

AVON PLANNING COMMISSION REGULAR MEETING MINUTES 10-19-16

MINUTES OF THE PUBLIC HEARINGS HELD ON WEDNESDAY, OCTOBER 19, 2016 IN COUNCIL CHAMBERS OF CITY HALL

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

PRELIMINARY PLAT FOR JAYNA RESERVE SUBDIVISION. The public hearing was opened by Chairman Witherspoon at 7:00P.M. Richard Bancroft, representing Garland New Homes, explains the location of the project and that it is a 30 lot subdivision that meet the charter requirements. Mr. Bancroft goes on to say this is an interesting project because it's cooperative effort with the City and the Lorain County Metro Parks. Mr. Bancroft says this area has a history of flooding and the Metro Parks will be doing some stream restoration and they will assisting them with some engineering and will meet all the MPDS requirements and City's storm water code.

Dave Sommer, 35388 Riegelsberger, asks will the flood mitigation issues be taken care of before the development begins. Mr. Cummins says yes, there will have to be some details worked out and then an agreement between all parties involved with this project. Mr. Sommer says that mitigating the flooding could be done as construction is underway. Mr. Cummins says it might come forward as one project which would include the extension the storm sewer and the subdivision or it could be two. Mr. Cummins says he has made it clear to the developer the City will not accept a subdivision first and flood control later. Mr. Sommer asks that no construction begin until all flood issues have been mitigated. Mr. Cummins says yes, he believes that is how it will go but at this point the details are still being worked out. Mr. Sommer asks is there a way the residents in the area can have the confidence that those will be taken care of before the development is under construction and causes flooding to them. Mr. Cummins says the developer will need to come back with their final plat before any construction begins and all those details will be addressed. Mr. Cummins says he understands his concerns as he has the same. Mr. Sommer asks if residents will be able to see the agreements. Mr. Cummins says yes, when they come back for final plat all that information will be there. Mr. Sommer asks with the additional traffic, what will be done to control the access traffic on Riegelsberger. Mr. Sommer specifically calls out the intersection of 83 and Riegelsberger and explains it gets backed up in the morning and is curious how that will be controlled. Mr. Cummins says there will be a stop sign coming out of the development onto Riegelsberger. Mr. Cummins says typically with a subdivision this size, he does not see a big traffic concern but each subdivision needs to be looked at as the final details start to evolve. Ms. Fechter says typically we do not notify for final plat but we will definitely take names to notify the residents as the project progresses. Mr. Bancroft says his original meeting regarding this project was twelve months ago and they have been working through details and this is going to be a slow, precise project. They are not pushing to run this project through, they understand the issues with all the past history of the land. Dave Sommer says this area is a tricky location as they have had some issues in the past with a developer on property in the area. Mr. Sommer says this is the first notification that residents have seen and he is concerned that flood details will be over looked. Mr. Cummins says the work proposed here is a small piece of a larger project that has been addressed with City Council. The Metro Parks are taking a large scale effort to address the flooding. Mr. Cummins says there are a lot of moving parts to make this project work for everyone involved. At this point talks have been going on with the EPA and Army Corps. Mr. Cummins talks about the potential storm water retention and proposed water storage areas and says there will be some challenges but everyone will work together. Mayor Jensen says everyone heard Mr. Bancroft say, it's been 12 months and why would we move forward when we have had the flooding. Mayor Jensen continues to say that the Metro Parks are saying this is a benefit to both projects and that is why are working on this.

William Worden, 35291 Riegelsberger agrees with Dave Sommer and is concerned about the traffic as well. Mr. Worden says his house is just to the east of the subdivision and says there is a row of pine trees

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and is wondering if those will stay. Mr. Worden says when he moved there, he liked it, as it was more of a private area for the parcel. Mr. Worden is also concerned with the value of the homes that will be constructed. Mayor Jensen says that Garland builds a higher end home and will not affect any values of their home. There being no further questions or comments, Chairman Witherspoon closes the Public Hearing at 7:21P.M.

SPECIAL USE PERMIT FOR ST JOSEPH CEMETERY TO INCLUDE A VISITORS CENTER.

