled through the building department.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to suspend the rules. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve the site plan to construct a 134 sq. ft. walk in cooler enclosure to be added in the rear of the building at 35840 Chester Road. The vote was: "AYES" All. The Chair declared the motion passed.

COSTCO-FIRST PRESENTATION-FINAL DEVELOPMENT PLAN
PL20160017
Angelo Bologna of Barghausen Consulting Engineers representing Costco is requesting approval of the site plan to construct a 2,048 sq. ft. canopy expansion and additional fueling dispensers to be located at 35804 Detroit Road.

Ms. Fechter says they started talking with the administration about a year ago, Costco typically has lower gas prices and in turn has long lines. They feel that adding the additional dispensers will help keep the lines down. They will be extending out and taking a few parking spaces but that will not affect their numbers as Costco is membership only and have adequate parking. Mr. Dudziak asks where the large the tank will be and Mr. Bologna said they are not adding addition storage, they are keeping with what they have and Mr. Dudziak says that's good. Ms. Fechter says there are some outstanding utility issues and would recommend a contingent approval. Mr. Cummins says that engineering is good.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to suspend the rules. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve the site plan to construct a 2,048 sq. ft. canopy expansion and additional fueling dispensers to be located at 35804 Detroit Road contingent upon final utility review. The vote was: "AYES" All. The Chair declared the motion passed.

COSTCO-FIRST PRESENTATION-AMEND SPECIAL USE PERMIT
PL20160018
Angelo Bologna of Barghausen Consulting Engineers representing Costco is requesting approval and the recommendation to Council for approval to amend the Special Use Permit to include the 2,048 canopy expansion and additional fueling dispensers to be located at 35804 Detroit Road.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to suspend the rules. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve and recommend to Council for approval to amend the Special Use Permit to include a 2,048 sq. ft. canopy expansion and additional fueling dispensers to be located at 35804 Detroit Road. The vote was: "AYES" All. The Chair declared the motion passed.

ALL PRO FREIGHT STADIUM-FIRST PRESENTATION-MINOR MODIFICATION
PL2016028
Bill Belloma representing Tom Kramig of the Lake Erie Crushers is requesting approval of the site plan to construct a 368 sq. ft. outdoor bar and awning to be located on the party deck of All Pro Freight Stadium, 2009 Baseball Blvd.

Mr. Gasior says that the owner of the stadium is the City of Avon and is leasing the stadium, there is a clause in the lease that they can go ahead with City approval to make some improvements at their cost. Bill Belloma of Belloma Design and Consulting shows a picture of the proposed area which will be on the party deck that is on the third base side. They are adding the awning to provide shade and allows them to open their menu and add other options.

A motion was made by Mayor Jensen, seconded by Mr. Malloy to suspend the rules. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve the site plan to construct a 368 sq. ft. outdoor bar and awning to be located on the party deck of All Pro Freight Stadium, 2009 Baseball Blvd. The vote was: "AYES" All. The Chair declared the motion passed.

ALL PRO FREIGHT STADIUM-FIRST PRESENTATION-AMEND SPECIAL USE PERMIT
PL20160029
Bill Belloma representing Tom Kramig of the Lake Erie Crushers is requesting approval and the recommendation to Council for approval to amend the Special Use Permit to include 368 sq. ft. outdoor bar and awning to be located on the party deck of All Pro Freight Stadium, 2009 Baseball Blvd.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to suspend the rules. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve and recommend to Council for approval to amend the Special Use Permit to include a 368 sq. ft. outdoor bar and awning to be located on the party deck of All Pro Freight Stadium, 2009 Baseball Blvd. The vote was: "AYES" All. The Chair declared the motion passed.

ROSE PARKWAY EXTENSION/AVON COMMERCE PARKWAY -FIRST PRESENTATION-
FINAL DEVELOPMENT PLAN PL20160024
Marc Strauss of Avon 25 Real Estate, LLC is requesting approval of the site plan of the extension of Rose Parkway and the short extension of Avon Commerce Parkway located off Rose Parkway north of Health Campus Blvd.

Tony Vacantti, Buckingham, Doolittle, and Boroughs, legal counsel for the property owner, Avon 25. Here with Mr. Vacantti is Marc Strauss the authorize representative and Dan with Atwell, the Engineer. Ms. Fechter says they are currently in conversation as to the project limits and have not established what the foot print will look like at this time. There are also a number of substantial engineering comments that Mr. Cummins and Mr. Barcikoski have gone back and forth with and are more than happy to hear the presentation tonight as a first presentation. Ms. Fechter wants to advise according to our code, if the Board follows through with the first presentation it then starts a clock of 70 days that Planning Commission has to move on the item before it is deemed not approved. Ms. Fechter says she is more than happy to hear the first presentation or extend the offer to table until next month to give all parties involved time to get their hands around what the project is going to look like. Mr. Vacantti says he appreciated that and this is an amendment to the Special Use with regards to the existing Roadway and other aspects of the development, we are not here for those at this time. It's about the special permit amendment for the extension for this roadway and a site plan for this roadway and are in the position to proceed. Mr. Gasior says the roadway is nothing more than a private drive as it sits and this is technically and realistically the extension of a private drive. Mr. Gasior continues whether it ever becomes a public road, a lot of things need to happen. Mr. Gasior asks if there are utilities involved in this. Marc Strauss says as you are aware he is the manager of Avon 25 Real Estate, LLC. Mr. Strauss says he would like to take this project in baby steps and is not here to discuss this evening the overall project, concept or what will eventually be developed on this property. He says they are far away from that and with regards to that and they are here simply for the limited purpose and scope to extend Rose Parkway which was constructed in 2014-2015 in which they would like to extend to the boundary of his property as it exists today. They would take it to the very end of the existing easement on a south to a north direction. Mr. Strauss continues they have developed 330 feet of the road and are looking to add an addition 300-315 feet of it. They then would want to take a right turn off Rose Parkway and extend some utilities to the east on a private right of way. Mr. Strauss says everyone talks about Avon Commerce Parkway and there is no Avon Commerce Parkway on the property, what is existing on the property which Mr. Gasior mentioned is a private right of way. Mr. Strauss say again, as Mr. Gasior mentioned all Avon 25 Real Estate, LLC is asking is to extend the private road on their property with private utilities as that is what exists today on the property. He says again, private road way, private utilities, private storm water and they are here today simply to extend the access to his property. Mr. Strauss says right now they drive on dirt and want to continue the road as it was originally presented to fit within the current right of way that was platted when Rose Development was approved in September of 2014. Mr. Vacannti says they participated in the Special use permit back in 2014 and Mr. Strauss says that's correct and Mr. Vacantti says this is just an amendment to extend the roadway with regards to that approval. Mr. Strauss says for the record and hopefully is not repeating himself, he has been involved in road construction and development since he was 12 years old and has participated in over 5,000 roads in northeast Ohio and has built 15 subdivisions, over 1500 lots for Ryan and Pulte Homes from 2002 to 2009. Mr. Straus says he was also involved in the original project and brought it to the City, an 80 million dollar project, if it goes to the very end, is about 5 million dollars a year in payroll, jobs and construction with regards to this project. So with regard to Mr. Strauss' experience and what he has been able to accomplish in the 54 years that he has been alive to date

