

**MINUTES OF THE WORK SESSION OF THE COUNCIL OF THE
CITY OF AVON, OHIO HELD TUESDAY, JANUARY 3, 2023
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
AT 7:30 P.M.**

PRESENT: Council Members: 1st Ward – Jennifer Demaline; Council-at-Large – Tammy Holtzmeier; 2nd Ward - Dennis McBride; 3rd Ward -Tony Moore; 4th Ward - Scott Radcliffe; Council-at-Large – Craig Witherspoon; Council-at-Large and Council President – Brian Fischer; Mayor – Bryan Jensen; City Engineer – Ryan Cummins; Planning/Economic Development Coordinator – Pam Fechter; Law Director – John Gasior; Assistant Finance Director– Beth Raicevich; Safety/Public Service Director – Duane Streater; Clerk of Council – Barbara Brooks

ABSENT: Finance Director– Steve Presley

1. [ORDINANCE NO. 1-23 – TO ACCEPT THE TENTATIVE AGREEMENT IN THE MATTER OF THE CITY OF AVON AND THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL #4310, SERB CASE NO: 2022-MED-09-1000](#) Mr. Streater
To Be Addressed at a Special Meeting Immediately Following this Work Session

Mr. Streater advised this is the agreement mentioned to Council last week. He said there are no changes and he received confirmation that the union voted to accept this agreement and they also reviewed it with their legal counsel.

2. [ORDINANCE NO. 2-23 – GRANTING A SPECIAL USE PERMIT TO THOMAS ENGLISH RETAIL REAL ESTATE, LLC TO INCLUDE A DRIVE-THRU FACILITY AT 36290 DETROIT ROAD](#)

Planning Referral

Ms. Fechter advised Ordinance Nos. 2-23 and 3-23 are being presented as two separate Special Use Permits. She said the proposed project is going to consist of two buildings: one on the west side and one on the east side of the property. Ms. Fechter stated the Final Development Plan was approved by the Planning Commission in November of 2022. She advised the applicants went in front of the Landmark Preservation Commission and was approved in December for removal of the existing house from the Landmarks Register so that it could then be demolished. Ms. Fechter said the applicant knew this property would eventually be sold as it is currently owned by Comprehensive Healthcare.

Ms. Fechter advised for this first Special Use Permit, Ordinance No. 2-23, is that on the east side of the property there is going to be a single use financial institution and the Special Use Permit is to allow a drive-thru for the bank.

Mr. Gasior asked Ms. Fechter if there is a lot split pending for this property.

Ms. Fechter advised the lot split has been approved and the applicants picked up those drawings to have them recorded at the County.

Mr. Gasior advised another reason for two Ordinances is because 36290 Detroit Road will be one lot when the split goes through and then in Ordinance No. 3-23, 36320 Detroit Road will be another lot. He said that is the primary reason the Ordinances were separated because the City does not know who will own the lots someday as they could be different owners and the City wants to treat the Special Uses for the lots and each building and not for the entire site.

Mr. McBride asked to see the plan put up on the large screens.

Ms. Fechter said it was just a site plan and does not show the proposed buildings. She said the bank was proposed for the east lot with Ordinance No. 2-23 and the west lot was for a multi-tenant building with Ordinance No. 3-23. Ms. Fechter stated in the Planning Commission there were concerns about drive-thru stacking spaces and the applicants are proposing the ten required spaces. She advised also because there are concerns that a

heavy user for this location such as a Dunkin Donuts or a Chick-fil-A might come in and the City does not want to end up with issues that are already going on with existing facilities in other areas of the City. Ms. Fechter said on the record in the Planning Commission meeting, the owner of the property said he would be willing to come back if a tenant ended up creating more traffic or the City had any issues whatsoever that he would discuss it with the City and do what he could do. Ms. Fechter stated there was another site plan submitted that would have put more traffic on Detroit Road. She advised with the current proposed site, if the drive-thru backs up it will back up onto the property before it would even get out onto Detroit Road. Ms. Fechter said the request is for a Special Use Permit for the outdoor seating and a drive-thru for the multi-tenant building, but it is not known who will occupy that space yet, but there is going to be some sort of urgent care facility and they are just trying to find that restaurant/drive-thru to complement that use.