The public hearing was opened by Chairman Witherspoon at 7:21P.M. Dale Serene of Dale Serene Architects, Andrea Lah and Patricia Jambrone of Catholic Cemetery Association. Dale Serene explains they are looking to construct a new visitors center for the cemetery that would be located on the oval as you enter off Detroit Road. Mr. Serene says the building will be about 3,700 sq. ft. with offices, a chapel and restrooms. Mr. Lah says they are here for the site plan and the special use permit and was curious if they could come back with the site plan. Mr. Lah says he is hoping to get the special use permit that the Planning Commission will accept their need for a visitor center and then come back in with the final site location. Mr. Lah says he has met with the neighbors and they have expressed their concerns regarding the location and would like to table the site plan to go back and review the project with the least impact on the neighbors but is beneficial for the cemetery too. Ms. Fechter says that the items go hand in hand and the approval of the site plan and special use permit it allows certain restrictions to be put on the parcel. Mr. Lah asks if there are any concerns on the building itself. Ms. Fechter says to show the elevation of the building and allow the neighbors to ask the questions. Mr. Serene shows the drawings that show the propose site location. Mr. Lah says the building in the middle of the cemetery will be leveled when the new building is constructed. Mr. Lah says they wanted to maintain the green space and it was suggested they build it closer into the green space but they wanted to preserve that and there are also certain setbacks to follow. Mr. Lah says they are drudging the pond and doing their maintenance and cleaning and says they are not expanding the pond. Mr. Serene says again, the building will have a safe in the offices and restrooms will be in the front of the building. Ms. Fechter asks if they will be open 24 hours and it is confirmed yes. Mr. Lah says the cemetery closes at dusk and they could put electronic timer locks on the doors to ensure they are closed at certain times. Mr. Lah says they will have a chapel for gatherings as they have noticed an increase in cremations and it's nice to have a gathering space prior to burial. Mr. Lah says the vault is fire rated to maintain their records in case of any issues.

Charles Heune, 32915 Detroit representing his wife, Cheryl and their neighbors to the west, Al and Pat and Jan Covey. Mr. Heune says all the neighbors worked with the cemetery with the initial development in 1997 and they have had no problems. Mr. Heune says there is no question they cannot continue to do business in the existing facility and have no problem with the design of the facility. Their concern is with the proposed location. Mr. Heune says it will destroy the park like setting of the cemetery and make it look like an interstate rest stop. Mr. Heune says there could be concerns of current plot holders that their plot is too close to the building. Mr. Heune says upsetting the water table could cause the loss of several of the old trees and bushes and could reduce the resale value of the homes in the neighborhood. Mr. Heune continues to say since their property continues south and believes it would be beneficial to relocate the multi-use facility south of the propose area which would make it more centrally located. There being no further questions or comments, Chairman Witherspoon closes the Public Hearing at 7:33P.M.

SPECIAL USE PERMIT FOR LOVE'S TRAVEL STOP FOR A 1,000 GALLON ABOVE GROUND PROPANE TANK. The public hearing was opened by Chairman Witherspoon at 7:33P.M. There being no one present in the audience, Chairman Witherspoon closes the Public Hearing at 7:34P.M

CARMAX REQUEST TO AMEND THE PLANNING AND ZONING CODE TO ALLOW USED CAR SALES. The public hearing was opened by Chairman Witherspoon at 7:34P.M. There being no one present in the audience, Chairman Witherspoon closes the Public Hearing at 7:34P.M

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AMEND THE PLANNING AND ZONING CODE SECTIONS 1262.08(A) ACCESSORY USE REGULATIONS AND SECTION 1292.14 CURBS AND WHEEL/BUMPER GUARDS. The public hearing was opened by Chairman Witherspoon at 7:35P.M. There being no one present in the audience, Chairman Witherspoon closes the Public Hearing at 7:35P.M

MINUTES OF THE REGULAR PLANNING COMMISSION MEETING HELD ON WEDNESDAY, OCTOBER 19, 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.

MINUTES OF THE REGULAR MEETING-SEPTEMBER 21, 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 September 21, 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 amend the first agenda item #12 to agenda item #10 at the Planning Coordinator's request. The vote was: "AYES" All. The Chair declared the motion passed.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to amend agenda item #20 to a General Development Plan at the Planning Coordinator's request. 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 BET Trucking Special Use Permit and item # 21 CUPCO Final Development Plan at the Planning Coordinator's request. 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 #7, item #9, item #17, and item #23 at the Planning Chair's request. 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 agenda as amended. The vote was: "AYES" All. The Chair declared the motion passed.

PETER MIROEWSKI-SECOND PRESENTATION-REZONE

PL20160077

Peter Miroewski is requesting approval and the recommendation to Council for approval to rezone PPN 04-00-024-116-032 from M-1 to R-1 located at the corner of Jaycox and Mills Roads.