this is simple, what he has done in his life along with his father. He has done highways, subdivisions, a majority of the roads in the City of Cleveland from 1965-1985 that were concrete and he is here tonight simply as a developer, as a contractor, to extend a road assisted with what was done in 2014-2015 of 330 feet of Rose Parkway. Mr. Strauss says one of things he would like to bring to Planning Commission attention with regards to what Ms. Fechter has mentioned, the comments and concerns were emailed to Mr. Strauss at 5:01P.M. On Friday April 15, 2016. Mr. Straus states in the letter itself to his engineer at Atwell, and reads a brief statements about the review generated from plans dated March 22, 2016, received by Chagrin Valley on April 6, 2016 and says the city engineer did not receive the plans for 15 days from the day it was presented to the City for review. He continues to say he has a short window of opportunity from the time they are submitted on March 22nd to today on April 20th to be able to address any concerns that the city has. Mr. Strauss says he should not be punished because of the facts that he and his engineer did not have the opportunity to address these concerns. Mr. Strauss says his engineer is here today, he's from Atwell and Atwell has 10 offices in numerous states with 75 professional engineers with annual revenue of 80 million dollars in 2015 and nothing on this comment review is critical or terminal for what he is trying to accomplish. He states in fact, a majority of these comments were addressed in a drainage study done by Bramhall Engineering on May 8, 2014 for this entire area. A map is shown and Mr. Straus says the land in the red box is 100 acres that JG Avon Jacobs Real Estate Group ask that Bramhall prepare with regards to the development of Health Campus Blvd. and a drainage channel that exists on a portion of Mr. Strauss' property that was constructed by Rose Senior Living in 2015. He continues to say everything contained in the report addresses all of the storm water concerns of Mr. Cummins. Mr. Strauss says this was presented to the city and should have been in the City file under the Health Campus Blvd. construction documents and in addition, there is a question if storm water should be detained before it reaches the drainage channel from the roadway that he is proposing. Mr. Strauss says he will submit to the Planning Commission that Primrose does not detain on site, Cleveland Clinic Rehab hospital does not retain on site and Health Campus Blvd, the 1200 foot road has no detention or treatment before it reaches Gifford Ditch. Primrose, Cleveland Clinic Rehabilitation Hospital, and Health Campus Blvd all drain into the ditch and there is not one on site detention for any of those and he is not proposing any buildings, just a road. Mr. Straus says that everything in regards to detention, storm water runoff and capacity is contained in that report of 45 pages that encompasses his property. Mr. Strauss points out on map where everything is located in that area. Mr. Strauss says this can address every comment that Chagrin Valley Engineering made in their report that was made on April 14, 2016. Mr. Strauss says there was an issue about a roundabout and he received an email from Pam that she apologized to Ryan Cummins that he was not in the loop that there was never a roundabout proposed and they are in agreement it will be a four way intersection. Mr. Strauss goes on to say that the report he dug up from Carl Frey at the Jacobs Group, after asking for it for two weeks, he says the city was looking in the Rose Parkway file, then the Rose Senior Living file, and then because Carl Frey was copied on the comments of the extension of Rose Parkway and the extension of the private drive and right of way, that was set aside for future Avon Commerce Parkway came up and delivered that study to the City. Mr. Strauss says he stands before the commission and that he needs to continue to move through the process of his project and there are no public utilities on his property, no public roads on his property but what he is proposing though, is consistent and there is not a comment on water line, sanitary or road pavement and width, it all goes to storm water issues that he believes can be resolved by reading the report. He continues that there are questions that with most Planning Commissions he has been at before, would conditionally approve the plans subject to final approval by the city engineer and that's all he is asking for this evening that he is allowed to extend the private road, private utilities on private property consistent with the Rose Parkway Road that was built in 2014-2015 that will be servicing the Rose Senior Living facility come September this year.