Mr. McBride advised the landlords always agree that they will come back and make improvements. He asked if there would be some solid language in the Developer's Agreement so that they could not get out of that commitment later. Mr. McBride said there have been several other instances in the City where they should really be pulling their Special Use Permits for the drive-thru and reviewing them for compliance. He stated the other thing he would like to see for this property is what is the buffering specifically between the residential and these properties because this site is higher than the residential housing that it adjoins.

Ms. Fechter advised she would get that information for him. She said the applicant is drawing up a retaining wall for the northwest corner of the property.

Tom Baldwin of Bramhall Engineering at 801 Moore Road, Avon advised there is a retaining wall that will be going in the northwest corner of the property. He said it is going to follow along the northwest side of the property and along the entire back portion to help with some grade change. Mr. Baldwin stated they are working with a structural engineer to design a retaining wall for that and they will get approval from the City Engineer before anything is constructed.

Mr. McBride advised he would like to see accurate elevations of that before they approve the Special Use.

Ms. Fechter advised she has a landscape plan she can share with Council. She said they are still working on the engineering design of the retaining wall to make sure the drainage is good.

Mr. McBride asked what the elevation change would be.

Mr. Baldwin answered eight feet and that is only in the far northwest corner of the property. He said as you move toward the east and southwest of the property, the elevation comes up to where it is three to four feet and closer to the east it is approximately a foot. Mr. Baldwin advised he would talk with the developer and the structural engineer to pull together an example of the wall they intend to install.

Mr. McBride said that would be very helpful. He asked what would be on the top of the wall if it would continue up and become a part of the fence or would the fence and landscaping be independent of the wall. Mr. McBride stated it sounds as if most of this is premature right now.

Mr. Baldwin advised there is a dumpster proposed on the site plan on the northwest corner of the property and it would be fully enclosed to match all City requirements. He said he would see if there were any landscaping plans for the top portion as a buffer.

Mr. McBride advised regarding the dumpster location; he would like to see the adjoining properties in relation to its location as to where the residential structures sit.

Mr. Baldwin said he believes they are set back quite far.

Mr. Radcliffe advised he believes this does not connect to the adjoining property to the west. He said there would be some buffering that would be there and he did not believe it would be any higher than the property next door to the west. Mr. Radcliffe stated there would be buffering along the back as well that matches what is along the other sides and the houses are a good distance away.

Mr. McBride advised there is existing commercial property on the corner of Lake Pointe Drive and Detroit Road and the proximity between those and the residential homes he felt was a poor job by the Planning Commission way back when. He said there was not sufficient buffering and there was never anything requiring that the developer or those property owners keep that buffering in place if a tree dies or the like. Mr. McBride stated that is what he wants to see in perpetuity.

Mrs. Holtzmeier asked regarding the proposed entrance on Detroit Road where it was in relation to the properties across the street.

Ms. Fechter advised she believed it was a bank across the street or Misencik Funeral Home.

Mrs. Holtzmeier advised she would like to see a map that shows what is across the street to see how that aligns. She said her question is, "What is Detroit Road doing at that part of the entrance?" Was there a turn lane? What is happening at that proposed entrance point?

Mr. Baldwin advised that section of Detroit Road has a middle turn lane for two-way direction so anyone turning left into the proposed site would be in that middle turn lane if they were traveling from the west heading east. He said obviously traffic coming from the east heading west would be a right turn into the site.

Mrs. Holtzmeier advised it would be helpful for that to be demonstrated on the map.

Mr. Baldwin advised they have a drawing that they can easily provide before next week's meeting that shows the adjoining drives on the opposite side of the road on Detroit Road and the driveways across the road on Healthway Drive as well.