Ms. Fechter says that on the zoning map, the future land use area per ordinance states they could add the C-4 overlay to the property. Ms. Fechter says in 2007 the City hired a certified planner to look at certain areas in the city, this being one and they decided to keep the M-1 zoning and allow for the C-4 overlay. Ms. Fechter says she researched back to 1991 and it was zoned M-1 at that time and Mr. Miroewski is requesting the rezoning of M-1 to R-1. Peter Miroewski shows some drawings of proposed lay outs for

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homes. Mr. Miroewski says FLY industries is trying to sell his property and reads the flier for what is listed and it references residential lots. Mr. Miroewski says according to that sales pitch they agree with him to make that are residential along Red Tail. Mr. Miroewski shows another drawing of keeping the front acreage of FLY as M-1 but the rear being R-1. Mr. Miroewski says it put something commercial there or industrial isn't a good fit for the area. Mr. Miroewski shows a picture of the cul de sac and says since there is an open lot, he feels that the street should go through. If the area stays M-1, there will be increased traffic of trucks and crime in the area.

Helen Miroewski says she has had that property for 57 years and has paid thousands of dollars and is asking that they give to them what is owed, to allow them to sell it. Ms. Miroewski says she is ill as is her family and they are approaching retirement and wants to take care of bills and her family. Ms. Miroewski also adds that if the City wants to buy it for a reasonable price she would consider it. Mrs. Berges says she needs clarification and was under the impression that the northern property was not involved in this request. Ms. Fechter says correct, they are not part of this request that Mr. Miroewski has shown a possible plan. Ms. Fechter asks if he has had any conversation with the property owner to the north and Mr. Miroewski says he did and he said the north neighbor says he had no issue with Mr. Miroewski going residential. Mr. Miroewski says Red Tail has beautiful home and the last thing they need is an industrial building next to that. Mayor Jensen says his issue, as it is to be zoned something other than and it should be C-4. Mayor Jensen doesn't know if this body has the authority to change it without the recommendation from someone else other than Planning. Mr. Miroewski says they went in to look at the map when LandMark wanted to go into the area. He was told it took a number of years to get it rezoned. Mr. Miroewski says it's on the edge and will benefit the area and should be rezoned to residential. Ms. Fechter says that the hard part is that if the neighbor to the north came in with him, it brings a larger area and it doesn't flow from residential to industrial to residential. Mrs. Witherspoon asks what it is currently zone and Ms. Fechter confirms M-1. The future land use says if it were to be rezoned it should be C-4 overlay and not residential.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve and recommend to Council for approval of the rezoning of PPN 04-00-024-116-032 from M-1 to R-1 located at the corner of Jaycob and Mills Road. The vote was: "NAYS" all. The Chair declared the motion failed and would have a negative recommendation to City Council.

REFERRAL TO COUNCIL-SECOND PRESENTATION-SANITARY SEWER DISTRICT MODIFICATION

Chuck Szucs of Polaris Engineering representing Lawrence and Mary Rak is requesting approval of the modification of the Master Sanitary Sewer District. Per Article VII, Planning Commission (d) Mandatory Referral of the Council, Avon Planning Commission is recommending Council approval of site plan for the modification of the master sanitary sewer district.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to un-table the Sanitary Sewer District Modification. The vote was: "AYES" All. The Chair declared the motion passed.

Ms. Fechter asked that the Sanitary Sewer District Modification be tabled indefinitely. There have been a number of conversations and will re-evaluate the whole project.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to table the Sanitary Sewer District Modification indefinitely. The vote was: "AYES" All. The Chair declared the motion passed.

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MCINTOSH FARMS SUBDIVISION PHASE 1-FIRST PRESENTATION-FINAL PLAT PL20160072

Jim Saylor of Reitz Engineering and Richard Batt are requesting approval of the final plat and the recommendation to Council for approval to create a Subdivider's Agreement for McIntosh Farms Subdivision, 31 new home Phase 1 located west of Moon Road.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to un-table McIntosh Farms Final Plat. The vote was: "AYES" All. The Chair declared the motion passed.

Jim Saylor of Reitz Engineering explains they are looking to move forward with Phase 1 of their final plat for McIntosh Farms. Mr. Saylor says they have addressed all the corrections and thinks he is good.