Ms. Fechter says she would like to say there is no question of Mr. Strauss' ability to construct the road. The delay on the comments being received for review were in part of the conversation between the City's legal counsel and Mr. Strauss' legal counsel. Ms. Fechter says she met with the utility department

yesterday to determine exactly what they thought of the road, while this is privately being built, it is being privately built per Mr. Strauss asked for it to be review with the intention that it could possibly be publically dedicated at a later time. Ms. Fechter says with that the reviews aren't as simplistic as a private drive and private utilities, it's the thought that eventually this will become dedicated to the City. Ms. Fechter continues to say that as she met with the utility department, they have concerns that need to be addressed and she is not saying that they are extreme, but they need to be looked at and turns it over to Mr. Cummins. Mr. Strauss interrupts saying he has a response and Chairman Witherspoon asks if we can have Mr. Cummins talk and Mr. Strauss says absolutely.

Mr. Cummins says Ms. Fechter is correct that the plans were reviewed as if it would be a dedicated roadway at some point. Even though it's being presented tonight as very simplistic driveway, the plans were presented as its private now but review it as it will be dedicated. Mr. Cummins respectfully disagrees that the report that the applicant is presenting covers all the relevant storm water issues and that is why he made the comment that he is happy to work through that with their engineer over time. Mr. Cummins says there are also other significant aspects of the plans that were not included and he stands by their comments that there were a number of items required in the codified ordinances for those types of plans that were not included. Mr. Cummins says at his point he does not feel comfortable recommending approval for the plans for final engineering. As far as the roundabout is concerned, the site plan for Rose facility that was constructed last year shows a roundabout at that intersection so that is what they were going off of since it was the approved final development site showing the roundabout.

Mr. Strauss says this isn't the first time they have seen him in the last few months regarding this project and this development. Mr. Strauss says he has been more that cooperative and patience with the city while they had discussions, this is how the discussions go. Mr. Strauss states, he submits a plan, maybe we should sit down and talk about it but we want you to continue your BZA appeal for the April meeting and come in next week. He says he came in that week, heard a few things and Mr. Gasior mentions there have been several discussions under evidence rule 408 and if Mr. Strauss is going to enter into that discussion tonight Mr. Gasior tells Mr. Vacantti he should strongly advise Mr. Strauss not to. Mr. Vacantti talks with Mr. Strauss for a minute. Mr. Strauss says he is talking about what has happened again to him today and what happened to him again today was he got a call from Council that was hired by the city to table this to continue discussions. Mr. Strauss says that they want him to table this and all the discussion fall apart next week, he has to wait another 30 days to get before Planning Commission and as Pam just said they have 70 days to act and if they don't act, it gets denied. Mr. Strauss says he needs to keep the bus moving, it cannot stop at every station that he needs to develop this project, and it's an 80 million dollar project that needs to go forward. He continues to say that 27 and a half million dollars have already been spent, another 10 million will be spent on the town homes shortly, the county is waiting for a million, 255 thousand dollars from him so he can build a skilled nursing facility, and he can't wait any longer. Mr. Strauss says in regards to it being private, review it for future public dedication, he doesn't care, he will never publically dedicate it, forget about it. It's a private road with private utilities and he will take his tap fees and go on his way, he will plow it, maintain it, he will do whatever he has to do. If you want it as a publically dedicated road someday, that's fine, he did not build it to public dedication, then you won't take it, but he needs to move forward. Mr. Strauss says he cannot continue anymore BZA hearing, no more Planning meetings, he has an 80 million senior housing community that is sitting and he has to get to work now and build the road. Mr. Strauss say that if they want to take the three meetings or the forty days, consider it a denial, that's perfect because then he knows what he has to do but is that the route we want to take. When he was here in 2013 discussing this project he says everyone was excited because when he walked through the door in 2013 the city didn't have a hospital coming yet, you didn't know about a rehab hospital, there was no Cabela, Meijers, no Bendix, he was the first one and now that Bendix is coming and Menard's and Cabela's is coming and the hospital is coming earlier. Mr. Strauss say when he walked into this building in 2013 nothing was there but Marc Strauss and now he gets pushed back, its time, if you want to table, that's fine, all he is doing is extending the road. Mr. Vacantti says that if there

are any questions for concerns about how the road is being built to meet public standards they are willing to address that at time of public dedication. As it stands right now, Mr. Vacantti says it's a private road on private property and they feel they meet those standards and are willing to continue discussion but those items will be addressed in the future. Mr. Strauss says there are two issue, one of them is Jim Piazza said that when he did Rose Parkway in 2014-2015 that if it only served one user, it had to be private but he still built it to public specs in hopes someday that it would be publically dedicated. Secondly there is nothing different than what he is doing today than what he did in 2014-2015 with Rose Parkway. Mr. Strauss continues to say he is following the consistent approval and design of what's there today and simply extending it to the north. Mr. Strauss says again, its time and he needs to more forward and will continue discussions with the city but tonight nothing is being built there it's just the extension of a road. Mr. Gasior says it's a driveway and ask Mr. Straus if he wants utilities? Mr. Strauss say there are utilities out there and Mr. Gasior says its more than just a road as Mr. Strauss refers to it, it's a driveway with utilities on the private drive. Mr. Strauss says in fact the city knew this was coming because he extended the sanitary and water beyond where it was to stop. Ms. Fechter says there were some utility comments that Mr. Strauss has not yet received as it was done yesterday. Mr. Gasior says there are a few other outstanding issues that will need to be looked at. Mr. Strauss says all of that is fine, he knows what he needs to do, Atwell knows and the contractors know and he is asking tonight for conditional approval for the extension of Rose Parkway and a portion of a road in a private right of way that turns to the east off of Rose Parkway.