Mrs. Holtzmeier thanked him and said it is one thing to talk about it and try to envision it, but another thing to literally see it and know the location and ask questions relative. She inquired to the point about the proposed bank and the drive-thru if it will be a drive up only.

Ms. Fechter advised it will be a full bank and the drive-thru will be for the ATM and the tellers.

Mrs. Holtzmeier asked if there would be one lane for both of those functions.

Ms. Fechter said she believes so.

Mr. Baldwin advised there would be one lane for the tellers and then there would be a bypass lane for another who would need to get around.

It was clarified that if you were in the drive-thru center lane with the first three cars then no, you could not bypass the drive-thru.

Mr. McBride advised he had an issue with that because if someone is waiting a long time, they would have no option to pull out and come back later. He felt they were basically trapping the customer.

Ms. Fechter asked if Mr. McBride was suggesting they get rid of the island. She asked Mr. McBride what he would like to see.

Mr. McBride said if someone was tired of waiting they should be able to pull out of the line.

Ms. Fechter asked Mr. Baldwin to find out how large the curb island is to see if it was one of those that people could possibly drive over it.

Mr. Baldwin advised he could talk to the developer, and they can sort out how it can be addressed. He said he believes there will be a canopy which is why it is slightly wider in that area.

Mrs. Holtzmeier asked regarding the bank drive-thru if the ATM or the teller window came first.

Mr. Baldwin said he did not know as he was not involved in that portion of the project.

Mrs. Holtzmeier said the cadence of that is important because if a customer comes to a teller station first that transaction may take longer and someone in line behind that wants a faster type of transaction will not be able to get to the ATM if it is ahead of the teller station, if they are using one lane for a dual purpose. She said they are really all about traffic mitigation and trying to get traffic through smoothly so that would be helpful to know as well.

Mr. Baldwin stated he would talk to the developer about that.

Mrs. Demaline inquired if they have looked at the impact of the traffic in this area. She said with the Avon Brewing Company moving close to this area as well as these proposed uses, it is a highly trafficked area for vehicles as well as pedestrians and those on bicycles going to the pool.

Ms. Fechter advised yes, they did have a traffic study done and analyzed. She said with the two proposed entrances/exits into this location, it was determined that it would be acceptable.

Mrs. Demaline asked if that traffic study took into account the Avon Brewing Company that will be located right down the street and the traffic that business is going to create.

Mr. Cummins advised he does not believe that the traffic study called that out specifically, but the traffic volume was analyzed on Detroit Road which is a large volume day to day. He said the volume of traffic from the Avon Brewing Company is not that large compared to the total volume on Detroit Road. Mr. Cummins stated so while that was not analyzed specifically, to his recollection he does not know that the two would have a similar timing of busy times or even if they were that they would be detrimental to each other.

Mrs. Demaline advised she is concerned about the safety of the pedestrians and those on bikes that will be going to the pool in that same area with these two larger businesses coming in.

Mr. Cummins advised it is a commercial district and there are sidewalks on both sides of the street and those sidewalks will be maintained.

Ms. Fechter advised there is an existing crosswalk on the corner of Healthway Drive and Detroit Road as well.

Mrs. Demaline advised she knows in front of Burger King and Taco Bell those delineators had to be added and they do not allow motorists to turn left as they exit.

Ms. Fechter advised those delineators had to be installed because the adjoining parcel would not connect to the business to the east. She said originally that business was told that when that east parcel developed that they would lose that entrance and gain another one, but when they refused to participate the entrance was made a right in and right out only and the reason the delineators were installed.

Mrs. Demaline asked if anything similar would happen with this project.

Ms. Fechter advised no.

Mayor Jensen advised regarding Burger King and Taco Bell not connecting that the City may still have to step in as he believes it is imperative that those businesses connect at the rear of their parcels as it could be a safety issue. He said the developer for this new project is willing to connect the two businesses and the City is not going to allow it to go forward without that connection.

Mr. McBride asked that the revised drawing for next week also include the Burger King driveway on Healthway Drive.

Mr. Baldwin confirmed they would provide that.

No further discussion.