Ken Kalina, 39191 Hawthorne Drive asks about the drainage. Mr. Kalina says he believes there was a retention pond that goes into the ditch. Mr. Saylor shows the on the drawing the location of the ditch and the basin. Mr. Kalina asks if the ditch will be overflow from the pond. Mr. Saylor says they will construct two underground pipe that will make the connection and they will re-grade the area. Mr. Kalina says the city did a great job of cleaning the ditch and cleaned another ditch but going through Orchard Trail, that ditch was not cleaned and is concerned more water will back up. Mr. Kalina asks if they can get the ditch cleaned out. Mr. Cummins says he could work with the Service Department to see if it's on their maintenance schedule. Mr. Cummins says the ditch is within the Orchard Trail block, but there is another ditch. Mayor Jensen says his concern is how much water it can hold before it overflows and backs up. Mr. Kalina also adds that he was told construction vehicles would not be coming through Woodland Trail and would be going down an access drive. Mr. Kalina says there have been trucks that have gone down the street and are being staged on the property. Mr. Batt says there was the big dirt mound on Woodland that needed to get out and the trucks should not have been going down Woodland Trail. Mr. Batt says he is there quite a bit and has not seen the trucks but will make sure he gets the information to make sure they go down the access drive off of Moon Road. Mr. Batt informs Mr. Kalina he has the check for Orchard Trail and will give it to him tomorrow. Ms. Fechter asks if they selected a builder and Mr. Batt says yes, Drees will be building in McIntosh. Mr. Gasior asks a few questions that he will need information on for the Subdivider's Agreement and reminds Mr. Batt that he needs to see the Homeowner's Association document and Mr. Batt says Drees is currently reviewing it. Mr. Gasior says the next work session is November 7 so they will need to get the deposits in prior to then. Mayor Jensen asks where the mailboxes will be located and Mr. Saylor shows the area and it was confirmed that it was also done in the Preliminary Plat. Mr. Batt says that he has a 17' long drive for the mail trucks to get down and there is concern that the HOA will have to hire someone to clear the drive from snow. Mr. Batt says he would like to see the mailboxes in the right of way and Mr. Gasior says he doesn't see that there is a problem with that as long as the Homeowner's Association knows they must maintain the boxes and the area. That must be included in the HOA by laws. Mayor Jensen was just requesting there is an area to pull off and they do not want it in front of someone's house. Mr. Cummins says they completed the review and the drawings are acceptable but needs to review the estimate. Mr. Cummins says they don't have any questions on the Plat and the HOA documents and would recommend approval.

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 final plat and recommend to Council for approval to create a Subdivider's Agreement for McIntosh Farms Subdivision 31 new home Phase 1 located west of Moon Road. The vote was: "AYES" All. The Chair declared the motion passed.

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JAYNA RESERVE-FIRST PRESENTATION-PRELIMINARY PLAT PL20160044

Chuck Szucs of Polaris Engineering and Richard Bancroft are requesting approval of the preliminary plat for a new 30 home subdivision Jayna Reserve to be located on the south side of Reigelsberger east of Center Road and west of Jaycox.

Mr. Cummins says he has some additional comments. Mr. Cummins said he has spoken to the engineer and there was discussion with the one entrance and a very long cul de sac and mentioned shifting the drive. After talking with the engineer Mr. Cummins says the sanitary line does not have to follow the entrance. Mr. Bancroft says to bring the storm sewer to the property, it requires them to put it in an easement or a block and believed it's less intrusive if it's in the right of way. Mr. Bancroft says when they have to do work in that area, it upsets the residents. If he was to put in an easement it would change the lot size. Mr. Bancroft says there is no way around the cul de sac and Mr. Cummins feels the lay out could possibly consist of a drive in the middle having two cul de sacs on both sides. Mr. Bancroft says they are trying to come up with a logical way of running the sanitary sewer line that is not going to create any hardship to the property owner to the south if and when they ever try to develop. Mr. Cummins says he will let the Planning Commission look at this and if Mr. Bancroft is saying the sanitary sewer is driving the location Mr. Cummins says that is not the case. Mr. Cummins continues and references the buffering on the west side and says if the drawing says it may be required, it is his recommendation that it should be included in the final site plan to avoid any confusion. Mr. Cummins talks about the sanitary sewer running along the whole length of the project and this plan shows it stopping short. Mr. Bancroft says he read the ordinance and says if he puts laterals to the residents, there are no other residents past the area where they stop the line. Mr. Cummins says his interpretation is they are to run it along the front of the entire property and then they provide the lateral for existing homes. Mr. Cummins says there have been a considerable amount of back and forth and there could be some benefits that come out of this but there is still a lot of work to do. Mrs. Witherspoon asks if Mr. Cummins would consider a contingency and Mr. Cummins says the entrance is not an engineering question, it's more a City Planning issue and he doesn't know if he is prepared to make a recommendation. Ms. Fechter says that the lay out currently will require over a 600 foot variance for the cul de sac. Mr. Dudziak says from the fire stand point he is not a fan of how long the cul de sac is with this lay out. Mr. Dudziak says if the area does flood or an emergency vehicles need to get there, it's a very long street and could pose an issue. Mr. Dudziak also says he needs an auto turn. Mayor Jensen asks with the 30 ft. easement what size is the sanitary. Mr. Cummins says it's an 8 inch sanitary sewer. Mayor Jensen also asks if it is necessary to have a 30 foot easement. Mr. Cummins says it would be his recommendation because of maintenance activities down the road and once homes get built, the extra 10 feet is helpful. Mr. Gasior says they cannot approve it tonight because of the length of the cul de sac as it would need a variance. Mr. Gasior says they would need to go get a variance first. Mr. Bancroft says that Planning Commission has the authority to approve the cul de sac as he reads. Ms. Fechter says if there is a proper configuration they could but they don't feel it is a proper configuration. Mr. Malloy says he would like to see some of the engineering comments addressed before he makes any decision given the history of that area. Mrs. Witherspoon says they will make this a first presentation to see if they can get any clarification on some of the items. Ms. Fechter adds there is a letter from the Metro Parks in regards to this project.