Mrs. Witherspoon says without the Engineers approval it causes a problem. Mr. Gasior says what needs to be considered is if they want to suspend the rules on this proposal in light of the issues especially with utilities. Mr. Gasior says it doesn't slow the process down, action will be taken in May and the Board can suspend the rule and act or they cannot suspend the rules and take the matter as a first presentation and recommends the Board consider this a first reading and not suspend the rules. Mr. Strauss adds that the question should be from the engineer asking if they believe there are fatal flaws in the plans that would prevent you from approving and if so this becomes an issue of developer and engineer to work through on a conditional approval. Mr. Strauss says he has heard concerns but no fatal flaws and if there are fatal flaws the road will never get built but you need to look do you have faith in your engineer to give conditional approval that all the issues will be addressed in a timely manner and that is what Mr. Strauss thinks needs to happen. Mr. Cummins says if you do not suspend the rules, the applicants engineer will start to work through the issues that have been noted and revised plans will be submitted and review and that process could take a few weeks and doesn't feel there will be much time lost and if action is taken next month it would not be an issues. Mr. Strauss say official action tonight with conditions, the engineer requirements are satisfied. Mr. Cummins says there are two ways this can be handled, one with a contingent approval and the other being with not suspending the rules and taking the matter up at the next Planning Commission meeting. Mr. Cummins continues to say both ways it seems to him based on past project experience, in the meantime the engineering issues will still be worked on for resolution. Mr. Strauss says when we sit here and talked about working through engineering and now they get comments from utilities he would consider it being the first reading if it is agreed upon by the city that he receives all the comments within 72 hours and they get timely responses when they present their plans to approval or not. Mr. Strauss says he has a time line, 72 hours all city comments and they respond within timely manner. Mr. Strauss says he is ok with 72 hours, they turn the plans around in 5 days and he expects the City to turn their response in within 5 days. Ms. Fechter asks Mr. Gasior if they have come to a conclusion on the definite project limits and Mr. Gasior starts and is interrupted by Mr. Strauss asking what project limits. Mr. Gasior says they do not have to suspend the rules tonight and act, it's that simple. Mr. Gasior says in the meantime engineers will be working together and it's the Board decision to suspend the rules. In a simple case, the Board and suspend the rules and act but as Mr. Strauss knows this is not a simple situation and to piece meal this now is not in Mr. Strauss' interest or the City's, they need to know what it going to be done. Mr. Gasior says there are so many things going on and the bigger plan out there and thinks the Board should not rush into this and wait until May. Mr. Strauss says he wants

everyone to know that he has been very cooperative when the city calls and asks him to table the BZA hearing saying he would be in a better place than he is. He continues to say he has no plans and the longer this take Lorain County is about to get a million 250 thousand dollars flushed down the toilet because of things that have transpired between him and the City and that's a bigger issue. Mr. Strauss says he owns 19 acres and an option on another 6 in this City for congregate care. Mr. Strauss says a moratorium was put on his property, he was told he didn't have a special use permit, he's been asked countless time to continue and post pone things, he is done and its coming to an end tonight. He will not let a valuable piece of property go to waste without exhausting every opportunity to develop it and its coming to an end. Mr. Vacantti says the only issue before the body is the extension of the roadway, the other aspects, what may or may not be developed is not for this body to act upon. Previously the Planning Commission approved the road and they are extending into the road 300 feet and feels everything has been satisfied and requesting approval of the special use permit amended and the extension of the private drive on private property. Mr. Vacantti says they do object to any first, second or third readings, it's custom to suspend the rules.

There being no motion to suspend the rules, the Chair declared this to be first presentation.

AVON 25 REAL ESTATE, LLC-FIRST PRESENTATION-AMEND SPECIAL USE PERMIT
Marc Strauss of Avon 25 Real Estate, LLC is requesting approval and the recommendation to Council for approval to amend the Special Use Permit Ordinance 104-14 to include Rose Parkway Extension and a portion of Avon Commerce Parkway.

Mr. Strauss requests that this be on the first reading. Chairman Witherspoon declares the item to be first presentation.

THERESA KNOBLE-FIRST PRESENTATION-SPECIAL USE PERMIT
PL20160021
Theresa Knoble is requesting approval and the recommendation to Council for approval to create a Special Use Permit to include a roadside stand for the sale of produce to be located at 2970 Moon Road.

Theresa Knoble says in preparation for this meeting she has emailed Mr. Schneider and asked if there were any issues that the board has come up with or anything like that, if anything needed to be addressed or if he needed any other documentation. Ms. Knoble reads the email on April 11, 2016. Mrs. Knoble says if 848 was gone then why would Mr. Schneider say she did follow 848 and she says she emailed him again and the new stuff went to Mr. Gasior, Jill Clements and Ms. Fechter. Mrs. Knoble says her stand was red flagged and didn't need a permit under 848 as it has no cross references to road side stands. She applied for 848 under a farm stand and put it specifically on her permit that says 848 and it was signed by Mr. Schneider. She's says that in 2001 that took care of 848 even though it says in the Special Use Code you cannot null or get rid of code if it specially says. Mrs. Knoble applied under 848 and shows a section of the code and states if a permit is required or not. Mrs. Knoble says when you get to Chapter 848 it doesn't state that you need a permit even though all the other codes say that you do and says that Rick acknowledged, even last week that 848 was still good. He said she followed 848 and she says if it wasn't good anymore why he would refer to it. Mrs. Knoble says that she does not need a special uses permit under this code for Moon or Detroit Road because this is still a good code. There is no cross reference and just because you say it should have been removed and since you can't tell her all the codes that were removed in 2001 how the publishing company would know which codes to remove. Mrs. Knoble says she feels for the gentleman who was just up there before her as she feels the same way. She came in, went through the process, followed up and asked what the complaint was 3 times and never got an answer. She says she didn't know who made the complaint, just the origin of the complaint. Mrs. Knoble says she is trying to do the right thing by coming in and getting the permits she needs and she wanted to make sure