3. ORDINANCE NO. 3-23 – GRANTING A SPECIAL USE PERMIT TO THOMAS ENGLISH RETAIL REAL ESTATE, LLC TO CONSTRUCT AN 8,600 SQ. FT. MEDICAL FACILITY CONTAINING A RESTAURANT WITH A DRIVE-THRU FACILITY AND OUTDOOR SEATING AREA TO BE LOCATED AT 36320 DETROIT ROAD Planning Referral

Ms. Fechter advised the conversation in the previous agenda item included this item as well unless there were additional questions or comments that needed to be made.

Mr. Gasior advised Ordinance No. 3-23 is the item that recites what the developer indicated to the Planning Commission about coming back to Council or the Planning Commission in the event that that traffic pattern inside the shopping center as a result of the drive-up window starts to create problems. He pointed out that in Section 2 - conditions, (3) *the owner of the property agrees to return to Planning Commission and if necessary, to City Council to address any City concerns regarding either the outdoor seating area or, in the case of the drive-thru facility, traffic issues that could arise from back-ups at the drive-thru window;* the result of which could be an amendment to the Special Use Permit. He said he believes that covers what Mr. McBride was alluding to.

Mr. McBride asked if there would not be a developer's agreement.

Mr. Gasior advised there is not a developer's agreement in this case because there are no public improvements.

No further discussion.

4. RESOLUTION NO. R-1-23 – TO APPROVE, WITH MODIFICATION, THE RENEWAL APPLICATION MADE BY DEBORAH L. MITTERHOLZER (fka LONG ACRES, LLC) TO HAVE CERTAIN LAND OWNED BY HER LOCATED AT 3849 CENTER ROAD, IN THE CITY OF AVON, PERMANENT PARCEL NUMBER 10-04-00-013-000-217 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT Mr. Gasior

A Public Hearing will be held at 7:25 p.m. on Monday, January 9, 2023

Mr. Gasior advised these applications are received at this time of the year because those property owners with this designation are on a five-year cycle and have to renew to include their property in an agricultural district. He said that is simply what is happening with the Mitterholzer property.

5. REPORTS AND COMMENTS

MAYOR JENSEN thanked everyone for their thoughts and prayers for him and his extended family with the passing of his dear mother. He said they are grateful for the time they had with her and the families are appreciative of all those who have reached out to them during this time.

COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1 had no comments.

MRS. HOLTZMEIER, AT LARGE gave her condolences to the Mayor and his family in the loss of his mother. She said a lot of people may remember that she and her children and great grandchildren sewed masks for all the City employees during Covid and many still have those masks and may still wear them. Mrs. Holtzmeier advised she respects people that respect and honor their parents and as a mother, those who respect their mother hold a special place in her heart. She wanted to publicly thank Sally Jensen for her contributions to

the City of Avon and for giving her husband and her son to help run the City and the town has been blessed by her presence.

MR. MCBRIDE, WARD 2 gave his condolences to the Mayor and his family.

MR. MOORE, WARD 3 gave his condolences to the Mayor and his family.

MR. RADCLIFFE, WARD 4 had no comments.

MR. WITHERSPOON, AT LARGE had no comments.

MR. FISCHER, AT LARGE gave his condolences to the Mayor and his family and said they are in his thoughts and prayers.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER had no comments.

MS. FECHTER, ECONOMIC DEVELOPMENT/PLANNING COORDINATOR had no comments.

MR. GASIOR, LAW DIRECTOR gave his condolences to the Mayor and his family.

MRS. RAICEVICH, ASSISTANT FINANCE DIRECTOR had no comments.

MR. STREATOR, SAFETY DIRECTOR reported that the City crews used a lot less salt this past weekend.

AUDIENCE: There were no comments from the audience members.

- 6. ADJOURN: 7:56 p.m.
There being no further business, the Work Session of Council was adjourned.

PASSED: _____

SIGNED BY: _____
Brian Fischer, Council President

ATTEST: _____
Barbara Brooks, Clerk of Council