No action taken, Chair declares this First Presentation.

SCHAFER PROPERTIES DETROIT ROAD -FIRST PRESENTATION-ONE YEAR TIME EXTENSION PL20160093

Joe Schafer of Steve, Dave and Joe LTD, LLC is requesting a one year time extension of the approved site plan for the parking lot improvements and basin addition located at 36741 AND 36775 Detroit Road.

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Joe Schafer says they redid the bakery house and is now a salon and they have a tenant in the gray house which is a photography shop. Mr. Schafer says they are in negotiation with the Hale Street tenants and are trying to figure out what is going to happen. Mr. Schafer says they are looking for a little more time to install the basin to make sure whatever happens its ok for all parcels. Ms. Fechter says she spoke with Tracy Workley, the Storm Water Management inspector and she said all the underground is in minus the culverts and is ok with the extension but does suggest a diverter to be installed. Mr. Cummins says he is fine with Tracy's recommendation and can work through things as the development progresses.

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 a one year time extension of the approved site plan for the parking lot improvements and basin addition located at 36741 and 36775 Detroit Road. . The vote was: "AYES" All. The Chair declared the motion passed.

CHESTER ROAD DEVELOPMENT-SECOND PRESENTATION-GENERAL DEVELOPMENT PLAN PL20160084

Carl Frey representing NWQ Jaycox/I 90 LLC is requesting approval of the general development plan for development on Chester Road.

Carl Frey representing the Jacobs Group says this is a follow up to the presentation from last month of the general arrangement for development on Chester Road. Mr. Frey says they have reviewed the traffic study and had some meeting and moved an access point on the north side. Mr. Cummins says they have had a meeting after the last meeting and expressed his concerns and talked through them and changes were made. Mr. Cummins says this document will be ongoing and is subject to change as development comes in but would recommend approval as it is for now.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve the general development plan for future development on Chester Road. The vote was: "AYES" All. The Chair declared the motion passed.

ST JOSEPH CEMETERY-FIRST PRESENTATION-FINAL DEVELOPMENT PLAN PL20160089

Dale Serene of Dale Serene Architects representing Catholic Cemeteries Association is requesting approval of the site plan for a proposed 3,825 sq. ft. visitor's center with parking to be located at 32787 Detroit Road.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to table the St. Joseph Cemetery Final Development Plan until the January Meeting. The vote was: "AYES" All. The Chair declared the motion passed.

ST JOSEPH CEMETERY-FIRST PRESENTATION-SPECIAL USE PERMIT PL20160092

Dale Serene of Dale Serene Architects representing Catholic Cemeteries Association is requesting approval and the recommendation to Council for approval to create a Special use Permit to include a 3,825 sq. ft. visitor center to be located at 32787 Detroit Road.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to table the St Joseph Cemetery Special Use Permit until the January Meeting. The vote was: "AYES" All. The Chair declared the motion passed.

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LOVE'S TRAVEL STOP-SECOND PRESENTATION-FINAL DEVELOPMENT PLAN PL20160074

Nicholas Hershberger of CESO, Inc. along with Chad Brunner of Love's Travel Stops are requesting approval of the site plan for a proposed 16,000 sq. ft. Love's Travel Stop and Country Store to be located on Chester Road.