she wouldn't get in trouble. Mrs. Knoble says the city gives the Zoning officer certain powers and its states that in his job description that he has his own discretion and he decided with his legal discretion she can have stands under 848 and doesn't feel she should be punished or manipulated that this does not exist. Mrs. Knoble looked at past minutes to be prepared and say continuously over and over again, we are pushing it to the next meeting. If someone comes in with no plans, there is a process that needs to be followed. How can one do a legal or architectural review on plans that were never submitted and asks where the fees go as part of the application. Mrs. Knoble reads there is an engineering and legal review fee that she paid for three applications and asks if there was an engineering review done on any of the properties. Mrs. Knoble says when she come in to the department she was given one page and the application is actually 5 pages. Mrs. Knoble says she went to get the full application and it wasn't available and shows a picture of the website and says it wasn't available online. Mrs. Knoble says she came into the office and according to the code she needs to go to the Zoning Enforcement officer to obtain a permit for a Special Use. Mrs. Knoble says regardless, 848 was acknowledged and if it was overwritten or nonexistent than certainly on the 11th Mr. Gasior got it. Mrs. Knoble says he does not want her stand on Detroit Road, he told her. Mrs. Knoble says if Detroit Road would be tabled, Moon Road would be granted and she says she has that on tape. Mr. Gasior says he is not saying he didn't say that but is saying, in the context that you are totally taking it from and has no meaning. Mrs. Knoble goes off to say that we bend the rules and everything is all great to meet his own agenda. Mr. Gasior says no, this is the body that determines and is interrupted by Mrs. Knoble saying no you are. Mr. Gasior says he is sure that's on the tape, as he said it a number of times that this is the body that makes decisions. That Rick doesn't make decisions, Pam doesn't make decision, I don't make decisions, and we said that in the meeting before this meeting and says he's sure it's on her tape. Mr. Gasior says they can recommend to the body that they take a certain position and Mrs. Knoble says she was going to get her money refunded. Mr. Gasior says the money will be refunded for the Case Road parcel. Mr. Gasior says Mrs. Knoble is doing a great job explaining some of the issues she is finding with the code but as he told her, that section 848 was adopted in 1952 and covers the sale of all personal property. Mrs. Knoble says it's the sale of farm produce. Mr. Gasior says back in 1952 there was no zoning so you could sell whatever you wanted to sell out on the street. Mrs. Knoble asks Mr. Gasior if he was there in 1952. Mr. Gasior says he is just telling her what the law says. Mr. Gasior asks to finish and tells Mrs. Knoble that this section of the code was adopted prior to zoning and the City has adopted the Planning and Zoning Code back as far as the 1960's with the most revisions being done in 2001. Mr. Gasior says they can dictate where the districts are going to be and adopted that process so in 1952 to the extent you can sell any property as long as you're 25 feet off the road, that has effectively been repealed and we now have zoning that requires you go into commercial districts to sell products. Mr. Gasior continues to say he has told Mrs. Knoble and it's on her tape that there are certain exceptions but you will still need a permit for your road side on Moon and Detroit Road. Mrs. Knoble came in asking for a special use permit on Case road and she was told that she does not need that after Mr. Gasior reviewed the law. Mr. Gasior says they have had discussion by ways of settlement as they were trying to resolve the issues. Mr. Gasior says she is taking statements that were made out of context, those were statements made to try to resolve the issue so we wouldn't have a long discussion of what was done or wasn't done. The heart of the matter is a special use permit is required for Moon and Detroit Road. Mr. Gasior says as far as Moon Road goes he thought she was going to present her case that she has had the stand there for a few years now, Rick made a mistake and he suggests the body take that into consideration as recommending to council and move forward with the Moon Road. The Detroit Road stand is a different animal according to Mr. Gasior as Mr. Schneider spoke to Mrs. Knoble back in January before the property was purchased and she was told that she needs a Special Use Permit and was told what some of the restrictions could be. Mr. Gasior says Mrs. Knoble chose to rely on Chapter 848 and could understand why she would do that, Mr. Gasior has to follow the law and recommend to Planning and to Council that they follow the law. Mrs. Knoble asks if Mr. Gasior informed Rick that 848 was longer the code. Mr. Gasior says at some point since this started, once he was made aware of this and Mrs. Knoble says she was told by Rick that she needed to apply to a Special Uses Permit for Case Road before anyone researched if she had to. Mr. Gasior says the heart of the matter after