Chad Brunner of Loves says they were there a couple months ago and have addressed the issues the engineer had brought up. Mr. Brunner says they have agreed to install a left turn lane as the City requested. Mr. Brunner says he has met with some City personnel on some other concerns and they have agreed to add some landscaping by the truck parking area and will make sure a fence is along the rental property. Mr. Brunner adds he would request a contingent approval for the site plan and will send revised drawings for the photometric plan and the revised landscaping. Mr. Cummins says the City did present some concern on the need for the left turn and the applicant was willing to install that and it came about the last few days and those plans are in developing stage and would recommend a contingent approval. Ms. Fechter says the Police Chief would like to see a copy of the photometric plan once it's complete. Mayor Jensen says there have been some concerns of what this brought for security reasons. Mayor Jensen says this stop will be owned by corporate and we can go directly to them and continues to say they feel they can work together to achieve the expectations the City has in mind and a nice facility.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to un-table the Love's Travel Stop Final Development. 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 for a proposed 16,000 sq. ft. Love's Travel Stop and Country Store to be located on Chester Road contingent upon final engineering. The vote was: "AYES" All. The Chair declared the motion passed.

LOVE'S TRAVEL STOP-FIRST PRESENTATION-SPECIAL USE PERMIT PL20160086

Chad Brunner of Love's Travel Stops are requesting approval and the recommendation to Council for approval to create a Special Use Permit for a 1,000 gallon above ground propane tank on the proposed Love's Travel Stop property to be located on Chester Road.

Chad Brunner of Loves explains the above ground tank will be used to refill tanks for grills and for vehicles that run off propane to fill their tanks. Mr. Brunner says they will have landscaping around the tank to it's not the focus on Chester Road. Mr. Dudziak says they have a check list that they need to meet as this tank is through the City and they will do a final inspection. Mr. Brunner says their certified staff will be the only people that will be permitted to access the tank.

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 create a Special Use Permit for a 1,000 gallon above ground propane tank on the proposed Love's Travel Stop property to be located on Chester Road. The vote was: "AYES" All. The Chair declared the motion passed.

OLD AVON VILLAGE PHASE 4-FIRST PRESENTATION-GENERAL DEVELOPMENT PLAN PL20160087

Gary Fischer, representing Ron Larson is requesting approval of the general development plan for a proposed 6,600 sq. ft. building to be located in Olde Avon Village, 36840 Detroit Road contingent upon

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Gary Fischer representing Ron Larson says this is the last undeveloped corner of Olde Avon Village. The plan was approved a number of years ago and they are coming back with this last phase. Mr. Fischer says this will be two building and will have an early industrial look to the buildings. Mr. Fischer says there will be a walkway that will overlook the detention basin to create a dock look. Mr. Fischer continues to say the size of the detention will not change, nor does the lay or the parking lot that was approved. Mr. Cummins says they have reviewed the plan as the initial submittal was thought to be a final development plan and have some comments. It was determined there was some confusion and a few things he would like to touch base on. Mr. Cummins says the stair structure appears to be over an existing storm sewer and the slope of the basin has given him some concern. Mr. Fischer says that could be an error on their engineering side as he might have thought they were filling in the pond when they in fact are not. Mr. Cummins says that is great and they will work through the engineering details as they come up but he has no objection to the general plan. Mrs. Witherspoon asks if this is something Mr. Burik needs to look at and Ms. Fechter says yes, prior to any final development approval this will need to run by Mr. Burik. Mr. Dudziak says he has concern of the alley way and asks what is the distance? Mr. Fischer says it's not really an alley way, it's more of a walkway. Mr. Dudziak asks it is two building correct? Mr. Fischer confirms yes. Mr. Dudziak continues to say that the issue is if there is a fire in one building, the exterior does not meet the rating the interior has and before you know it the whole area is on fire. Mr. Fischer says they will make sure they have enough separation for fire safety. Mrs. Berges has a question on the parking spaces. Ms. Fechter says Chief Bosley also has a concern because French Creek is shared parking and a lot of the individuals use the City parking lots. Ms. Fechter says the parking will remain if not increase in the years to come. Mrs. Berges says there are sometime in the year, specifically Little League season when that lot is full. Mr. Larson says they currently work with the Senior Center and Little League as they use both lots and haven't had an issues yet. Mr. Larson says a lot of that will depend on the types of businesses. Mr. Larson says they are looking for smaller, unique businesses that don't have extended hours. Currently they have 13 boutiques in Olde Avon Village and he doesn't see a lot of large parking being utilized. Mr. Fischer says the parking hasn't changed from what was approved for this building. Mrs. Berges says they have been so successful thus far she wants to make sure everything can be accommodated to continue that success. Mr. Malloy says he really likes the design and asks if there are any future concerns with loud music and the neighbors? Mr. Larson says they are going to try to avoid that as they have an elevated wall and there is a heavily treed area. Mr. Larson will still maintain the buffer. Mr. Schneider says this project will require a few variances. Mr. Schneider says they will need a parking variance for setback, a parking space variance and a building setback between structures.

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 for a proposed 6,600 sq. ft. building to be located in Lode Avon Village, 36840 Detroit Road contingent on variances granted by Zoning Board of Appeals. The vote was: "AYES" All. The Chair declared the motion passed.

TACO BELL-FIRST PRESENTATION-FINAL DEVELOPMENT PLAN PL20160032

JP Ptacek of Larsen Architects is requesting approval of the site plan for a proposed 2,086 sq. ft. Taco Bell restaurant with drive thru to be located at 36220 Detroit Road.

JP Ptacek representing Taco Bell says they have had time to revisit the site plans since they were here in June and feel they have come up with a better plan. Mr. Ptacek says the concern was the connection at the rear of the site which gives full access through all parcel owners. They were able to do that with the addition of some extra land that allows them a two way street. Also with the additional property it allows them more room for parking, reconfiguration of the drive thru and they can straighten the building so it

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looks nicer on Detroit Road. Mr. Ptacek says they have received comments and are currently working on those. Ms. Fechter asks since back in June when the project was sent out for architectural review, has the only thing that has changed the orientation of the building? Mr. Ptacek says yes that is correct. Ms. Fechter continues to say the City has hire outside Council to secure the north access drive easement. There are conversations on going about trying to figure out how that will happen. Ms. Fechter says Taco Bell has decided to take that on themselves as they will put in and there will be access from Taco Bell to French Creek Square. Ms. Fechter says there have been some discussion on their curb cut in conjunction with the Fire Department across the street and will request a contingent approval to allow the engineers to figure that piece out. Ms. Fechter says when moving forward with the signaling, that will trigger the need for a developers agreement that will need to be presented to Council. Mr. Cummins says as noted, they have reviewed and issued comments but the biggest one is the proposed drive way. Mr. Cummins says the proper relocation of the drive and all the details need to be worked out and would suggest a contingent approval subject to traffic and site engineering be completed in an acceptable manner. Mr. Schneider adds Taco Bell will need a variance for stacking in the drive thru as they need 10 but show only seven.

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 for a proposed 2,086 sq. ft. Taco Bell restaurant with drive thru to be located at 36220 Detroit Road contingent upon final engineering and stacking variance granted by the Zoning Board of Appeals. The vote was: "AYES" All. The Chair declared the motion passed.

ITB UTILITY-SECOND PRESENTATION-FINAL DEVELOPMENT PLAN PL20160060
Robert Knopf of ITB Utility is requesting approval of the site plan to install two utility poles to be located on Center Road and French Creek Road and the recommendation to Council for approval to create a developer's agreement.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to un-table the ITB Utility Final Development Plan. The vote was: "AYES" All. The Chair declared the motion passed.

Ms. Fechter says they are currently working with their engineer on some plans and looking for other pole locations. Ms. Fechter asks that this item be tabled indefinitely.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to table the ITB Utility Final Development Plan indefinitely. The vote was: "AYES" All. The Chair declared the motion passed.

CARMAX-FIRST PRESENTATION-REFERRAL TO COUNCIL
Mike Creekmore of Carmax is requesting approval and the recommendation to Council for approval to amend the Planning and Zoning Code Section 1270.03 Schedule of permitted uses to allow used car sales.

Ms. Fechter says back in February of 2016 CarMax asked to schedule a pre application meeting and they were told it is not a permitted use. Back in October 2014 Council approve ordinance 121-14 which no longer allowed used car lots. Ms. Fechter continues to say in June, CarMax presented to the Legal Committee of City Council and that was voted down. The legal committee felt not enough new information was given to make the change. Tom Smith says they are looking for an amendment to the C-4 zoning to allow a free standing used car dealerships. CarMax is fortune 500 company and have about 165 locations nationwide. Mr. Smith says it's not too different from the new car sales as they primary sell the cars but make their money on maintenance and service work. Mr. Smith says they are looking to locate on half of the West Pines Driving Range with a 4-6 acre first phase and another 27,000 sq. ft. building and

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they feel it's a win/win for both parties involved. A representative from CarMax says CarMax was started in 1993 from consumer input that they wanted one straight /no haggle price. No stores have been closed with only one store being relocated. He continues to say that they have top notch employee package and talks about how they give back to the communities. CarMax is looking to do a 2 phase project on nine acres on the east side of the driving range site and shows the picture of the proposed site. Mr. Malloy asked if they do the 50/100 pt. inspections like new car dealers and it was said they do 125 point inspection and certify all their new cars. Mr. Malloy asks if they typically partner with new dealerships and it was said they look for the best location. If there is an issue they cannot fix they will send it to a dealership for repairs as most cars are 6 years or newer.