April 11 the issues have been resolved and made it clear what needed to be done. Mr. Gasior says nobody can grant a Special Use Permit and Mrs. Knoble says she is not asking to be granted one, she is saying she doesn't need one. Mr. Gasior says again 848 is the only vehicle by what she can make the argument that you don't need. Mrs. Knoble states that Mr. Schneider should be able to make those decisions as its part of his job description and Mr. Gasior says he can make a decision after reading the law but he does not make a legal decision. The only person that can make a legal decision is the law director. Mrs. Knoble says so because Mr. Schneider didn't read the law, even though she asked and Mr. Gasior says Mr. Schneider enforces. Mrs. Knoble says she attached 848 to the zoning permit in 2013 and it was brought to him. Mrs. Knoble continues to say as part of her application the Board should see the application and the fact she attached Chapter 848 to that and Rick didn't know what he was doing and it did it again in 2015. Mr. Gasior says most of this came to light in January and Mrs. Knoble says that was when she was red flagged. Mr. Gasior says the Detroit Road property is what triggered the analysis of what had happened. Mrs. Knoble asks who made the complaint. Chairman Witherspoon says that if anyone who wants to make a comment they can at the end of Theresa's discussion, that Mr. Gasior and Mrs. Knoble have the floor currently. Mrs. Knoble says there are other stands on Detroit Road and Mr. Gasior asks if she wants us to specifically not act on the Special Uses and deem the roadside stands are allowed under 848 and Mrs. Knoble says that hers and everyone else that has a stand in Avon right now. Mrs. Knoble turns to Mr. Schneider and says he sells blueberries and asks if he received a permit for his blueberry stand. Mr. Schneider says he does not have a blueberry stand and Mrs. Knoble says oh, pick your own blueberries. Mr. Schneider says he has a pick your own blueberry but does not have a stand as the farm has been in use since 1949. Mr. Gasior says we are talking about roadside stands and that is all and more specifically her roadside stand. He says they are not going to get into what other people do as they are not in front of the board. Mr. Gasior says the magic date so to speak is 2001 with the adoption of the latest version of the Planning and Zoning Code. Mr. Gasior says as the law director, he feels he has strong precedence for his position 848 does not apply to your stand and 1262, 1280 and those code sections do. As law director, he has to make a determination and you are free to hire an attorney and take the City to court, that's the nature of our system. Mr. Gasior says he will not abandon the city and represent the City's position and Mrs. Knoble interrupts, the City's position or your position. Mr. Gasior continues it's the City's position as he is the law director for the City. Mr. Gasior recommends to this body what the law is and they make their decision on his interpretation of the law. Mr. Gasior says he will make a recommendation that they act on the Special Use Permit for Moon Road and that 848 does not apply and they will need to analyze and condition the Special Use permit for Moon Road based on what they find in 1262.03, 1280.02, 1280.03,1280.04, 1280.06gg. Mrs. Knoble and says not 1227 and Mr. Gasior says 1227 deals with if the legislation has been repealed. Mr. Gasior has recommended that 848 has been repealed. Mr. Gasior says, it's a 1952 law that was passed before the City had zoning, you're in a residential district and will be presenting a Special Use Permit for a farm stand on Moon Road. No one is denying you the farm stand, it is telling you that under current law these procedures must be followed. Mrs. Knoble says the cross reference refers to 848 and Mr. Gasior respectfully disagrees. Mrs. Knoble says she understands the appeal progress that if they deny it tonight, its going right to the judge and there is a whole process that if she appeals this it will go to another body. Mr. Gasior says the Planning commission will make a recommendation to City Council positive or negative, then City Council will get it, if Council denies it, it goes to Common Pleas. Mr. Fitch says he has been on this board for 8-9 years and he goes off the Zoning Book that he has and he relies on what is in the book. Back in 1952 he was 2 years old and taking the current book and relies on the information. Mrs. Knoble says she took the initiative to print out the whole code and they hold a position and you're going to limit yourself to one portion. Mr. Gasior says, in Mr. Fitch's defense, as a lawyer when you are doing statutory construction, you're trying to determine what laws to look at you, and you don't go outside of a section. The Planning and Zoning code is part 12 of our Code, when defining terms you look in part 12 and it is never a good idea to start to pick out words anywhere within the code to imply them to support your case. Mr. Gasior says again, you cannot sell in a residential district and all they are asking her to do is to apply for a Special Use Permit. Mrs. Knoble says she will be getting a full copy of the record. Mr. Gasior says they have in front of the body and

application for a Special Use Permit, it's a roadside stand to sell produce and unfortunately Mrs. Knoble referenced 848 but is actually seeking the Special Use Permit under 1262.03e4 and that cross references to 1280.04gg and reads that section. Mr. Gasior says they can talk about hours and months of operation, the stand itself being temporary or moveable, setbacks, adequate parking, and all those items need to be address for the Moon Road for the Special Use Permit, similar to outdoor patio regulations. Mrs. Knoble says again, it's been there since 2013 with no issues and Mr. Gasior says yes, that is something to take into consideration and asks how the stand has been operating. Mrs. Knoble says not at night, it's too dark. Mr. Gasior says Moon Road has not been a problem. Mrs. Witherspoon ask what have the months of operation been. Mrs. Knoble says the Moon Road stand since they do grow straw and have fire wood it's there year round, it's not temporary but non-permanent. Mrs. Knoble explains the definition of temporary and non-permanent to the Board. Mrs. Witherspoon says the stand is year round, and she does not consider wood as produce and it not sure what is defined as produce and Mr. Gasior says if its produced off the land we can assume it's good. Mrs. Witherspoon says parking and Mrs. Knoble says the stand is 25 feet off the road according to 848 and the horseshoe drive allows people to drive around and there has never been an issue. Mr. Gasior asks if there is an attendant and Mrs. Knoble says, no there has never been an attendant and they don't intend to have one. Mr. Gasior says it's an unattended, non-permanent structure and can recommend it to be year round. Council will then give the final decision. Mrs. Berges asks about the hours of operation. Mrs. Knoble says typically it's about 8am until it gets dark, like dawn to dusk. Mr. Dudziak asks if it's away from other structures and it's confirmed it is by itself, the house is in the back. Mayor Jensen says they are only selling what they grow on that property right. Mrs. Knoble answers yes, they have ways of making a lot in a small area and they are part of WIC and Senior coupons and they come out and inspect too. Mr. Gasior says the Board needs to decide what they want. Mr. Malloy suggests during agricultural season but isn't sure of when that is. Mrs. Knoble says they do rotate crops and will make multiple plantings. Mr. Fitch asks what the acreage is on Moon and Mrs. Knoble say an acre. Mrs. Berges says part of the Special Use permit, do they need to specify that its farm produce, wood and straw and Mr. Gasior says no, it's covered under 1280.06gg that is has be from the land itself.

A motion was made by Mr. Malloy, seconded by Mrs. Berges to suspend the rules. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Malloy, seconded by Mrs. Berges to approve and recommend to Council for approval to create a Special Use Permit to include a roadside stand for the sale of produce to be located at 2970 Moon Road to be operated year round, dawn to dusk, no attendant and the existing non-permanent structure. The vote was: "AYES" All. The Chair declared the motion passed.

Mr. Gasior says, they made a positive recommendation to Council and he will prepare the ordinance to grant the Special Use and Council will hear it at the work session on May 2, 2016 with a vote on May 9, 2016.

THERESA KNOBLE-FIRST PRESENTATION-SPECIAL USE PERMIT PL20160023
Theresa Knoble is requesting approval and the recommendation to Council for approval to create a Special Use Permit to include a roadside stand for the sale of produce to be located at 39160 Detroit Road.

Mr. Gasior says this is a different stand and Mrs. Knoble shows a picture of the stand. Mrs. Knoble says the Special Uses Permit for a roadside stand does not have a size requirement on the lot. Mr. Gasior says she is referring to 1262.03 and 1222.02(46) saying there is no size requirement but all the other requirements that are in 1280.06gg do apply with the main one being produce having to be grown on the same lot and that might be challenging as the lot is slightly over a quarter acre. Mrs. Knoble says they do multiple planting and plant on plastic and says they will do whatever they can to get as much on that property and will only sell that there. Mrs. Knoble also says if they want additional produce they can get

them from the other two stands. Mrs. Witherspoon asks about the hours and months. Mrs. Knoble say from May 1st to November 1st. The stand is a wagon and they would be able to move it when the season is over. They would then plant still as much as they can. Mrs. Witherspoon asks if this one will be attended and Mrs. Knoble says no it will not. Mr. Dudziak asks if this one is totally on the wagon and Mrs. Knoble says yes it is and Mr. Dudziak is just making sure if it needs an extinguisher or not. Mrs. Knoble says all their stands are the same with no attendant and dawn to dusk would apply. Mr. Gasior asks how far off the road that stand is and Mrs. Knoble says at least 30-35 feet and Mr. Gasior asks if she would agree to maintain it at least 25 feet. Mrs. Knoble says there will be a pin for security so it doesn't move and there is a horseshoe drive, similar to Moon Road. Mrs. Knoble searches for the drawing for the Detroit Road stand and shows the picture that was located in the Planning packets. Mr. Gasior says the cars come around the north side of the stand. Mr. Fitch asks if there will be an entrance and exit sign so people will know which way to enter. Mrs. Knoble says that is a great suggestion and will definitely do that. Mr. Gasior asks about signage and Mrs. Knoble says the existing sign is the only one that they will need. Mr. Cummins says the Mrs. Knoble mentioned to put something in front of the stand and Mr. Cummins feels it would be very close to the roadway and an is concerned about the obstruction. Mrs. Knoble says it would be something small so the cars know not to drive over. Mayor Jensen says since she has recorded all the conversations, and asks if didn't you make the comment to Pam that you were going to go to the BZA to get a permanent structure on the property. Ms. Fechter says she believes that conversation was with Rick.

Mr. Gasior says that its Special use, that any changes you have to come back to amend it. Mr. Fitch says, so the wagon is only going to be there when you are picking and asks what is being picked on May 1st. Mrs. Knoble says that date was suggested to her and Mr. Gasior says they decide on a date. Mrs. Witherspoon asks when she would expect to get products there and Mrs. Knoble says sometime in May and they grow little gourds so that will take them to Halloween. Mrs. Knoble says they will not be year round on this stand. Mr. Cummins asks if this site has ever been used for this in the past and Mrs. Knoble says no, this is the first time. Mayor Jensen asks when enough property is enough. Mrs. Knoble says this is it, they do not intend on having anymore and Mayor Jensen says if we allow you, we have to allow everyone else. Mayor Jensen says the others mostly have one stand but farm on multiple lots and what is to stop them from coming in and asking for more. Mrs. Knoble says she is with WIC and Senior Coupons and they inspect their land. Mr. Gasior says the ordinance will have reference to 1280.06gg and the other restrictions are reasonable to protect neighboring properties. Mr. Cummins would recommend that there is something in there that states there will be no obstructions while entering or exiting the site. Mr. Schneider wants to explain to the Board what he does in his job. Mr. Schneider say when something comes before him, he goes to the zone to where it's going to be and looks up in the code what is permitted. Mr. Schneider say in January he told Mrs. Knoble that in 1280 she needed a Special Use Permit. Mr. Schneider says, yes he does make mistakes and the reason he gave the Moon Road and Case Road permission as they are an accessory to a primary residence which is allowed under our code. Mr. Schneider says he never signed a Special Use Permit, he does not have the authority, it's up to the Planning Commission and Council, that he signed the zoning permit. Mr. Schneider says he had calls about the property prior to the Knoble's purchasing it and he told everyone, it is a lot of record and they all must follow today's setback standards. Mr. Schneider says he told Mrs. Knoble she needed the Special Use Permit on January 8th and the property closed in the later part of January and in his opinion, the sole purpose was to open a business and sell produce in a residential area. Mrs. Knoble says in R-1 area it does not state there has to be a primary residence. Mr. Schneider says the driveway and the stand was installed with no permits. Mrs. Knoble says when she asked Mr. Schneider on April 11, she says Mr. Schneider says no and Mr. Schneider said he never gave her permission to do anything on the property. Mrs. Knoble says remember everyone makes mistakes, this is her mistake. Mr. Cummins says with the size of the lot they would review for drainage if they are improving more than a 10th of an acre but he does have serious concerns about traffic coming in and out, being able to see clearly. Mr. Cummins continues to say the Detroit is a busier street than the others discussed tonight, the property typically doesn't have the use for the property and maybe consider a time frame to evaluate if any issues come up. Mr. Gasior says maybe

recommend a review within a year. Mr. Gasior says in the event there is an issue with ingress/egress the permit could be reviewed.