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.

Mr. Gasior adds the amendment will take the City back to where we were in 2014. CarMax is a very nice company and reminds everyone this is not to approve CarMax, it's to amend the code that was recently changed. Mr. Smith says they would request possibly putting stipulations on the section with certain lot size requirement. Ms. Fechter says they have no legislation so they are acting on yes or no they should amend the code. Mr. Gasior says they would like to see a proposed ordinance but this is strictly adding to the code. Mr. Malloy asks is it possible to fine tune it with a Special Use Permit. Mr. Gasior says no, not tonight, what is proposed is changing the code to adding used cars in C-4 district. Mr. Gasior says whatever the feelings are about CarMax, the vote tonight is on if the City wants used cars again in C-4. Mr. Smith says they would reconsider adding certain language to the change when they are in Council. Mr. Gasior says its best to vote tonight with what is in front of them and if Council recommends it to make the changes then it would come back to the Planning Commission.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to approve and the recommendation to Council for approval to amend the Planning and Zoning Code Section 1270.03 Schedule of permitted uses to allow used car sales. The vote was: "NAYS" All. The Chair declared the motion failed and a negative recommendation will be given to City Council.

REFERRAL TO COUNCIL-FIRST PRESENTATION-AMEND PLANNING AND ZONING CODE
Per Article, VII, Planning Commission (d) Mandatory Referral of the Charter, Avon Planning Commission is recommending Council approval of the Ordinance to amend Sections 1262.08(a) Accessory Use Regulations.

Mr. Gasior gives the reason how this issue came about. The issue is the code presents some confusing definitions and 162.08a is the start of the confusion. Mr. Gasior reads the section of the code and reads the definition of a garage. Mr. Gasior says the main focus is on 2 acres or less lots. Mr. Gasior references a detached garage that was asking for a variance but the HOA denied the request. Mr. Gasior says when the lots are smaller it's a problem and restricts structures to rear yard as they are not permitted to put them in the side yard. Mr. Gasior says the Public Hearing was done if the Commission wants to act on any legislation next month they can or it can die. Mrs. Witherspoon says she thinks the neighbors would have an issue with it. Mr. Malloy says the Homeowner's Association needs to enforce their rules and what is permitted. Mayor Jensen says the problem is the residents always come back to the City to go against their Homeowner's Association to help them. Mr. Gasior recommends this be first presentation and think about the open lots and if this is something they want to entertain to change.

A motion was made by Mr. Malloy, seconded by Mayor Jensen to make this first presentation. The vote was: "AYES" All. The Chair declared the motion passed.

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REFERRAL TO COUNCIL-FIRST PRESENTATION-AMEND PLANNING AND ZONING CODE
Per Article, VII, Planning Commission (d) Mandatory Referral of the Charter, Avon Planning Commission is recommending Council approval of the Ordinance to amend Sections 1292.14 Curbs and Wheel/Bumper Guards.

Mr. Gasior says in City Centre Sherwin Williams is looking to come in and they had no curbs proposed. Tammy Holtzmeier brought it up to the Planning Department. Mr. Gasior reviewed the current code and Mr. Cummins says the concern is the site could have all bumper guards around it and the intent is to say curbs are required. Mr. Gasior says a sentence was added and reads that so the Planning Commission can address it but curbing and marking would be required.

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 the recommendation to Council for approval to amend the Planning and Zoning Code Section 1292.14 Curbs and Wheel/Bumper Guards in substantially the form that was presented this evening making the bumper guard discretionary with Planning and Curbs and markings mandatory. The vote was: "AYES" All. The Chair declared the motion passed.

COMMENTS

Mayor Jensen was a little disappointed that CarMax would come and present tonight as they already went through the Legal Committee and it was turned down.

Ms. Fechter says that CVE has updated the Zoning Map and would like to bring the zoning map in front of the Planning Commission to review and refer it to Council to do a resolution to accept the map. Mr. Cummins adds a sanitary district line was misplaced and is in the process of being fixed and will have the updated line in the next day or two.

Mr. Gasior says some items were tabled indefinitely and that means they are finished and if they come back a new application and drawing will need to be filed.

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 9:52P.M.