A motion was made by Mr. Malloy, seconded by Mrs. Berges to suspend the rules. The vote was: "AYES" All. The Chair declared the motion passed.
Chairman Witherspoon asks for a motion to recommend to Council a Special Use Permit to include a roadside stand for the sale of produce, to be located at 39160 Detroit Road, to be run from May 1st to November 1st, dawn to dusk, non-permanent structure, wagon only, unattended, with no obstruction in the view of right of way on egress and ingress with a review to performed before Planning Commission in April 2017, produce specifically on this property. A motion was made by Mr. Malloy and no second for the motion was received. Chairman Witherspoon declares the motion failed and there will be negative recommendation to Council.

Mrs. Knoble asks about the review next year, she asks that the review is about the flow of traffic is fine and she complies with all the stipulations. Mr. Gasior says both of these will go to Council May 2, one with a positive and one with a negative recommendation.

Mayor Jensen says that he is disappointed with Mrs. Knoble and the lack of respect she has shown to his administration going through this process. Mayor Jensen says she has recordings of everything that was said and is disappointed the way she treated everyone as he says it now instead of at the end of the meeting. Mayor Jensen says he tries to bend over backwards and there will people who don't agree but he says his staff treats everyone fairly and with respect and he did not get that from her. Mayor Jensen says they received numerous calls not to accept this as she is trying to run a business. Mayor Jensen says to imply that there was a conspiracy against her or hurt her in anyway, that is not true. Mayor Jensen that he will protect his administration and is disappointed. Mrs. Knoble says she to is disappointed as she asked a number of times to find out what the complaints were and what the general origin was. Mayor Jensen says the complaint was over the weekend when she pulled a trailer onto the property. Mrs. Knoble asks why that was never mentioned and Mayor Jensen said he was never asked. Mrs. Knoble says the property was an eye sore and no one complained when they put the back hoe on the land and cleaned it up. Mrs. Knoble continues to say that her husband has not been part of this, that it is her project. Mrs. Knoble says she was asking and telling the city that she does not want to do this in the public forum and all through her emails the city gave her no choice to do it this way. Mrs. Knoble says when she talked to Pam on a Friday and thought this was resolved she posted a nice statement about the people in the room and Mayor Jensen says, then you came in and attacked us. Ms. Fechter adds, in no way shape or form has she done anything but try to help Mrs. Knoble and for her to stand there and say I attacked you, is not true. Ms. Fechter says she knows she has a recording and is sure she will hear it at another time but she never attacked her and tried to help. Mayor Jensen says to Mrs. Knoble, her husband's name is on the property. Mrs. Knoble says her husband has an excellent record working here and did not want to be involved. Mayor Jensen says he doesn't understand why she would think there would be any repercussions from that, you belittled Rick in front of everyone.

VETERAN'S MEMORIAL PARK-FIRST PRESENTATION-FINAL DEVELOPMENT PLAN PL20160027
Ryan Cummins, City of Avon Engineer, is requesting approval of the site plan for the access drive and improvement from Case Road into Veteran's Memorial Park, 3700 Veteran's Memorial Parkway.

Mr. Cummins says the city is looking to do some improvements at Veteran's Park and add two areas of parking adding about 120 new spaces and on the west area, they are doing water and sanitary sewer improvements also. Mr. Cummins says they are also adding some walkways to the new parking areas and installing a 20 foot wide access drive onto Case Road. The drive will be located between 4243 and 4209 Case Road. Mr. Cummins says the gentleman earlier talked about the water issues on Case Rd and shares

those concerns. Mr. Cummins says they have done some work to help with that issue as they are adding drainage swales on the access drive. Those improvements will help with the water not only in the Park but for future projects along Case Road as there is not adequate drainage in that area. Mr. Cummins says they will be doing some improvements to a pond to help with the storm water management and they will also be doing some work on the sledding hill to make it a little more fun. Mrs. Corrao says this a long time coming as the park really needs a second access road for the activity that has grown in the park. Mr. Simoneau of 4149 Case Road says he is concerned as his property sits in water a lot. Mr. Cummins says the existing pond will have some added controls to help hold back water. Mayor Jensen suggest to Mr. Cummins to give Mr. Urlich a call to see what type of information he has to help identify some things on Case Road that could eventually help them. Mr. Fitch asks if there is enough depth to come back east. Mr. Cummins explains the location of where the pipe will be going. Mayor Jensen says everyone knows that we have always wanted a second drive but knew there was water and we were granted an easement that hopefully will help the neighbors as well. Mayor Jensen says this area could be put on the list for storm water utility and Mr. Cummins says there are options in the area.

A motion was made by Mayor Jensen, seconded by Mr. Malloy to suspend the rules. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mayor Jensen, seconded by Mr. Malloy to approve the site plan for the access drive and improvement from Case Road into Veteran's Memorial Park, 3700 Veteran's Memorial Parkway. The vote was: "AYES" All. The Chair declared the motion passed.

VETERAN'S MEMORIAL PARK-FIRST PRESENTATION-AMEND SPECIAL USE PERMIT PL20160020

Diane Corrao, Director of Parks is requesting the approval and the recommendation to Council for approval to amend the Special Use Permit to include a 60' x 80' fence and the new access drive onto Case Road located in Veteran's Memorial Park, 3700 Veteran's Memorial Parkway.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to suspend the rules. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve and recommend to Council for approval to amend the Special Use Permit to include a 60' x 80' fence and the new access drive onto Case Road located in Veteran's Memorial Park, 3700 Veteran's Memorial Parkway. The vote was: "AYES" All. The Chair declared the motion passed.

COMMENTS

ADJOURN

A motion was made by Mr. Malloy, seconded by Mayor Jensen to adjourn. The vote was: "AYES" All. The Chair declared the motion passed. The meeting was adjourned at 10:03P.M.